

CHAPTER 6

BILATERAL AND REGULATORY ISSUES FACING THE AIR CARGO INDUSTRY

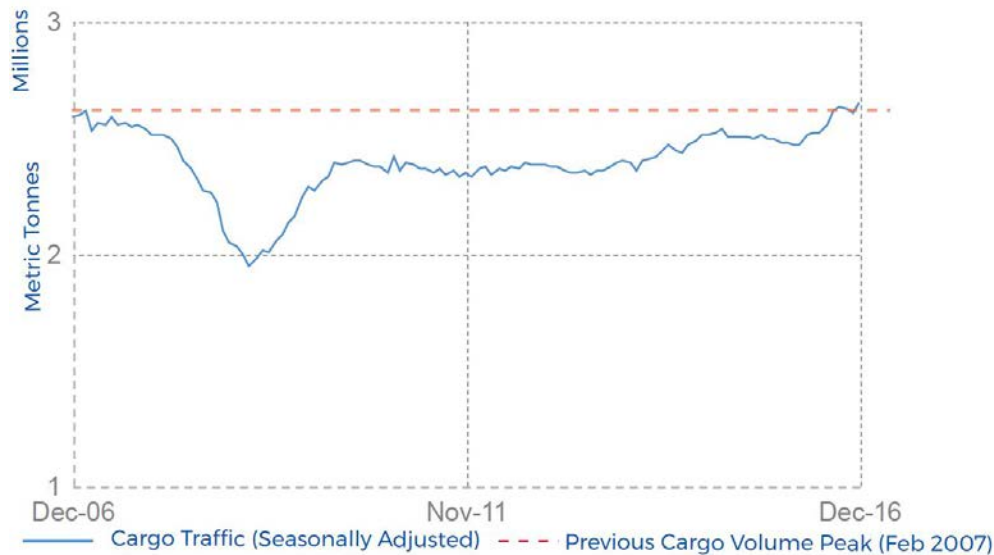
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1. STATUS OF THE INDUSTRY

The air cargo industry began to see an uptick in 2016, with monthly cargo traffic at the end of the year surpassing the last peak before the 2008 recession.



Source: ACI-NA North America Traffic Report 2016

The growth continued more strongly in 2017, at the rate of 10.1% globally, more than double the long-term average growth rate of 4.2%. Key drivers of this growth have been the steady expansion in the global economy, increasing industrial production, and world trade growth. However, global air cargo growth slowed in 2018, with the trend continuing into 2019. This is was driven by the end of the inventory restocking cycle and weakness in global trade due to increasing geopolitical instability and trade tensions between the U.S. and China.

According to the most recent ACI statistics, the five largest U.S. cargo airports in North America are, in order: Memphis (MEM), Anchorage (ANC), Louisville (SDF), Los Angeles (LAX) and Miami (MIA) . All five were among the fifteen largest cargo airports in the world, with Asian airports such as Hong Kong (1st), Shanghai Pudong (3rd) and Seoul Incheon (4th) dominating the other top spots. In 2010, Federal Express and United Parcel Service were the largest freight cargo carriers according to IATA data. While the latest 2018 still puts Federal Express in first place, United Parcel Service is now number four, behind Emirates and Qatar Airways, and followed by Cathay Pacific Airways.

In the United States, FedEx and UPS together continue to fly the most freight domestically. These carriers accounted for approximately 75 percent of domestic air freight in 2018. In third and fourth place are Atlas Air and Air Transport International respectively. Combined, they carried more than 9 percent of domestic air freight in 2018, a threefold increase since 2013. Both carriers are the main carriers contracted to fly for Amazon Air, which has eroded the market share and challenged the dominance of FedEx and UPS as e-commerce has grown explosively.

As of mid-2019, the growth of e-commerce has helped the United States sustain overall cargo growth, as strong domestic freight volumes offset declines in international freight. Air cargo in North America, which is dominated by the United States, currently accounts for 30 percent of global freight compared to more than 36 percent for the Asia-Pacific region. Looking ahead, this discrepancy will only widen in the following

decades. Boeing's 2018-2037 World Air Cargo Forecast predicts that air cargo traffic will grow 4.2% annually in the next 20 years, primarily due to air cargo traffic within and to/from Asia. As a mature market, North America is forecast to have below-average air cargo growth.

