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"Open Skies vs. Closed Markets: State Controlled Airlines and the European Airspace."

Introduction.

Flight is the most enduring dream of man. No culture or civilization is without its myth of man's breaking his terrestrial bonds and flying freely where he would. The consequences of these efforts are more often than not depicted as tragic, entailing short-lived glory and ultimate failure, the price paid for attempting to defy man's essential nature as a creature bound to the earth.

The persuit of man's irrepressible desire for sustained and controlled flight has entailed incredible individual ingenuity and sacrifice, and at the same time has drawn on the cumulative contributions of countless designers and practitioners. Thus the fruit of long-term and collective effort, it is only in our own century that this dream has become reality, and this realization has not been without its material and psychic costs. Because powered flight represents a qualitative shift in man's ability to act within his physical environment, it is understandable that this new field of endeavor has attracted the most impressive talents and resources. However, the achievement has been highly ambiguous in its practical effects, as the power conferred by flight has been exercised for both good and ill. This was inevitable, for such a multiplication of man's talents must necessarily magnify them all.

When considered in all of its dimensions, including especially its economic and technological aspects, it is clear that no human pursuit has done more to transform relations among peoples, nations and states, or between man and his environment, than has the development of aeronautical capabilities. The very nature of flight has made it the object of intense and sustained attention, not only from individuals but also of powerful organized interests, especially national governments. This attention has, within the space of approximately 80 years, transformed aeronautics into an activity of unparalleled economic, political and social salience. Understanding this history helps to explain why today aeronautics occupies such a central position in national policies both foreign and domestic, in industrialized and developing states alike.

This paper examines current conditions in the west European airline sector against the general background sketched above of the character and development of the aeronautics industry. It assumes that the operation of aircraft for commercial purposes does not differ in its essentials from the rest of the sector of which it is an integral part. More specifically, the paper argues that during its entire history commercial aviation has been characterized by significant and sustained involvement of national governments in shaping, indeed determining, its structure and dynamics.

Therefore, the airline business differs from other commercial activities in that all important aspects of its current configuration and operation reflect the intense and long-term influence of states. This has been especially true in the European context; the region was the fount of the very idea and practice of the state, and we should therefore anticipate that past patterns would remain especially enduring there.

The paper thus examines patterns of state involvement in the creation, ownership and operation of airlines, and shows how these enduring patterns have since World War II increasingly been at odds with powerful economic and political trends in Europe. Indeed, it seems today that the priorities of governments so clearly manifest in aeronautics are now coming into direct conflict with other equally important economic and political goals of those same states. Thus, in aeronautics generally and civil aviation in particular, technological and commercial forces encouraging cooperation and even integration run headlong into concerns of states for their territorial and economic security.

This contradiction has become quite stark in the past few years, and the failure to resolve it continues to make painfully clear the fundamental internal inconsistency of state aims in this arena so crucial to the future of Europe. Yet is an inconsistency with which we will have to live for the foreseeable future, because states will continue to regard aeronautics in general and civil aviation in particular, as a sphere of activity directly affecting core interests. As long as questions of national sovereignty are involved, as they necessarily are regarding long-distance flight, states will continue to assert extensive prerogatives in determining who shall fly where and when, and by what means.

States and the Global Aeronautics Industry.

The title of Anthony Sampson's insightful history of the world airline industry, Empires of the Sky1, is particularly apt because it captures in so few words the essential nature of the entire aeronautics sector. Often depicted as the achievement of individual heros such as the Wright Brothers, Bleriot, Earhardt, and Lindbergh, man's mastery of the air instead has been a triumph of governments. Indeed, the entire business of making and flying airplanes, most especially the key elements of its economics and technology, is a concrete manifestation of state priorities. Foremost among these priorities has been self-preservation; the most significant advances in powered flight have been made during wars both hot and cold. It necessity is the mother of invention, then modern aeronautics is the offspring of intense interstate rivairy and conflict.

At the same time, the scale and variety of the resources (both human and material) required in the production, operation and maintenance of the world's aircraft fleet makes it into one of the world's most important commercial undertakings. Directly and indirectly employing millions around the world through its connections to international trade and tourism, it is definitive of the term global industry. Moreover, the research, development and practical application of aeronautical technologies ranks among the most impressive and significant of all human accomplishments, and has led to discoveries and applications in diverse fields such as data processing, engineering, metallurgy and physics. Precisely because of its economics and technology, the air transport business has played the role of leading sector, stimulating a range of activities emblematic of modernity.

