LEVELING THE PLAYING FIELD
FOR U.S. AIRLINES AND THEIR EMPLOYEES
Version 3.0: “Survival Mode”
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In Survival Mode: U.S. Airlines Face Globalization

Make no mistake about it—the U.S. airline industry and its employees are in a fight for their livelihoods. The evolution of the global airline marketplace is advancing rapidly, and the philosophy of survival of the fittest should not be ignored. Indications of weakness in this unforgiving environment are certain to lead to failure.

Today, U.S. airlines operate in a hypercompetitive international marketplace alongside foreign airlines that are often state-owned or heavily state-sponsored. Add to that a list of government policies that at times put U.S. carriers at a competitive disadvantage in the international marketplace (not an exhaustive list):

- The United States has signed more than 110 Open Skies agreements with other nations that give foreign airlines virtually unlimited access to the U.S. market.
- The airline industry has the highest taxes and fees of any U.S. industry—17 and counting.
- U.S. policy allows foreign airlines to purchase American-manufactured airplanes with below-market financing rates subsidized by U.S. taxpayers.
- Emerging new flag-of-convenience airline business model seeks to establish subsidiaries in EU countries other than the home country.
- Foreign ownership limits of U.S. airlines that safeguard U.S. national defense and the economy are under attack.
- Excessive oil speculation leads to unstable costs for airlines, and fuel is already most airlines’ number one cost.
- Negative customer experiences at the airport and the use of scarce security resources remain constant newsworthy detractions from flying as a consumer option of travel.
- Lack of commitment/investment in NextGen, which costs airlines and the public time and money.
- Discrepancy in global safety standards puts U.S. carriers and their employees at a competitive disadvantage in the international marketplace.

Here’s one shattering outcome of the last two decades: the U.S. share of the international widebody fleet decreased from 45 percent to 17 percent in June 2012. That share is forecast to shrink to 5 percent by 2025. As aviation continues to globalize, U.S. airlines and their employees find themselves in survival mode, adapting to a global marketplace that for them is an unlevel playing field.

What is to be done?

Simply put, there are external circumstances beyond our control. We cannot change the way foreign airlines and their managements operate. Nor do we want to do that. We welcome competition and understand the advantages and necessity of competition. But, when foreign airlines—with already strong competitive cost advantages—steal market share from U.S. airlines and threaten domestic carriers in our own backyard because our government is enacting legislation or regulations that unknowingly (or knowingly) embrace this activity, we are duty-bound to advocate on behalf of the U.S. airline industry and aggressively push stakeholders to adapt.

Most importantly, despite the bleak circumstances, reasonable solutions exist. This paper explores and offers sound policy solutions that would create a better business environment for U.S. airlines. It is of utmost importance that the U.S. government promote a business environment at home that allows a fair opportunity for U.S. carriers to not just survive, but compete and prevail in the international marketplace. U.S. airlines and their employees can win in the international arena.

3.0

The trinity of airline survival: attacking the issues (1) on the international front; (2) from the consumer’s perspective; and (3) from the one-level-of-safety-and-security front.

In this year’s edition of Leveling the Playing Field, the third edition of ALPA’s white paper, the Association provides the blueprint lawmakers need to make U.S. airlines viable companies in the global marketplace. With the deck stacked against the United States, it’s vital that the U.S. government act on the issues threatening the airline industry. The U.S. airline industry is in survival mode, and only the strongest (and/or best funded) will rise above the noise in Washington, D.C.

For more information, visit www.levelingtheplayingfield.alpa.org and join the conversation at #LevelWithUs.
Open Skies 2.0: Fair Skies

In 1992, the United States began negotiating Open Skies agreements with other countries to expand international passenger and cargo flights to and from the United States, thereby increasing U.S. aviation industry exports, fostering U.S. tourism, and generating good U.S. airlines and airline industry jobs. Since then, the United States has negotiated more than 110 Open Skies agreements, both unilateral and multilateral, including accords with the European Union and its member states, plus India and Japan. Along with China, other major aviation markets where the United States does not currently have an Open Skies agreement in place include Argentina, Mexico, and Russia.