2. REGULATORY CONSTRAINTS FACING THE CARGO SECTOR

2.1 Bilateral Air Service Agreements

International aviation is governed by an array of bilateral agreements and some multilateral agreements between and among governments that have evolved under the framework of the Chicago Convention of 1944.

Since 1992, the United States has been pursuing an Open Skies policy. The main components of an Open Skies agreement are:

- Open international routes between the parties including third, fourth, fifth and sixth freedom traffic rights,
- No limits on number of carriers that are allowed to operate
- No limits or on the number of flights they can operate,
- Liberal provisions on pricing and charters,
- Provisions on commercial opportunities (e.g. intermodal rights) and doing business issues (e.g. user charges and ground handling).

The United States also has optional provisions with respect to cargo that it seeks from its negotiating partners: intermodal code sharing and seventh freedom traffic rights for all-cargo scheduled and charter services. (Seventh freedom traffic rights allow an airline to carry traffic between two countries neither of which is its homeland e.g. right for Lufthansa to carry cargo between the United States and India without landing in Germany). Of course, the consent of the third country is necessary before the rights can be implemented.

(Please see the appendix at the end of this chapter for the definitions of traffic rights discussed in this section).

The United States has been successful in concluding Open Skies agreements with many countries in every region of the world. In 2010, the United States achieved the landmark of 100 Open Skies partners. As of 2019, it reached more than 125 Open Skies partners. Over half of these Agreements include seventh freedom traffic rights for all-cargo services and the U.S. government has made a concerted effort to revisit existing Open Skies agreements to add all-cargo seventh freedom traffic rights. All U.S. Open Skies agreements cover all-cargo services. In a few cases, such as Mongolia and Vietnam, U.S. partners have agreed to Open Skies for all-cargo services only.

Most of these Open Skies agreements are bilateral agreements. However, the United States has two multilateral agreements: 1) United States/European Union Air Transport Agreement and 2) Multilateral Agreement on Liberalization of International Air Transportation (MALIAT) which was started in 2001 and which primarily involves partners surrounding the Pacific---Brunei, Chile, Cook Islands, Fiji, New Zealand,

Samoa, Singapore, Tonga and the United States. The MALIAT also provides an option which allows countries to accede to a Protocol for Open Skies for all-cargo services only. Mongolia opted to agree to the all-cargo Protocol.

Some of the air transport agreements reached with major aviation partners since the 2005 issue of the ACI-NA Air Cargo Guide ---European Union, Brazil, China, Colombia, and Japan--- are discussed below.

U.S./European Union Agreement

The United States and European Union reached an Open Skies Agreement (Stage 1) in 2007 and concluded negotiations on amending the Agreement in 2010 (Stage 2). The Agreement governs aviation relations with the EU and its 27 Member States. Iceland and Norway have acceded to the U.S./EU Agreement even though they are not members of the EU.

The Agreement extended Open Skies to EU member states that did not have such bilateral agreements with the United States, such as the United Kingdom. It eliminated the legal restrictions on the number of airlines and which U.S. gateways are permitted access to London's Heathrow Airport.

The U.S./EU Agreement also includes some seventh freedom rights for all-cargo services. The EU airlines have open seventh freedom rights for all-cargo services between the United States and other countries. U.S. airlines are limited to those seventh freedom traffic all-cargo rights, which they already had under bilateral agreements with some Member States, such as France and Germany.

The U.S./EU Agreement is sometimes referred to as Open Skies plus because it contains additional liberalizing elements. For example, the United States agreed to the "EU carrier concept" which means the United States would accept any EU airline substantially owned and effectively controlled by nationals of any EU Member State or States to operate between any point in the EU (not just that airline's homeland) and the United States.