Paradoxically, the development of powered flight, pressed so far and fast by governments and nations engaged in pitiless struggle, has done more than any other innovation to link directly the peoples of the earth. It is this contradictory nature that lies at the heart of difficulties encountered by practitioners and analysts alike in their attempt to situate aeronautics in its proper analytical context, especially in relation to state and market.2 So important as a commercial and technological force integrating the world economy, it remains a primary concern of governments, and its structure and operation continue to reflect state priorities. Throughout its short history, aeronautics has occupied a crucial nexus connecting the economic and military dimensions of national security, and thereby combines the commercial and political in a unique fashion; it is the quintessential strategic industry.3

Section I. The Development of the International Aviation Regime.

Trends to 1945: Triumph of Sovereignty.

With the advent of powered flight at the turn of the century, European governments recognized the need to create a set of rules to regulate the possibility of regular air transit across international boundaries. With French engineers and pilots playing a leading role in the nascent field of aeronautics (the Wright Brothers notwithstanding), it was appropriate that the first international convention on air navigation convene in Paris in 1910.4 While the conference did accomplish important definitional and technical tasks, delegates differed sharply on the central issue at hand; sovereignty--the right of states to control the airspace above their territory. They adjourned agreeing to disagree on this key issue, showing "that aviation could never be divorced from its political implications."5

The experience of World War I and the dramatic, if marginal, role played by aircraft in the conflict served only to tighten the links between aeronautics and state security concerns. The document drafted at the Paris Peace Conference of 1919 that would govern post-bellum international aviation was decisive, unequivocally stating in its opening article that each state was to have "complete and exclusive sovereignty over the airspace above its territory."6 Against this background, the interwar period was characterized by intensive bargaining among national governments regarding air rights, with the results reflecting the primacy of economic and security concerns.7

World War II demonstrated not only the extreme importance of air power as an instrument of war, but also made the construction and operation of civil aircraft into a central security concern for the industrialized states. At the same time, the horrors inflicted by aerial bombing intensified pressures for the transfer of control over both military and civil aviation to an international body.8 Already before the end of hostilities the prospective victors were staking out positions regarding the principles that would shape the future configuration of civil air services, and parallel with numerous other end-of-war negotiations, decided to hammer out the issues in a formalized way.

The Chicago Conference and the Bermuda Accords: Triumph of Bilateralism.

On 1 November 1944, the representatives of 54 states met in Chicago to decide the future of international aviation, and discussion revolved around the extent to which national sovereignty would remain its regulating principle.9 As was the case on many other issues regarding the character of postwar political economy, the erstwhile allies Roosevelt and Churchill held contrasting views.10 The British hoped to preserve imperial connections seen as even more vital to national economic and geopolitical security, while the Americans sought to open the colonial spaces to penetration by American corporations grown powerful since World War II had so decisively ended the Depression.11

Therefore, the American side pressed for bargains relating to air services to be struck among consenting states, while allowing the market to determine flight frequency and scheduling. Due to the dominant position of its firms in the production and operation of long-haul aircraft developed during the war, the U.S. government foresaw bilateral or multilateral agreements advantageous to its carriere under circumstances unrestricted by existing preferential arrangements or any prospective collective agreement.12 For their part, the British argued against this `open skies' approach, and "came out for a system of quotas to prevent the American airlines from flooding their routes ..."13

What emerged was a compromise between these positions; the multilateral accord would include the first two of four `freedoms' of air services proposed by the Canadian delegation: (1) the right fly over the territory of another country without landing, and (2) the right to land in other countries for maintenance, refueling or other technical reasons. The two remaining `freedoms' were to be the subject of separate negotiations, as was `fifth freedom' -- the right of a carrier to fly into a country and discharge or pick up traffic from third countries -- proposed by the U.S.14 These two primary rights, granted reciprocally and mutually by all signatories, were the basis for the International Air Services Transit Agreement, which remains in force today.

In addition, the Chicago Conference established the basis for the International Civil Aviation Organization (ICAO), which in 1947 became a permanent specialized agency of the United Nations. Since its inception, the ICAO has been "a primarily technical body facilitating international collaboration in such matters as safety, navigation, and standardization ... "15, and has not concerned itself with economic or structural aspects of world aviation. Also, in the week following the Chicago Conference, executives of 34 of the world's major airlines met to create their own organization. First convened in Havana in April 1945, the International Air Transport Association (IATA) remains the main forum and mechanism through which airlines negotiate fares, scheduling and ticketing, albeit with perfunctory governmental approval.