ALPA’s members and the entire U.S. aviation industry have overall benefited from most Open Skies agreements. However, while ALPA supports expanding market access in international aviation markets where airlines compete on commercial merit, some of the countries with which the United States has established or is seeking Open Skies agreements provide government support to their airlines. In the United Arab Emirates (UAE) for example, state-backed airlines benefit from their home country’s tax-free business environment, infrastructure investment, pro-aviation policy, and national commitment to fostering a strong airline industry, which at times has included direct and indirect subsidies to UAE airlines.

In addition, many of the U.S. partners and potential partners in air services agreements do not have labor laws that effectively protect airline workers. In some specific cases, the traditional Open Skies agreements are not working, and a new approach is needed.
In 2010, ALPA played a central role in developing a history-making, stand-alone labor article in the U.S.-EU agreement that underscores the value of high labor standards.

In 2010, ALPA played a central role in developing a history-making, stand-alone labor article in the U.S.-EU agreement that underscores the value of high labor standards. The labor article is critical because, unlike the United States, which has one labor law that applies to all U.S.-certificated airlines, whether they are headquartered in Illinois or in Georgia, the EU’s 28 member states have 28 individual national labor laws. While the EU has created a common aviation area, it remains unclear which regulatory, tax, and labor laws apply to aircrews who may work aboard the aircraft of an airline headquartered in one country, be employed by an entity in a second country, be based in a third nation, and fly routes primarily out of a fourth.

The Norwegian Air International (NAI) business model highlights the need for a strict application of this labor article. The express purpose of Norwegian’s attempt to move its long-haul services to Ireland is to avoid the application of Norway’s labor laws to the aircrews who operate that airline’s aircraft. This move by NAI puts them in direct violation with the U.S.-EU Open Skies agreement’s labor article, Article 17 bis. ALPA and others, including a number of U.S. and EU unions and airlines, have opposed NAI’s application for a foreign air carrier permit. More than 100 U.S. senators and representatives have sent letters to the Department of Transportation (DOT) either opposing NAI’s application or asking the DOT to examine its application closely to see if it is consistent with the labor article. At the time this document went to press, DOT had not ruled on NAI’s application.

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

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

Policy Blueprint

The U.S. must ensure that Open Skies agreements give U.S. airlines and their employees a fair opportunity to compete in the international marketplace. U.S. aviation policy must foster a robust U.S. airline industry and jobs while allowing airlines to continue to benefit from Open Skies agreements. ALPA believes it can be done, but only if the United States creates agreements on a go-forward basis that contain provisions that advance the value of high labor standards. The United States must also identify unfair state-created competitive advantages and account for them in these agreements, both in the future and looking at the more than 110 Open Skies agreements already in place.

To do this, the United States must update its approach to Open Skies accords in the following ways:

- The United States must make clear that while it will continue to be a proponent of Open Skies in aviation, it will not put U.S. airlines at a disadvantage in the global marketplace.
- In all appropriate cases, Open Skies agreements should contain enforceable labor provisions that support the value of high labor standards and protect U.S. aviation jobs. Where labor provisions are present, such as Article 17 bis of the U.S.-EU Open Skies agreement, they must be administered, and the prohibition of flag-of-convenience models like Norwegian Air International must be upheld.
- Accounting for state backing and creating a fair opportunity for U.S. airlines to compete should be the prime objective of all existing and future Open Skies agreements.
- The United States must identify unfair state-created competitive practices and use all appropriate means to address them in existing and future Open Skies agreements.
2 Aircraft Financing Reform
Reform Widebody Aviation Financing at the Export-Import Bank

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

Over the past five years, the Bank has provided financing for hundreds of widebody aircraft to foreign airlines. This financing is provided at rates and terms that are not available to U.S. airlines, and many of these Bank-subsidized widebody aircraft are being used on routes that are, have been, and could be served by U.S. airlines. U.S. carriers have found that they have needed to withdraw from or not enter routes that might otherwise be economically viable.