The Agreement also allows EU airlines to carry Fly America civilian government scheduled and charter cargo and passenger traffic in international markets that do not include the United States and in U.S. international markets for which there is no General Services Administration contract. It provides that U.S. airlines can enter into arrangements for aircraft with crew for international air services that do not include the United States. (Previously, U.S. airlines were not allowed to wet lease from foreign carriers in any markets). The Agreement includes an emphasis on enhanced cooperation between the United States and EU on a variety of issues.

The Agreement also details how the ICAO balanced approach to aircraft noise management at airports should be implemented. The balanced approach requires a careful evaluation of costs and benefits before restrictions can be placed on aircraft operations. U.S. cargo carriers are concerned about EU airports proposing and implementing noise-based operating restrictions as these undercut the economics of their operations.

There are additional rights available to each party, but they are subject in the case of the United States to changing its law on U.S. airline ownership and control and in the case of the EU to changing its law on airport noise restrictions. For example, if the United States were to liberalize its law to allow majority ownership and effective control of U.S. airlines by EU nationals, then U.S. airlines would receive open seventh freedom rights for all-cargo services between the EU and other countries among other things.

U.S./Brazil Agreement

The United States and Brazil initialed a phased Open Skies Agreement during late 2010, which eventually entered into force in May 2019. The agreement includes unlimited number of carriers, open international routes, code sharing, pricing, and charters. However, the Open Skies agreement did not include seventh freedom traffic rights for all-cargo services, but the U.S. has approached the Brazilians about implementing these rights.

U.S./Colombia Agreement

Also in late 2010, the United States and Colombia reached a phased Open Skies agreement. Most of the Open Skies provisions applied immediately to all-cargo services. With the phasing completed at the end of 2012, full Open Skies for combination and all-cargo services is in effect. However, the Open Skies agreement does not include seventh freedom traffic rights for all-cargo services although the U.S. has approached the Colombian government about adding these rights.

U.S./China Agreement

Over the years, the United States and China have gradually liberalized their aviation relationship. Most recently in May 2007, the United States and China reached an agreement which substantially expanded rights for both sides. The provisions governing all-cargo services are more liberal than those on combination services. Effective March 2011, the agreement provides for unlimited designations, frequencies and open international routes including fifth freedom and sixth freedom rights for all-cargo services. Special provisions continue to provide seventh freedom traffic rights and enhanced change of gauge rights for a carrier which operates a cargo hub in the other country meeting the requirements stipulated in the Agreement. However, cargo charters like combination charters are generally subject to quotas in city-pair markets in which Chinese carriers operate scheduled all-cargo services except for charters involving China's Zone 3 as defined in the Agreement.

The Agreement continues to apply designation limits (U.S. carriers only), frequency limits and restrictions on fifth freedom rights with respect to combination services. It did provide for phased increase in those limits on designations and frequencies, but there are no more increases available after 2011.

The two sides have met periodically with the goal of reaching full liberalization as mentioned in the Agreement, but have yet to come to an understanding.

The U.S. and China have encountered some difficulties implementing the Agreement. For example, DOT has continued to condition its approval of China Southern's request to coterminimize U.S. points on its all-cargo services upon China's approval of U.S. carrier requests for additional coterminimize all-cargo flights in China. Therefore, China Southern will not be allowed to coterminimize its cargo points in the United States until China permits additional coterminimize of cargo points in China by U.S. airlines.

U.S./Japan Agreement

The United States and Japan concluded an Open Skies agreement in late 2009 that became effective and was implemented in October 2010 when the fourth runway at Haneda International Airport became operational. The agreement removes the previous restrictions on routes, code sharing, designations, frequencies, and charters. It eliminates the legal distinctions between incumbent and nonincumbent carriers so that UPS, Polar and Evergreen have the same rights as Federal Express with respect to unlimited frequencies and fifth freedom rights. The Agreement does not include seventh freedom traffic rights for all-cargo services. The agreement allows Japanese carriers some access to Fly America along the lines granted to the EU.

In 2019, the U.S. and Japan negotiated expanded access for U.S. carriers to Tokyo Haneda International Airport as a result of the Japanese government's doubling of available slots at the airport. 12 new slot pairs for combination carriers at commercially viable times were made available, bringing the total slot pairs for U.S. carriers at Haneda to 16. No expansion of rights for all-cargo carriers were made available, although the Japanese did affirm all-cargo carrier fifth-freedom traffic rights and change-of-gauge opportunities.