Assessing its achievements, the wartime conference can be seen as either success or failure, however: "Given the circumstances of 1944, it is difficult to imagine how the Chicago Conference could have produced any other outcome than to secure air travel through a flexible system combining bilateral and multilateral features."16 While leaving the bulk of decisions concerning the configuration of world air services to the discretion of sovereign states through one-on-one negotiations, important legal and technical elements were made the subject of multinational determination. This hybrid framework, within which the conflict among state priorities was attentuated by collective arrangements guaranteeing basic rights of air transit to all participants, has proven sufficiently adaptable to survive right up to the present time.

It was within this framework that the two major protagonists in the effort to shape a postwar international air services regime, the United States and Great Britain, negotiated a bilateral accord that would serve as a model for other agreements. Concluded in 1946, the "Bermuda Agreement" was definitive in its "granting of reciprocal rights to the designated carriere of the contracting states to institute at their discretion capacity and fifth-freedom traffic arrangements."17

The practical effect of the accord was to allow the Americans significant inroads into the British market under the first three freedoms, with the British retaining the right to review the pattern of traffic as it developed, and to request ex post facto modification of the arrangements. The British also were able after signing the accord to purchase American aircraft to be used on crucial imperial and North Atlantic routes, thus preserving a British position in air services dangerously compromised by the lack of indigenously built, long-haul airliners. But beyond its specifics, the Bermuda Accord was significant in that bilateral bargains like it became the main mechanism through which states would shape the structure of international air services: "The dream of `open skies' gave way to the realities of horse-trading between governments over landing rights, gateways and freedom."18

Section II. The Postwar European Aviation Regime.

The Chicago Conference and the Bermuda Accord thus provided the political and legal context within which the post-World War II airline industry would develop both its global and regional characteristics. The establishment of a broad collective framework within which national sovereignty and bilateral negotiation would determine the actual pattern of air services proved especially important in western Europe. In this region, a large, urbanized and increasingly affluent population occupied a relatively compact but geographically and climactically diverse area; a situation apparently boding well for development of a robust airline industry. However, postwar cooperation in the military and economic spheres had done nothing to end nationalistic rivalries among the states: "the chief obstacle to cheap and efficient air travel was undoubtedly the political divisions of Europe."19

These divisions were manifest in the proliferation of airlines in Europe competing for intra-continental business as well as a burgeoning overseas passenger and freight trade. National governments played major roles in the competition, as they took controlling or complete ownership stakes in carriers and directed their affairs through government ministries.20 States also financed the construction of rival airports to serve as hubs for air traffic, and oversaw the modernization of separate air traffic control systems.

The aggregated and cumulative effects of these nationalistic policies, based as they were on political priorities, were far from optimal economically speaking. By creating and maintaining separate and competing airlines in numbers much greater than would have existed if competition and consumer preferences had been allowed to dictate the pattern of air services in Europe, costs to consumers (in the form of higher ticket prices and less efficient services) and to the states themselves (in the form of direct financial subsidies and tax exemptions to the flag carriers) have been raised.21 However, attempts to remove political obstacles to the creation of a more rational economic structure in European air services have been consistently thwarted throughout the postwar era. This has been true even since the advent of the attempt to create a common market in Europe, and still today the issue of air services is among the most contentious on the western European economic and political agenda.

Section III. The Development of the Common Market and the European Air Services Industry.

During the early 1950s, proposals to create a federated western Europe abounded, and the civil aviation sector was a frequent topic of discussion in this context. Numerous more-or-less concrete plans were circulated, but none were successful in garnering support from governments or airlines sufficient to warrant their consideration as viable solutions to the problems of the fragmentation of European air services along national lines.22 In hopes of reconciling these differences, a Conference on the Coordination of Air Transport in Europe was convened in Strasbourg in April 1954. While it did result in the establishment of permanent consultative body bringing the Transport Ministers of 19 (now 23) nations in the region, the European Civil Aviation Conference (ECAC) "has made only modest progress since its creation in 1954 toward joint development and coordination of technical procedures, facilitation and economic policy."23 The fundamental problem remained: "Each airline, backed by its own government, saw its objectives in national terms, based in its own hub airport, its own self-contained crews, staff and maintenance."24