The effect on U.S. pilot and airline worker jobs has been significant. Given the amount of financing the Bank has provided (more than 634 aircraft and $34.5 billion in financing from 2005 to 2010 and $23 billion in 2011–2012 alone) and intends to provide in the future to foreign carriers, the potential for further incursion into U.S. airline market share by these carriers using Bank-funded widebody aircraft could result in significant additional loss of U.S. airline worker jobs. Additionally, each airline job supports multiple jobs outside the aviation industry, so each U.S. job lost has a significant negative ripple on the broader U.S. economy.

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

Economic impact studies, which are required by Congress, should be done on every proposed widebody aircraft financing deal beforehand to ensure that the impact on U.S. jobs is actually positive and not just assumed to be so. This is not currently being done. Congress requires the Bank to support foreign purchasers only after taking into “full consideration” “any serious adverse effect” that the exports, such as aircraft, might have on other U.S. companies and their employees (Id. §§ 635[b][1][B], 635a; see also id. § 635[e][1]).

ALPA believes that, by working together, we can achieve this goal without putting Boeing and its tens of thousands of employees, a strategic national asset for our defense and our economy, at any financial risk. We can do this if we sit at the table together, and we don’t let the perfect be the enemy of the good.

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3 Fly America
Adhere to the Purpose of the Fly America Act

The Fly America Act instructs the U.S. government that it “shall take necessary steps to ensure” to employ a U.S. air carrier to carry U.S. government traffic on international flights to or from the United States where a U.S. air carrier is available. Congress did not foresee code sharing when it passed the Act, but since the passage of the Fly America Act, the Comptroller General of the General Accountability Office (GAO) has interpreted the Act to permit U.S. carriers to operate “Fly America” services by placing their codes on the flights of their foreign airline partners. Mindful of the purpose of the Fly America Act, however, the Comptroller General’s office carefully based its approval of code sharing on the assumptions that the U.S. airline partner “receives a substantial portion of the revenue” and “does not act as a mere booking agent on behalf of the foreign partner.”

In 2013, National Air Cargo (NAC), doing business as National Airlines, a U.S. airline with foreign charter passenger and cargo authority, sought scheduled authority from the DOT to operate from the United States to the UAE and Afghanistan. At the same time, NAC applied to carry U.S. government passengers’ “Fly America” traffic from the United States to the UAE and Afghanistan by code sharing with Emirates Airline on all of Emirates’ U.S. services. NAC, which has just one passenger aircraft (and three cargo), planned to provide the General Services Administration (GSA) services almost completely by placing its designator code on Emirates, instead of doing the flying itself. While U.S. carriers are permitted to operate “Fly America” services by code sharing with their foreign airline partners, the NAC-Emirates relationship is simply a “rent-a-code” arrangement designed to circumvent the goal of the Fly America Act.

In August 2013, GSA awarded NAC a contract to carry government traffic on 31 U.S.-Middle East city pairs under its City Pair Program. United Airlines, which had won a U.S.-UAE Fly America award in the previous year, protested GSA’s award to NAC. In addition, United challenged, at the DOT, NAC’s fitness to hold the economic authority to operate the code share with Emirates. ALPA, along with Delta and Airlines for America, supported United’s filings at the DOT. On Sept. 12, 2013, the DOT made public its final order that gave NAC the authority it sought to conduct foreign scheduled operations, but also decided to reconsider its decision because of United’s objection and the support from ALPA and the others.

On Sept. 17, 2013, GSA decided to terminate NAC’s contract in its entirety, to reevaluate the proposals for this flying, to review Fly America Act compliance (among other issues), and to make a new determination after its review. GSA then exercised its option to extend its prior award to United and others on the affected routes for 30 days and subsequently extended the prior award for the entire 2014 year.

On March 31, 2014, the DOT issued an order further staying the effectiveness of its “July” final order. The DOT did so because NAC had shown, through shortcomings in various financial, insurance, and managerial submissions, that it was not yet fit, and its FAA Operations Specification omitted the points in Afghanistan it sought to serve. The DOT has not yet commented on the merits of United’s objections and the supporting filings by ALPA and others.