2.2 Security Constraints

In the wake of the September 11th attacks, security of air transportation has dominated the industry as a whole and the cargo sector is no exception. Although officials are keenly aware of the need to preserve the critical role air cargo plays in the world and U.S. economies, security regulation will likely be the most prominent constraint on the industry in the foreseeable future and will certainly add costs to doing business.

Immediately after the attacks, the Aviation and Transportation Security Act (ATSA) was signed into law, creating the Transportation Security Administration (TSA), the federal agency primarily responsible for air transportation security. Although initially created as part of the Department of Transportation, the Homeland Security Act of 2002 transferred TSA to the Department of Homeland Security (DHS) in 2003. Customs and Border Protection (CPB), also part of DHS, enforces regulations that impact domestic and international air cargo security. While, the FAA's focus is on ensuring air cargo shipments do not present safety hazards, CPB focuses on regulating its import and export. Although their missions have converged somewhat in recent years, TSA is primarily responsible for promulgating regulations to ensure the security of air cargo. In ATSA, Congress established two primary mandates for TSA regarding air cargo security:

- Provide for the screening of all property, cargo, carry-on and checked baggage and other articles, that will be carried aboard passenger aircraft operated by U.S. and foreign air carriers
- Establish a system to screen, inspect, or otherwise ensure the security of freight that is to be transported in all-cargo aircraft as soon as practicable.
- In May 2006, TSA issued its Air Cargo Security Final Rule to implement a large part of its Strategic Plan and many of the recommendations submitted to the TSA Administrator by the Aviation Security Advisory Committee. The Final Rule established comprehensive measures to strengthen air cargo security designed to protect the cargo transported aboard passenger and all-cargo aircraft each day. The air cargo security requirements were the most significant modification to air cargo regulations since 1999, and represent a joint government-industry vision of an enhanced security baseline. Prior to this rulemaking, TSA had enacted regulations implementing its Known Shipper program and requiring adoption of security programs for certain types of carriers, which detail procedures to screen cargo, verify the identities of persons with access to planes and ensure the security of parked aircraft. TSA periodically issues security directives (SDs) and emergency amendments to security programs (EAs), to enhance these and other security measures. For example, TSA had required domestic and foreign carriers to conduct random inspections of passenger aircraft that carry cargo and all-cargo aircraft, and foreign all-cargo air carriers operating into and out of the U.S. to follow security plans approved by TSA. In addition, TSA has sought to develop canine detection teams and technology, including explosive detection machines, to enhance the effectiveness of its cargo security program. The Air Cargo Final Rule formally makes permanent some practices already in place and adds others. Major new security measures include: Require safety threat assessments for individuals with unescorted access to cargo;
- Codify cargo screening requirements first implemented under SDs, EAs, and part 1550 programs issued in November 2003;
- Require airports with SIDAs to extend them to cargo operating areas;

- Require aircraft operators to prevent unauthorized access to the operational area of the aircraft while loading and unloading cargo;
- Require aircraft operators under a full or all-cargo program to accept cargo only from an entity with a comparable security program or directly from the shipper;
- Codify and further strengthen the Known Shipper program;
- Establish a security program specific to aircraft operators in all-cargo operations with aircraft with a maximum certificated takeoff weight more than 45,500 kg;
- Strengthen foreign air carrier security requirements essentially to parallel the requirements on U.S. aircraft operators; and
- Enhance security requirements for Indirect Air Carriers.

Although TSA successfully met the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act) deadline for screening all cargo to be transported on passenger aircraft departing airports in the United States, the agency also established a requirement for passenger carriers to screen 100 percent of cargo on flights departing international airports for the US.

In late 2010, TSA in coordination with Customs and Border Protection launched the Air Cargo Advance Screening (ACAS) pilot, an initiative to utilize manifest data submitted by passenger and all-cargo airlines in advance of departure to target high-risk shipments for additional screening. In early 2011, TSA issued risk-based security requirements to passenger and all-cargo airlines which required the screening of high-risk cargo shipments.