As the demand for air services grew rapidly in postwar Europe, each state reserved the right to carry traffic within national borders (cabotage) for airlines based in its own territory, requiring that foreign airlines unload and transfer passengers to a national ("flag") carrier as they continued their journey within each country. The rationale behind these restrictions was and remains a complex welter of economic, political and security motives, a mixture leavened by a generous portion of national pride.25 The result were predictable: "By tightly controlling market entry on both domestic and international routes, countries were able to provide their national carriers, in nearly all instances the sole designated operator, with virtual monopoly power."26

The signing of the treaty of Rome in 1957 creating the European Communities (now the European Union, or EU) is rightly seen as inaugurating a new chapter in the economic and political history of western Europe. But for all of its importance in so many sectors, the document had almost no impact on the structure of the European air services industry. While several of its provisions address conditions in the transport sector, in particular Article 3 which calls for a common transport policy, Article 84 specifically exempts sea and air transport from those provisions, leaving it to the Council of Ministers to determine precisely how those modes are to be regulated by the Community. And while Article 85 of the treaty prohibits the distortion of competition through market-sharing or price-fixing arrangements--precisely the situation prevailing in the web of bilateral agreements among the European airlines and governments--little political will to enforce these provisions was in evidence until very recently.27

Despite the effectiveness of national governments in assuring for their designated national carriers privileged positions in a tightly controlled market in international air services, consumers and would-be competitors sought ways around high fares and limited services. As the 1960s and 1970s saw dramatic growth in European air travel a large and thriving non-scheduled charter business arose, with second-hand planes packed full of passengers flying at first to exotic destinations mostly in the Mediterranean and Caribbean. But as the operators and customers alike became more inventive at circumventing the regulatory distinction between scheduled and non-scheduled service, the charters also began to serve in essence as intra-European carriers on the fastest growing routes from northern Europe to the sunny coasts of France, Spain, Italy and Greece. Result: "scheduled operators were effectively priced out of these rapidly expanding markets as a result of their high operating costs."28

Another factor operating to the detriment of the web of preferential bilateral agreements governing European air services were changes in the pattern of competition in the world's largest market, the United States. Driven by rising fuel costs and increased competition from charter carriers, the major U.S. airlines took advantage of a liberalizing trend in U.S. regulatory policy generally and at the Civil Aeronautics Board (CAB) in particular to launch a wave of "fare wars" and other competitive measures within the U.S. air services industry.29

Part and parcel of these domestic reforms were efforts by U.S. airline management and government negotiators to liberalize the existing bilateral arrangements governing the lucrative transatlantic market. The need for such changes seemed particularly urgent from the American point of view in light of the agreement between the U.S. and Great Britain that went into effect in 1977. Dissatisfied with the pattern of air services that had developed between the two countries since 1946, the British demanded that a Bermuda II accord be negotiated. It imposed restrictions on existing nonstop services and limited the introduction of new routes: "As a result, Bermuda II sharply increased pressure within the U.S. for a more open international aviation regime."30

American tactics in subsequent negotiations revealed the extent to which economic self-interest lay behind the free-market rhetoric accompanying the zealous U.S. pitch to the Europeans for its `Open Skies' proposals: "The speed of liberalization was increased through the impact of a `beachhead' strategy adopted by the U.S. which was designed to penetrate one national market at a time and then force liberal agreements on others by virtue of the threat of traffic diversion."31 Simultaneously, in June of 1978 the U.S. initiated proceedings to review the legal status of the IATA's fare-setting practices in relation to U.S. antitrust legislation as applied to air services, which also entailed a veiled threat that the U.S. airlines might withdraw from the organization.32

These commercial and political pressures combined in the late-1970s to produce moves, initially tentative but gradually growing in force and effect, on the part of the EU to liberalize the air services regime in Europe. In 1979, the Commission issued its first ever Memorandum dealing with European air services policy, and in 1981 began to collect information on European airline's fares and costs to be used as the basis for future policy recommendations.33

Additional impetus for change came from the other institutions of the EU as well, with the Council of Ministers adopting a directive in 1983 making more difficult for states to refuse licenses for firms to operate inter-regional services.34 The membership of the European Parliament, both as a body and as individuals have attempted to exert reformist pressure, and the European Court of Justice has also played a formative role in shaping air services policy. In the celebrated 1985 "Nouvelles Frontiers" case, the effect of the Court's ruling in 1986 was to give the Commission and the Council much wider latitude in applying the 1957 Treaty provisions to air services.35 Still, under that ruling the impetus to undo the bilateral arrangements restricting the provision of European air services would have to come from the EU and its organs, or from the states themselves.