The NAC/Emirates example shows why close adherence to the purpose of the Fly America Act is essential, and that the U.S. airline partner in a code share with a foreign airline must not be “a mere booking agent on behalf of the foreign partner.” As a result, ALPA urges all relevant parts of the U.S. government to be mindful of these concerns in its future administration of the Fly America Act.

Policy Blueprint

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Global Green
Establishing Global Carbon-Emission Levels

The EU Emissions trading scheme (EU ETS) was scheduled to take effect in April 2013. Implementation of the scheme as it pertains to aviation was postponed for one year by the European Union, as it became apparent that the U.S. Congress would pass the EU Emissions Trading Scheme Prohibition Act (P.L. 112-200), which provides the secretary of transportation with the authority to prohibit U.S. air carriers from participating in the EU ETS. The International Civil Aviation Organization (ICAO) committed to agreeing upon a plan to reduce aircraft emissions no later than the next triennial convention in 2016. The plan is to be implemented by 2020. On April 3, 2014, the EU Parliament voted to extend the “stop the clock” legislation until 2016. This will allow negotiators at ICAO to focus on developing a global solution to decreasing aviation emissions.

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

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

Evolution of Advanced Biofuels to Market

ALPA recognizes that the commercialization of advanced biofuels will potentially have a significant and positive impact on the aviation industry. As the largest single purchaser of oil in the world, the U.S. Department of Defense (DOD) has taken the position that its reliance on a single source of fuel presents a threat to our national security. In 2006, the DOD began an effort to develop advanced biofuels capable of powering aircraft and maritime vessels. DOD has worked with the Department of Energy (DOE) and the U.S. Department of Agriculture (USDA) to purchase and refine hundreds of millions of gallons of advanced biofuels, and preliminary data indicates that advanced biofuels burn cleaner, decrease fuel burn by approximately 3 percent, and reduce maintenance costs. This beneficial program will help bring advanced biofuels to commercial-scale production for use by U.S. airlines.

Policy Blueprint
Congress should grant the DOD, the DOE, and the USDA the ability to reprogram funds to meet their obligations related to the construction of biofuel-refining facilities.

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

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

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

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

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

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

The U.S. Trade Representative (USTR) is in the process of negotiating a bilateral free trade agreement with the EU known as the Transatlantic Trade and Investment Partnership (TTIP). The EU is seeking to include air transport services in this trade agreement, including cabotage rights and changes to our foreign ownership and control laws. Adding air traffic rights to the TTIP negotiations is an attempt by the EU to circumvent the long-established process for negotiating an air services agreement because it is not satisfied with the current U.S.-EU air transport agreement.

Policy Blueprint

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

"Our laws need to ensure that U.S. air carrier aircraft are available in times of national emergency. These rules also address a key concern of U.S. airline employees—that they receive a fair share of international flying opportunities."
The U.S. airline industry finds itself increasingly burdened with higher taxes, fees, and “consumer protection” regulations. Today, the aviation industry leads all others in America with 17 unique federal taxes and fees, putting the U.S. industry at a significant competitive cost disadvantage in the international marketplace. Airlines for America (A4A) estimates that about 20 percent of a $300 ticket for a typical, domestic, round-trip itinerary with a single connection in both directions is composed of taxes. These taxes are not disclosed to the consumer, but rather hidden in the overall ticket price—a change required by the Department of Transportation’s (DOT’s) 2012 Full Fare Advertising rule. This policy shift applies only to the airline industry and imposes an unnecessary and unfair regulation that virtually no other consumer product or industry must abide by, leaving air travel less price competitive than other modes of travel.

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

The tax burden on aviation and its customers has more than tripled since 1998 to more than $19 billion annually. Furthermore, the tax burden is anticipated to increase in the coming years. The executive branch’s 2015 budget proposal includes a $100-per-departure tax on every flight and additional fees for aviation security, which are disproportionately imposed on travelers who choose air travel.