To meet the 9/11 Act requirement for screening 100 percent of cargo on passenger aircraft departing international airports destined for the United States, TSA issued security programs to domestic and foreign airlines that included a December 3, 2012 deadline by which all cargo must be screened for explosives. Since TSA worked closely with industry and foreign government representatives to develop the risk-based screening protocols, the requirement did not expected to disrupt commerce or the volume of cargo transported to airports in the US.

Through the ACAS Program, which in 2018 required airlines to submit information on air cargo shipments, CBP and TSA identify high risk cargo shipments prior to being loaded on aircraft.

Meanwhile, CBP implemented the Congressional mandate passed as part of the Trade Act of 2002 to require advance transmission of electronic cargo information for both arriving and departing cargo. Air carriers importing and exporting cargo must submit detailed shipment information to CBP electronically using the Automated Manifest System (AMS). For shipments into the U.S., the information must be transmitted four hours prior to arrival for intercontinental flights and at “wheels up” for flights from Canada, Mexico, and Central and South America north of the equator. For exports from the U.S., the information must be provided via AMS two hours prior to scheduled departure from the last U.S. port.

However, the Final Amended Rule issued in 2011 amended two provisions of the Air Cargo Screening Interim Final Rule (IFR) issued on September 16, 2009. The IFR established the Certified Cargo Screening Program, in which TSA certifies shippers, indirect air carriers, and other entities as Certified Cargo Screening Facilities (CCSFs) to screen cargo prior to transport on passenger aircraft. Under the IFR, each CCSF applicant had to successfully undergo an assessment of their facility by a TSA-approved validation firm or by TSA. In response to public comment, the final amended rule removed all validation firm and validator provisions, so that TSA will continue to conduct assessments of the applicant's facility to determine if certification is appropriate. The IFR also required that if an aircraft operator or foreign air carrier screens cargo off an airport, it must do so as a CCSF. The final rule eliminates this requirement, as aircraft operators are already screening cargo on airport under a TSA-approved security program, and do not need a separate

certification to screen cargo off airport. Finally, the final amended rule proposed a fee range for the processing of Security Threat Assessments.

2.3 Safety Constraints

Safety issues, which are addressed primarily by the Federal Aviation Administration (FAA), will also continue to constrain the cargo sector.

For years, the FAA has been conducting aviation safety oversight assessments of countries around the world, to determine whether U.S. aviation partners are complying with their obligations under the Chicago Convention to regulate their own carriers' safety practices. If the FAA finds a country to be doing so to its satisfaction, it assigns a Category 1 rating, and that country's carriers may continue to serve the U.S., and expand operations to the U.S., to the extent provided for in applicable bilateral agreements. If in the FAA's judgment the country is not in compliance with minimum international standards, it assigns a Category 2 rating. If a country has carriers with existing operations to the U.S. at the time it is assessed a category 2 rating, those carriers are permitted to continue current operation levels under heightened FAA scrutiny. If a country does not have air carriers with operations at the time of the Category 2 assessment, its carriers are prohibited from serving the U. S. However, new operations from category 2 countries are allowed if conducted using aircraft wet-leased from U.S. carriers or foreign carriers from category 1 countries authorized to serve the U.S. with their own aircraft.

As of November 2012, countries currently classified with a Category 2 rating include: Bangladesh, Barbados, Belize, Cote D'Ivoire, Curacao, Democratic Republic of Congo, Gambia, Ghana, Guyana, Haiti, Honduras, Indonesia, Kiribati, Montenegro, Nauru, Nicaragua, Paraguay, Philippines, Serbia, Saint Maarten, Swaziland, Ukraine, Uruguay and Zimbabwe. Thus, the carriers of these countries may not initiate new or expand existing U.S. service at the present time, regardless of what the bilateral agreements may otherwise permit.

On the brighter side, countries that had been given the Category 2 rating have since improved to Category 1 include Kuwait and Thailand.

Some foreign countries have challenged the fairness of these FAA assessments, and have questioned the authority of the U.S. to police other countries' adherence to ICAO standards. However, as a practical matter, carriers from countries rated as Category 2 face very real constraints on their ability to serve the U.S. market, regardless of how high a level of safety those carriers may be able to demonstrate with respect to their own operations.