As a result of Nouvelles Frontiers, the Commission pressed forward with its agenda to promote greater air services liberalization, actually initiating proceedings against some airlines and halting these only when the Council of Ministers agreed to adopt directives on the matter. The result was the so-called 1987 Package, which loosened governmental restrictions on fare-setting, and initiated a "phased policy of liberalizing market access over three years ..."36 In addition, the Council in 1989 agreed to phase out over three years governmental capacity-sharing arrangements altogether, and also to end within two years the criteria that an airline must be "substantially owned" by nationals before it could fly from a given country, effectively extending fifth freedom rights for foreign-owned airlines within the EC.37 The commission followed these measures with a third package of proposals in July 1991 recommending further loosening market access, and calling for an end to all controls on fares after 1996.38

Liberalization of European Air Services in a New World Order.

The halting steps taken toward the liberalization of air services within the EU in the mid-1980s and early 1990s encountered an economic and political environment dramatically changed by the end of the Cold War in Europe and the world. The euphoria associated with the parting of the iron curtain, and the economic opportunity these developments promised for west European industry (including its airlines) was displaced by the shock of the Iraqi invasion of Kuwait in August of 1990. In a matter of days the world airline industry was thrown into chaos by the combination of sharply rising jet fuel prices, and a sharp fall in the demand for air travel because of fears of air terrorism, and deepening recession in the industrialized world.

The result was the most traumatic period in the world air services business since World War II, one that is only now slowly and fitfully coming to an end.39 European operators were by no means spared, and red ink flowed as yields fell; a sharp contrast to the rosy predictions of traffic growth made just months before, and on the basis of which the purchase of expensive new aircraft had been predicated. Like their counterparts elsewhere, airlines in Europe accumulated losses that, at least in nominal terms, exeeded all profits made since World War II.

The drastic deterioration of the financial condition of European airlines raised the stakes and thus sharpened the lines of conflict already in evidence regarding the reform of the air services regime in Europe. Many operators, especially Britsh Airways and the Dutch carrier KLM, called on the Commission and national governments to undertake a more rapid and comprehensive liberalization of services, so as to expand the market and thus profit potential for the most efficient carriers. These players and their respective national governments were especially anxious to see an end to the large and growing subsidies given by many European governments to keep financially afloat their prized flag carriers. They argued that such subsidies represented a distortion of market forces, an impediment to competition, and damaged economically viable operators.

Those arguing for a more open air services market and a phasing out of subsidies to national flag carriers were opposed by an uneasy alliance that included the management and labor forces of government-supported airlines, and their respective national governments now faced with huge subsidy payments straining budgets already in deficit. As airlines' financial troubles deepened in 1993, divisions within the alliance broke out into the open, quite dramatically on several occasions. Labor unrest sparked by forced retirements, pay cuts, massive job losses and other unpleasant elements of painful restructuring measures disrupted air services, and threatened to spark political crises.40

Backed by British Airways and the Conservative government in the U.K., during 1994 the European Commission became much more actively involved in both the market liberalization and subsidies aspects of the dispute. Its main target was the French government, which was pressed to open its internal routes to flights by outside airlines. The Commission also took a very dim view of the massive FF 20 billion bailout of Air France, and similar albeit smaller scale state rescues of national airlines were also closely scrutinized. While the Commission did eventually approve all requests for state aid to flag carriers, it did so with the admonition that this be done one time and for the last time.41

Open Skies vs. State Priorities: Some Conclusions.

With the Commission apparently now squarely in the camp of those wishing to liberalize the provision of air services in Europe, it would seem that the days of the government supported flag carrier are numbered. Their privileged position is being eroded at two key points; the protection of the home market, and the financial lifeline from the state. Moreover, continued pressure from the EU for open national markets and an end to state aid appears to be working in conjunction with a recent trend toward the privatization of state-owned enterprises in Europe, including airlines.42

From the perspective of our analysis up to now, however, such a prediction would seem premature. While the financial strains of recent years have indeed brought to the fore serious problems with the national flag carriers of Europe, the fundamental issues at stake regarding their continued existence remain far from resolved. At the core of the debate resides the question of sovereignty: whether national governments have a right and indeed a responsibility to maintain effective control over civil air transport within their borders.

Throughout the history of aviation, that question had been answered unequivocally in the affirmative; and governments today when faced with the prospect of surrendering that prerogative have resisted staunchly. The web of bilateral agreements based on government-designated carriers having reciprocal access to national markets is the concrete manifestation of that prerogative, and thus will be very difficult to supplant.43

In Europe, the contradiction between the existing regime and the economic and political forces driving the continued integration of Europe has become quite glaring; clearly it is not rational to have the right to provide air services allocated among so many carriers. But since it is also clear that the forces of the market acting alone would quickly drive out all but a very few airlines in Europe, and that many of those might not be European-owned, states can be expected make every effort to retain important powers insuring that the vital air services sector and the benefits associated with it remain in national hands.