In 2010, the DOT Future of Aviation Advisory Committee (FAAC), which was appointed to develop recommendations on initiatives that would be of particular importance to the future health and sustainability of the industry, highlighted
the heavy tax burden borne by aviation. The FAAC noted that not only does this tax burden make travel and shipping less affordable, it also could very well inhibit airlines from making needed investments to achieve sustained profitability and competitiveness. The FAAC recommended commissioning an independent study to evaluate the federal aviation tax burden on passengers, airlines, and general aviation. The results of this evaluation could be used to pursue appropriate legislative and regulatory actions consistent with the findings of the study. In addition, since the FAAC report was developed, there have been increasing discussions within the industry regarding alternative means to structure and finance the U.S. Air Traffic Control (ATC) system overall. These discussions were caused in part by the inability of Congress to agree and pass a budget for the FAA. A key component to that budget is a long-term stable funding stream for NextGen. Various business models for ATC systems have been used in other countries and could be used directly or modified to be optimum for the U.S. national airspace system. A significant issue in these discussions is how such a system would be funded, and in particular, the need to review and eliminate the various taxes and fees charged to airline tickets that do not go toward funding the FAA or ATC system. This topic must be added to the overall discussion of airline tax reform.

Since 2009, the DOT has promulgated a series of costly consumer protection rules for airline passengers. ALPA is committed to providing the traveling public with a positive travel experience. That is essential to the health of the airline industry and its workers’ jobs. The vast majority of DOT’s new consumer rights regulations, however, are misguided and provide little, if any, benefit to passengers. The rising burden of such regulations is undermining the U.S. airline industry’s ability to compete globally, become sustainably profitable, and expand its U.S. workforce.

A costly and burdensome element of the requirements, the “tarmac delay rule,” requires passengers on domestic flights to deplane after a three-hour tarmac delay, or airlines face extraordinary fines. While the intent of the rule may be positive, unfortunately, the rule does not address the many root causes for tarmac delays, most of which are beyond an airline’s control, including inclement weather, air traffic control delays and technical problems, airport gate availability, inadequate customs and immigration staffing levels, and runway or taxiway closures.

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

In May 2014, DOT released a new 118-page proposed rule yesterday that claims to benefit the traveling public. In ALPA’s view, on the surface, the proposed rule sounds consumer-focused, but the regulatory burden may potentially increase airline costs for consumers and/or reduce air service by requiring airlines to disclose à la carte voluntary passenger options available for purchase. This runs in stark contrast to the mandate DOT put on airlines received during the 2012 rule that prohibited them from itemizing involuntary government-imposed taxes more prominently than the airfare itself.

**Policy Blueprint**

Any proposals for new or increased fees and taxes on the airline industry and its passengers should be summarily rejected. The DOT should immediately conduct the FAA-recommended independent study to evaluate the federal aviation tax burden on passengers, airlines, and general aviation. Policy makers should strive to reform our aviation tax policy with a goal of leveling the playing field to increase U.S. international competitiveness and advance U.S. leadership in aviation safety. A study should be undertaken to evaluate the feasibility of shifting the ATC system away from a purely tax-supported government function. Furthermore, Congress should pass and the president should sign the Transparent Airfare Act of 2014, which would restore the transparency under which airline tickets are advertised and allow federal taxes and fees to be shown in the price of a ticket.

The DOT should further place a moratorium on new consumer regulations (except for safety-related rules) until it conducts a review of existing protections, submits its findings for peer review by neutral academic experts, and collects information from airlines about the cost of compliance. In conducting its review of existing consumer regulations and when considering new consumer regulations, the DOT should give greater weight to the economic impact the rules will have on U.S. airlines and their workers rather than focusing exclusively on the impact on consumers. As the DOT has acknowledged, “matters that maintain and improve the health of the aviation industry,” including encouraging airlines to “earn adequate profits and attract capital,” are in the public interest.
Enhance the Airline Customer Experience at the Airport: CBP Resources and Risk-Based Security

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

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

The United States’ philosophical approach and security culture, much more than the types and amounts of resources deployed, must adapt to today’s threats with risk-based screening. Screening processes need to continue to interdict prohibited items before being carried into secured areas of airports, but they also must be enhanced to do a better job of screening for individuals with hostile intent, and they must do so in a manner that is acceptable to the vast majority of air travelers.