The United States has been focused on safety domestically as well. The National Transportation Safety Board recently reported the following facts regarding air cargo operations:

- There have been over 40 NTSB Cargo accident investigations since 1984
- The fatal accident risk is 2-5 times higher for cargo than for passenger operations
- The cargo fleet, while changing and shifting towards newer, more fuel efficient aircraft, tends to be older than combination aircraft

The NTSB and Air Line Pilots Association, International have pointed out that there are significant differences between the safety standards for cargo and passenger operations. These include less stringent operating rules regarding flight and duty time limits, reporting weather information, and alternate airports, and use of flight dispatchers. In addition, less stringent certification standards apply to cargo aircraft, which, for example, do not require safety equipment standard on passenger aircraft such as fire-suppression systems in the main cabin or lower decks, emergency exits, and exit slides. The relatively greater age of

the cargo fleet means maintenance issues are more significant, including limited support from manufacturers. Moreover, many cargo aircraft undergo numerous modifications and reconfigurations, complicating maintenance. In addition, the ARFF requirements for airports that handle air cargo aircraft are not the same as those for air carrier passenger operations. In addition, there are no federal certifications or regulatory requirements for personnel and companies that prepare and load cargo.

To address air cargo safety issues, the FAA's Flight Standards Service developed the Cargo Strategic Action Plan and Air Cargo System Safety Implementation Plan (September 30, 2002), which identifies its long-term strategies as increasing inspector awareness on inspection guidelines by issuing an updated handbook policy and developing a formal training course.

These and other measures could add significantly to the cost of operating air cargo flights in the future.

3. SOLUTIONS TO THE CONSTRAINTS

3.1 Petitioning the Government to Provide Special Regulatory Relief

As security and safety take on central importance, industry stakeholders must recognize their pivotal role in ensuring regulators strike a reasonable balance with economic imperatives. Certainly this requires keeping a close eye on regulatory developments and participating in the legislative and regulatory rulemaking process. However, stakeholders oftentimes are most effective when taking the initiative to present specific proposals, which identify how the proposals will contribute to the attainment of national policy objectives. An example of this is passage of the Expanded Air Cargo Transfer Authority for Alaska enacted as part of Vision 100 – Century of Aviation Reauthorization Act in 2003. This initiative built on the success of the "Alaska Cargo Transfer Initiative," a regulatory proceeding decided by DOT in 1997. As a result of these measures, the State of Alaska and its international airports have obtained essentially unlimited cargo transfer flexibility for U.S. and foreign air carriers, including use of their code share partners. These measures have helped ensure Alaska (and so the United States) retains its share of the large and fast growing Asia-Europe cargo market. In the increasingly tense security environment, U.S. cargo airports must continue to monitor regulatory measures that can impact their competitiveness with foreign airports, particularly Canadian and Mexican airports that can function as direct competitors for handling cargo traffic transiting North America in either direction. On one hand, this means ensuring as much as possible that U.S. regulatory requirements are paralleled to the greatest degree possible in Canada and Mexico. In addition, it means ensuring that regulatory requirements are tailored to achieve critical security objectives without unnecessarily inhibiting industry growth and efficiency.

3.2 Participating in the Bilateral Negotiation Process

ACI-NA established the U.S. International Air Service Program for those U.S. airports interested in U.S. international issues. Participating U.S. airports pay an additional dues assessment. The Program promotes interests common to its participating airports, particularly with respect to the development of international air services to U.S. communities and the protection of U.S. airport proprietary rights in U.S. international agreements and aviation relationships. The Program provides the essential access to the negotiating process that enables U.S. airports to promote and protect their interests with U.S. and foreign decision makers.