The interaction in the current economic and political context between the integrative and nationalistic forces at work undoubtedly will produce significant alterations in the air services sector in Europe. The questions to be answered, however, do not concern whether states will continue to exert powerful influence over the configuration of that industry, they will; but rather what forms this influence will take, and, more specifically, expect to see in coming years. While necessarily speculative, the available evidence suggests the following:

* Governments will continue to demand and get the right to exert powerful influence over the allocation of air routes into and especially within their territory. The right of cabotage (the seventh freedom) will be reserved for nationally-based carriers, and concessions granted to outside carriers only under severe restrictions most likely entailing reciprocity.

* The EU, especially the Commission, will continue to press for the removal of barriers to competition in air services within the EU. In exchange for grudging concessions of their authority in the areas of quantitative limitation of market access and fare rules, national governments will fall back upon a host of other domestic regulatory powers in an effort to maintain national preferences. Infrastructural and environmental constraints, especially regarding the construction of new airports and runways, and landing slot designations will become even more important areas of dispute, with the Commission facing an increasingly frustrating search for solid legal and political ground from which to press liberalization.

* While negotiations in Europe concerning route allocation increasingly will be conducted multilaterally within the context of EU institutions and regulations; bilateralism will remain the primary mode through which agreements with extra-EU countries will be reached.44 Those negotiations and agreements will continue to reflect the relative market power of the participants, and increasingly include reference to considerations of transnational cooperation and ownership agreements among the airlines of the two countries concerned.

* States will continue to hold significant and even controlling ownership stakes in airlines, and will restrict the identity and extent of outside ownership in those airlines if state-owned shares are sold, or as new carriers are created. Preference of ownership will be given first to nationals, then to nationals of other EU countries, and last to residents of outside countries.

* Alliances among airlines will become more prevalent and significant, increasing in number and also in intensity; this latter term meaning that the connections between allied carriers will lead to the real integration of their organizations in all areas of air services, including ticketing, scheduling, routing, reservations, personnel training and management, and aircraft purchasing and maintenance. While EU preferences and concerns for regional unity might indicate the formation of such links among European carriers, issues of global market access may well dictate connections to carriers outside the region.45

These conclusions, qualified as they are, all assume a fundamental continuity in the character of air services well into the next century. As a key component of an economic sector whose very character has been shaped by governmental priorities, civil aviation cannot help but reflect the context within which it has evolved. That context is inherently political, and because of the transnational character of long-distance flight inextricably bound up with the question of national sovereignty. Commercial and financial forces undoubtedly will exert pressure for rationalization, but will not change the essential nature of the industry.

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Endnotes

1. Anthony Sampson. Empires of the sky, London: Hodder and Stoughton, 1984.

2. For a clear statement of this juxtaposition, see Robert Gilpin, The Political Economy of International Relations, Princeton University Press, 1987. On pp. 9-10, Gilpin states: "Students of international political economy, therefore, must attempt to understand how these contrasting modes of organizing human activities and of decision making affect one another and thereby determine social outcomes."

3. In relating international civil aviation to the literature on complex interdependence, Christer Jonsson notes that: "While international aviation is linked to many important economic and ecological issue-areas or `cobwebs' such as energy, balance of payments, and environmental protection, it differs from most business involving services or commodities by directly engaging the national security interests, the sovereignty, and the prestige of almost all the countries of the world." See Christer Jonsson, "Sphere of flying: the politics of international aviation." International Organization, Vol. 35, No. 2 (Spring 1981): 273-302: 274.

4. Jonsson ("Sphere of flying", op. cit.: 276) notes that the French government in 1909 called for a convention to discuss international aviation before Bleriot's historic first transnational flight across the English Channel--this was because of the numerous unregulated balloon flights in Europe already taking place.

5. Eugene Sochor, The Politics of International Aviation, University of Iowa Press, 1991:1. Sochor notes that the French and German delegates argued for a Grotian mare liberum approach, while the British representative, an admiral, pressed for complete state sovereignty.

6. Cited in Sochor (op. cit.: 2). He notes that both the U.S. and Russia failed to sign the accord. Sochor also notes that, for its part, the U.S. signed the Havana accord in 1928, which was ultimately ratified by the U.S. and eleven Latin American states.