In 2011, ALPA and Airlines for America (A4A) collaborated with the Transportation Security Administration (TSA) on the development of a program called Known Crewmember (KCM) to screen authorized airline personnel using available technology and airline data. KCM is designed to confirm an airline flightcrew member’s identity and current employment status, expedite his or her access to sterile areas of airports, reduce backlogs, increase throughput at passenger-screening checkpoints, and make more efficient
use of TSA screening resources. It also is intended to enhance security for the traveling public and the airline industry. All of these benefits provide a win-win result for the security of the traveling public and efficiencies for airlines and their employees. Risk-based security protocols such as KCM, TSA’s PreCheck, Global Entry, and Customs and Border Protection’s (CBP) Trusted Traveler programs are a smart use of federal security resources and a benefit to the traveling public.

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However, the Department of Homeland Security’s (DHS) intent to shift already constrained CBP resources overseas through expansion of CBP preclearance not only represents a questionable policy modification, but also threatens the economic viability of the U.S. airline industry. In April 2013, in conjunction with a visit from the crown prince of Abu Dhabi, the United States signed an agreement to establish a CBP preclearance facility at Abu Dhabi International Airport—in direct contradiction of Congress’s opposition, stemming from the fact that Abu Dhabi International is the first airport in the world to receive a U.S. Customs preclearance facility that solely benefits a foreign airline, as set forth in the Consolidated and Further Continuing Appropriations Act of 2013 (P.L. 113-6, Section 560[f]). Further ignoring the will of Congress and despite substantial opposition from airline industry stakeholders, including ALPA, the preclearance facility opened at Abu Dhabi International Airport in February 2014. This new facility is the first expansion of the program since 1986, the first such facility in the Persian Gulf, and the first to utilize a reimbursement arrangement under which a foreign country will pay a portion of a U.S. Homeland Security responsibility. The stated purpose for establishing the facility was to increase security and cooperation between the United States and the United Arab Emirates. While we wholeheartedly support enhancing aviation security, other means exist to achieve this goal without harming the U.S. airline industry.

The goal of the U.S. government’s Customs preclearance program should be to benefit U.S. passengers and U.S. air carriers. U.S. taxpayers’ money should not be used to give an unfair advantage to foreign airlines.

Currently, the United States operates 15 preclearance locations at airports in Canada, Ireland, and the Caribbean, not including Abu Dhabi. Each of these airports is served by at least one U.S. airline. U.S. airlines transport a majority of the passengers who are cleared through these locations into the U.S. The program’s benefit is clear for both U.S. airline passengers and the U.S. airline industry. In stark contrast, the new customs preclearance facility located in Abu Dhabi sets an alarming precedent—it is the first airport in the world to receive a U.S. Customs preclearance facility that solely benefits a foreign airline. The policy of using U.S. taxpayers’ money in a way that helps foreign airlines to better compete against U.S. companies is an affront in its own right, but consider as well that this airline is state-supported and already operates with a significant advantage in the global marketplace. Abu Dhabi preclearance has been in operation for less than six months, and the U.S. government is already indicating its intention to expand preclearance in other airports in the Middle East by capitalizing on foreign reimbursement for a decidedly U.S. national security responsibility.

Policy Blueprint

ALPA is opposed to government policies that provide unfair competitive advantages to foreign airlines that directly compete with U.S. airlines. As such, the preclearance facility in Abu Dhabi should be halted until a thorough assessment is completed on both the security options in the region and the economic impact of the facility on U.S. airlines and U.S. airline industry jobs and until such time as all CBP stations at U.S. airports are adequately staffed.

