

AIR LINE PILOTS ASSOCIATION, INTERNATIONAL

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Chairman, Committee of
Government Representatives on
Civil Society Participation
c/o Tripartite Committee (Ref. Civil Society)
ECLAC
1625 K Street, NW Suite 1120
Washington, D.C. 20006

Public

FTAA.soc/w/66add.1
14 April 1999

Re: Invitation to civil society to
Present views on the Free Trade
Area of the Americas

Dear Mr. or Madam Chairman:

The Air Line Pilots Association, International (ALPA), the collective bargaining representative of 53,000 pilots employed by 51 airlines in the United States and Canada, hereby submits its comments; on the negotiations of the Free Trade Area of the Americas (FTAA). For the reasons set out below, ALPA believes that air transport traffic rights and related services should be excluded from the FTAA Agreement just as they were excluded from the General Agreement on Trade in Services and from the North American Free Trade Agreement.

DISCUSSION

Since the Chicago Convention on International Civil Aviation in 1944, international aviation service rights have largely been granted through bilateral (country-to-country) air transport service agreements or through the application of the principles of comity and reciprocity. Under this regime, the United States air transport services sector has been the beneficiary of a legal and administrative framework that has produced steady and significant increases in the rights available to U.S. air carriers. It is likely that further substantial progress will be made in achieving additional rights in the future.

The San Jose Ministerial Declaration states that the FTAA Agreement will be consistent with, and prove upon, the rules and disciplines of the General Agreement on Tariffs and Trade (GATT) and the General Agreement on Trade in Services (GATS). In ALPA's view, air transport services should not be included under a multi-lateral framework if that framework includes provisions like those included in the GATT and GATS. While many of those provisions would present serious problems for U.S. airlines, I will address what ALPA believes to be the three most troubling of these.

The first provision is the most favored nation clause. This provision would require all contracting parties to the agreement to grant all other contracting parties to the agreement treatment as favorable as that they provide to any particular country. Because the United States would have to extend to all FTAA signatories the concessions made to its most liberal trading partners without requiring the beneficiaries to open up their markets in return, a country with a restrictive approach to granting international aviation rights could gain immediate and full access to the United States on the same terms as the United States' most favored trading partner without U.S. aviation interests receiving comparable benefits in return. United States aviation negotiators would thus be deprived of their ability to ensure that exchanges of economic rights correspond to the degree to which foreign markets are open to U.S. airlines.

The second provision is the market access provision. The United States aviation statutes currently limit foreign investment in U.S. airlines. One of the objectives of the market access provision contained in the GATS is to eliminate such limitations. As the General Accounting Office has pointed, permitting unlimited foreign investment in U.S. air carriers could have a range of adverse effects on national security and U.S. workers. Airline Competition: Impact of Changing Foreign Investment and Control Limits on U.S. Airlines GAO/RCED-93-7. While some change in the laws on foreign investment in U.S. airlines may be warranted, that change should be done outside a GATT or GATS-like structure and should be the result of a careful consideration of the unique characteristics of the air transport industry.

The third provision is the national treatment provision. This provision would require that foreign airlines be permitted to do business in our domestic market on the same basis as U.S. carriers. Application of this would effectively nullify the current statutory provision (with its national security underpinnings) that now limits the domestic market to U.S. air carriers. It could have a significant adverse effect on U.S. airlines and their employees. Moreover, the U.S. domestic market is far and away the largest air services market in the world in terms of traffic. Thus, it seems entirely unlikely that application of the national treatment provision could provide benefits to U.S. airlines commensurate to those that would be afforded their foreign counterparts.

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The consequences of applying the provisions discussed above, as well as others such as the GATS dispute resolution mechanism, to the air transport industry are undoubtedly why air transport and related services were excluded from GATs and, with very minor exceptions, from NAFTA. Those services should likewise be excluded from any FTAA agreement.

ALPA also understands that there has been some consideration of whether "express delivery services" should be covered in an FTAA agreement. The Association believes they should not be, at least as far as air service rights are concerned. Under the San Jose declaration all countries are required to ensure that their laws, regulations, and administrative procedures conform to any FTAA obligations assumed. If the FTAA Agreement were to embrace any air service rights, the United States would quite likely be required to amend extensively its laws on air carrier ownership and certification and aircraft navigation. It is doubtful that the amendments could be limited to a particular category of air services such as "express delivery services" as virtually every carrier conducts cargo operations that include "express" or time-sensitive delivery services.

ALPA appreciates the opportunity to submit these comments and looks forward to participating in the FTAA Agreement process as it moves forward.

Sincerely,

Duane Woerth
President

Cc: Ms. Ladan Manteghi
Office of the United States Trade Representative