7. Sampson calls this the era of "Air Imperialism" (Chapter 2), during which the Europeans sought to reinforce their colonial networks with air links. In the following chapter, "Conquerors of the Sky," he shows that the Americans were also motivated by a potent mixture of economic and security concerns, with the government supporting U.S. airlines such as Juan Trippe's Pan Am in their efforts to extend their overseas reach, especially into Latin America.

8. Both Sampson (op. cit.: 62-63) and Sochor (op. cit.: 3-4) recall the public debate in the early-1940s over the implications of aviation for the conduct of international relations. In the U.S., politicians such as Wendell Willkie and Henry Wallace argued that the airplane was creating a smaller and more interdependent world, but others such as Clare Booth Luce denounced their calls for collective management of aviation as "globaloney."

9. Jonsson ("Sphere of Flying", op. cit.: 280) notes that the Chicago Conference was held after the U.S. presidential election, "when the U.S. government would have greater freedom of action."

10. For penetrating discussion of the Anglo-American differences regarding postwar economic issues, especially air services, see Alan Dobson, Peaceful Air Warfare, Oxford: Clarendon Press, 1991.

11. Numerous sources contain detailed accounts of the negotiations at the Chicago Conference. For such a discussion that also explicitly relates the proceedings and results to the theoretical literature on regime change, see Christer Jonsson, International Aviation and the Politics of Regime Change, New York: St. Martin's Press, 1987, especially Chapter 6, pp. 88-118.

12. The differences between the British and American positions are related explicitly to the debate between realism and "liberal institutionalism" regarding the nature of the post-WWII aviation regime in Baldev Raj Nayar, "Regimes, power and international aviation." International Organization Vol. 49, No. 1 (winter 1995): 139-170.

13. Sochor (op. cit.: 9.).
14. For details on the Canadian proposals, see Betsy Gidwitz, The Politics of International Air Transport, Lexington, Mass.: Lexington Books, 1980: 49. The remaining freedoms included in the Canadian proposal included (3) the right of an airline to carry traffic from its home state into another country, and (4) the right of a carrier to fly into another country and carry back traffic to its home state. All of the so-called freedoms are defined and summarized in Sochor (op. cit.: Appendix 1, pp. 265).

15. Jonsson ("Sphere of flying", op. cit.: 281). For a thorough description of the structure and operation of the ICAO, along with discussion of its subsequent development, see Gidwitz (op. cit.: 81-89). Also, as a former official of the ICAO, Sochor (op. cit.: Chapter 3 and 4) provides an insightful discussion of its decision-making procedures, and situates the agency within the larger U.N. context.

16. Sochor (op. cit.: 14).

17. Gidwitz (op. cit.: 51).

18. Sampson (op. cit.: 72).

19. Sampson (op. cit.: 97).

20. For example, Sampson (op. cit.: 94) notes: "In 1948 the French government had bought a majority share of the old private company Air France, and put all the power of the state behind it, with a succession of French civil servants in charge." In that same chapter (Europe Fragmented, pp. 92-104) Sampson also recounts briefly the development of the Spanish national airline Iberia under the Franco regime, the formation of Alitalia, and the resurrection of the German carrier Lufthansa.

21. For a thorough discussion of the economic aspects of post-World War II European air services, see Nawal K. Taneja, The International Airline Industry, Lexington Mass.: Lexington books, 1988, especially Chapter 3, pp. 51-77.

22. Sochor (op. cit.: 188) briefly describes several of these proposals and their implausibility.

23. Gidwitz (op. cit.: 89). Gidwitz goes on to note that Eurocontrol, formed in 1961 to create a unified air traffic control system for western Europe, also has failed to live up to the expectations of its founders.

24. Sampson (op. cit.: 98).

25. Sochor (op. cit.: 182) notes: "Every country wants to show the flag around the world and what better symbol of power is there than an airline that can be readily identified through its name or national colours?"

26. George Williams, The Airline Industry and the Impact of Deregulation, Cambridge, U.k.: Ashgate, 1993: 70.

27. See Sampson (op. cit.: 98). For an extremely thorough discussion of EU law and policy relative to air services, see P.J. Slot and P. D. Dagtoglou (eds.), Toward a Community Air Transport Policy, Deventer, the Netherlands: Kluwer Publishers, 1989. In the introduction, Slot notes that the ambiguity of the treaty of Rome "was to have far reaching consequences for the development and application of Community law in air transport sector."(13)

28. Williams (op. cit.: 73). Several other of the sources cited herein examine the significance of the burgeoning charter business as one factor undermining what amounted to an air services cartel in Europe.