Additionally, authorization legislation is needed to require standards for any new CBP preclearance facilities that would ensure such facilities are do not create economic and business advantages for foreign competitors over U.S. airlines. ALPA continues to support H.R. 3488, introduced by representatives Patrick Meehan (R-Pa.) and Peter DeFazio (D-Ore.), and urges swift enactment of this legislation to put parameters on new CBP facilities and specifically prevent the construction of new facilities in the United Arab Emirates and Qatar and close Abu Dhabi.

The government should continue to promote and expand risk-based security to focus greater attention on identifying those very few persons who pose a threat to air travel instead of utilizing a one-size-fits-all approach. The government should increase investment in the Known Crewmember, PreCheck, and Trusted Traveler programs, which enhance security and reduce airport wait times for all customers, improving the airline customer experience. Airline pilots should be added to Global Entry, as they were to KCM, based on the fact that they are known individuals.
Fuel Price Stability

Promote Fuel Price Stability through the Reduction of Oil Speculation

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

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

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

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

Policy Blueprint

Congress should reject all legislation that seeks to alter Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203). Congress should also provide increased funding to the U.S. Commodity Futures Trading Commission (CFTC) to ensure proper oversight of the $300 trillion derivatives market for which CFTC is responsible. Failure to adequately fund CFTC will have a negative financial impact on the airline industry, other legitimate end users, and consumers.
NextGen Taxes

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

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

Policy Blueprint

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

“NextGen benefits all users of the national airspace system, not just airlines.”
Travel is America’s largest services export industry. In 2013 alone, international visitors added nearly $181 billion to our economy, and one in every nine U.S. jobs depends on travel and tourism. Travelers to the United States fly on U.S. airplanes with American crews and help to support tens of thousands of U.S. airline jobs. We should work to grow in this vital sector.

Unfortunately, current law actively discourages tourism from international visitors. More than 40 percent of international travelers to the United States require a visa for entry; due to the limited number of U.S. consulates and current regulations, obtaining a visa can be a costly and time-consuming process, dramatically decreasing the number of potential tourists. Those who do reach our shores are met with an inefficient, excessive, frustrating customs and entry process that leads 43 percent of travelers to recommend against visiting the U.S.

"International visitors added nearly $181 billion to our economy, and one in every nine U.S. jobs depends on travel and tourism."

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

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

Congress should act on all of these points by passing the JOLT Act (H.R. 1354).
Carriage of Hazardous Materials

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

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

ALPA has been working through ICAO’s Dangerous Goods Panel to improve international technical instructions for shipment of lithium batteries for more than a decade. In early 2013, ICAO issued new provisions that incorporate new requirements for packages containing more than eight cells or two batteries, including training for the shipper and operator, dangerous goods labels, acceptance checks, preloading and unloading inspections, and inclusion on the information given to the pilot-in-command. Current U.S. regulations allow exceptions for a large number of consumer batteries in a single package and any number of packages on an airplane. As a result, these batteries could be transported without a flight crew’s knowledge of the potential risk.

All U.S. stakeholders have voiced unanimous agreement that the United States government should adopt the new ICAO rules, which place important and needed restrictions on the carriage of lithium batteries as cargo on aircraft. Inexplicably, the Pipeline and Hazardous Materials Safety Administration, the agency that is responsible for issuance and oversight of the hazardous materials regulations in the United States, has engaged in delay tactics. These have included publication of a notice of proposed rulemaking asking whether the agency should permit shippers and carriers to choose between compliance with its outdated rules or the new ICAO technical instructions when transporting lithium batteries domestically by air.

Policy Blueprint

The United States should adopt more stringent regulations over the air transportation of lithium batteries and harmonize with current ICAO standards and recommendations.
Flight/Duty-Time Requirements

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

Policy Blueprint

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

Further, the United States should pursue a vigorous effort at ICAO to adopt a new international standard for flight/duty time that will increase aviation safety around the globe and create a level playing field for U.S. airlines that compete globally. The rule should cover all airline operations and be based on FAR 117.