Carriers and airports seeking to overcome constraints created by the bilateral network will find it useful to participate actively in the formulation of U.S. policy for upcoming bilateral negotiations. Whenever

negotiations are scheduled with a particular country, it is standard practice for the U.S. Government to invite all interested U.S. carriers and airports to submit written comments on the position the U.S. Delegation should take. In addition, there is normally an industry pre-negotiation meeting held in Washington which provides an opportunity to respond to issues raised by other parties, and discuss more fully the points raised in an airport or airline's own written submission to the negotiators. Furthermore, the U.S. typically permits its airports and carriers to include a representative as an observer on the U.S. Delegation to most rounds of bilateral and multilateral negotiations. Thus, U.S. interests usually have the opportunity to observe directly the course of these important negotiations, and to provide input to the U.S. Government negotiators as to the progress. However, there are many meetings that are not open to individual parties. In some of those cases, U.S. trade associations including ACI-NA and members of the U.S. International Air Service Program can participate in the meetings.

As noted above, U.S. policy specifically contemplates cargo may be a useful stepping stone to full liberalization with countries not ready for an immediate transition to "Open Skies," and U.S. negotiators therefore may be eager to hear from airports and carriers with specific ideas for expanding international cargo services through bilateral negotiations. Airports and carriers should first assess their strengths, in order to effectively present their interests to decision-makers among U.S. and foreign governments and carriers.

4. CONCLUSION

Despite the tremendously difficult circumstances it has faced during the past several years, the air cargo sector has remained relatively stable and it now positioned to continue the long-term trend of consistent growth. Air cargo carriers are positioned to play a vital role in contributing to economic growth, enabling U.S. exporters to reach foreign markets, and bringing products to U.S. manufacturers and consumers from sources around the world. As in the past, the industry faces a number of constraints, chief among them security issues, as well as bilateral and safety issues. However, sophisticated cargo carriers and airports will continue to be able to find ways to work with regulators to achieve important security and safety objectives, while continuing to work toward increased liberalization of international markets and facilitate continued growth and vibrancy in the air cargo industry. The carriers, airports, forwarders, and other players in the cargo industry need to take an active role in implementing the regulatory relief strategies touched on here, so that the full measure of air cargo's economic potential can be realized for the benefit of the national economy, shippers and consumers, as well as our industry.

Appendix - Freedoms of the Air

First Freedom of the Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State or States to fly across its territory without landing (also known as a *First Freedom Right*).

Second Freedom of the Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State or States to land in its territory for non-traffic purposes (also known as a *Second Freedom Right*).

Third Freedom of The Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State to put down, in the territory of the first State, traffic coming from the home State of the carrier (also known as a *Third Freedom Right*).

Fourth Freedom of The Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State to take on, in the territory of the first State, traffic destined for the home State of the carrier (also known as a *Fourth Freedom Right*).

Fifth Freedom of The Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State to put down and to take on, in the territory of the first State, traffic coming from or destined to a third State (also known as a *Fifth Freedom Right*).

ICAO characterizes all "freedoms" beyond the Fifth as "so-called" because only the first five "freedoms" have been officially recognized as such by international treaty.

Sixth Freedom of The Air - the right or privilege, in respect of scheduled international air services, of transporting, via the home State of the carrier, traffic moving between two other States (also known as a *Sixth Freedom Right*). The so-called Sixth Freedom of the Air, unlike the first five freedoms, is not incorporated as such into any widely recognized air service agreements such as the "Five Freedoms Agreement".

Seventh Freedom of The Air - the right or privilege, in respect of scheduled international air services, granted by one State to another State, of transporting traffic between the territory of the granting State and any third State with no requirement to include on such operation any point in the territory of the recipient State, i.e. the service need not connect to or be an extension of any service to/from the home State of the carrier.

Eighth Freedom of The Air - the right or privilege, in respect of scheduled international air services, of transporting cabotage traffic between two points in the territory of the granting State on a service which originates or terminates in the home country of the foreign carrier or (in connection with the so-called Seventh Freedom of the Air) outside the territory of the granting State (also known as a *Eighth Freedom Right* or "consecutive cabotage").

Ninth Freedom of The Air - the right or privilege of transporting cabotage traffic of the granting State on a service performed entirely within the territory of the granting State (also known as a *Ninth Freedom Right* or "stand alone" cabotage).

Source: *Manual on the Regulation of International Air Transport* (Doc 9626, Part 4)