Mandate FRMS

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

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

Policy Blueprint

The United States should advocate adoption of FRMS for all aspects of flight operations to ensure that flightcrew members are well rested and alert.
13 Raise International Standards
Pilot Screening, Qualification, and Mentoring

The best and most important safety feature on any airplane is a well-trained, highly motivated, professional pilot. Despite great advances in aircraft technology that have immeasurably improved safety, the flight crew is still responsible for making hundreds of decisions on each and every flight in order to operate in the safest manner possible.

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

Recent accidents in the United States have led Congress and the FAA to recognize the inherent shortcomings in today’s training regulations. Numerous aviation rulemaking committees met in 2010–2011 and developed many recommendations aimed at improving the qualifications and other standards for airline first officers.

As a result of provisions contained in the Airline Safety and Federal Aviation Administration Extension Act of 2010 (P.L. 111-216), the FAA issued new regulations effective Aug. 1, 2013, that require all Part 121 first officers to hold an airline transport pilot (ATP) certificate. The rules significantly increased the amount and types of education and flight training needed to become a first officer while concurrently, in an attempt to quantify the quality of pilot training available, reducing the number of flight hours needed to earn the ATP certificate for those having military or certain academic flight training qualifications. The new rules have set a higher bar of performance for the world’s aviation community than existed in the past, and represent enhancements to the safety of flight and the piloting profession.

Critics of the new regulations, which include some organizations that approved of the new requirements before they were published by the FAA, have argued that they are creating a “pilot shortage” by reducing the number of pilots who can qualify to become airline pilots. ALPA has long maintained, and a February 2014 report by the General Accountability Office confirms, that if there is a short-term shortage it is simply a shortage of qualified pilots who are willing to work for the paltry wages and benefits offered by some regional airlines to first officer candidates. In fact, the new regulations actually reduce the number of hours needed to qualify for the ATP; the GAO found that there are tens of thousands of pilots in the United States who qualify, or could soon qualify, to become first officers on the basis of the ATP and medical certificates that they hold. The FAA’s new first officer qualification rules were not intended to, and cannot, address the airline industry’s broken business model as related to regional air carrier operations and profitability.

As for the potential for a long-term pilot shortage, ALPA agrees that unless we work to make the airline pilot profession an attractive career, providing livable wage, benefits, and career progression, we will be faced with a shortage of qualified pilots. This is equally true of other “skilled” workers in the aviation industry.

Policy Blueprint

The United States should pursue a vigorous effort at ICAO to adopt new international standards for pilot flight screening, training, and mentoring around the globe. Congress should rebuff any efforts by U.S. aviation stakeholders to undo or lessen the safety gains that have been realized for first officer qualifications and training requirements.

Further, industry and government must work together to reestablish commercial aviation as an attractive career in order to attract and retained a qualified workforce.
14 Increase Efficiency
Invest in NextGen to Improve Safety and Increase Efficiencies While Decreasing Costs to Airlines

To maintain a competitive advantage in the international marketplace, the United States’ national airspace system (NAS)—which includes the air- and ground-based infrastructure, including air traffic control services, voice and data communication, ground- and space-based navigation, airports, aircraft, and more—must continue to be modernized. The baseline system of air traffic management is based on technologies, techniques, and processes that date back decades. Progress in fielding upgraded ATC computer systems, enhanced space-based navigation procedures, and other NextGen programs continues, but the original infrastructure continues to deteriorate faster than it can be replaced. As a result, the ability of the FAA and operators in the NAS to guarantee the safest and most efficient travel possible is being diminished. The need for infrastructure improvement to increase efficiency and safety for U.S. carriers extends beyond the borders. A recent ALPA initiative, creation of the President’s Committee for Remote Operations, has begun to address the need for safely enhancing infrastructure improvements in the far northern regions of Canada and Alaska. These locations are not simply destinations for domestic travel; they can be, and have been, used as the only available emergency alternates for long-haul international widebody carriers.

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

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

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

NextGen will increase capacity, reduce delays in the air and on the ground, and diminish greenhouse gas emissions.

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

Photo: Eric Davis