29. Several of the sources listed here (and numerous others not) describe and analyze the U.S. experience with air services deregulation in the mid-1970s. Among the most useful cited herein are: Williams (op. cit.), and Kasper (op. cit.). Donald Pickrell characterizes the changes in the U.S. culminating in 1978: "The weight of government restrictions on virtually every conceivable tactic airline managements might have used to wage competition, which had accumulated over nearly 50 years, had thus been lightened with a suddenness that--at least from the perspective of the slightly more than a decade that has elapsed since--certainly seems dramatic. "See Donald Pickrell," The regulation and deregulation of US airlines, Chapter 2, pp. 5-47 in Airline Deregulation, Kenneth Button (ed.), New York: New York University Press 1991: pp. 9-10.

30. Kasper (op. cit.: 76). In his detailed study of U.S. - U.K. relations in the area of civil air services, Alan Dobson (op. cit.: 268) notes: "In short, judgement of the outcome of Bermuda 2 is a particularly relative matter, but whichever way one looks at it, it was a qualified victory for the British."

31. Kenneth Button and Dennis Swann, "Aviation policy in Europe", in Button, ed. (op. cit.: Chapter 4, pp. 85-123: 94).

32. The so-called Show Cause order from the U.S. CAB required parties to the IATA agreement to "show cause" why their immunity from prosecution under U.S. antitrust law should not be revoked.

33. Button and Swann (Chapter 4 in Button (ed.), op. cit.: pp. 114-115) describe the main provisions of Civl Aviation Memorandum Number I (1979) and Number 2 (1984).

34. Williams (op. cit.: 77-78) notes that the Council directive was very restricted in its application, limiting prospective new routes to those connecting smaller airports over distances exceeding 400 km with aircraft of less that 70 seats. "On a positive note however, the 1983 directive did at least represent the Community's first multilateral agreement on air transport."(78).

35. In that case, French travel agents and tour operators were taken before a tribunal in Paris for violating national restrictions on air fare approvals. The French tribunal viewed those restrictions as inconsistent with the competition rules of the Treaty, and asked the ECJ to rule on the matter. Simply put, the ECJ found that the compulsory fare rules did violate EEC competition rules, and that national authorities and the Commissiom could act against such restrictions in national courts. "Thus the court, although affirming the application to air transport of the competition rules of the Treaty, entrusted this application not to independent courts but to politically motivated authorities, which, until now, have shown either timidity or unwillingness to apply Community law to air transport." Prodromos D. Dagtoglou, "Air Transport After the Nouvelles Frontiers Judgement," pp. 115-138 in Slot and Dagtoglou (op. cit.: 132-133).

36. Button and Swann in Button (op. cit.: 116). Also see their piece in the Journal of Common Market Studies, as cited in the sources list for this paper.

37. Button and Swann in Button (op. cit.: 117).

38. For a summary of these proposals, see Williams (op. cit.: 84-85).

39. Air services trade publication documented in great detail the sharp declines in air traffic and airline operating revenues and profits, and described the large losses totalling over $15 billion for ICAO members 1990-1993. For one such recent report, see ATW, June 1994: 50-54.

40. Disputes between government and labor were particularly intense in France, where the chairman of Air France, Bernard Attali, resigned abruptly in October 1993 in protest of the government's backing away from its proposed draconian cost-cutting measures under the pressure of strikes. Spain, Portugal and Greece were also the sites of important instances of labor unrest. These disputes received wide press coverage, with the Financial Times following developments quite closely. Analysis was also extensive in the trade publications; an especially helpful summary can be found in an article entitled "Labor Pains", ATW Feb. 1994: 35-37.

41. British Airways chairman Sir Colin Marshall found the Commission's 14-2 decision in favor of the Air France bailout "deplorable", and said BA was considering legal action. For a discussion of the Commission's approval and the conditions it attached to the aid package, see AWST 1 August 1994: 24-25. For his part, Jurgen Weber, the chairman of the German carrier Lufthansa also was unhappy about the Commission's approval of the Air France bailout, and expressed his displeasure with the European Parliament's voting in favor of continued government support for national carriers. Noting his company's success in pursuing restructuring without government help, Weber said: "State aid distorts competition. It encourages bankrupt carriers to carry on with overcapacity and that in turn accelerates the downward pricing spiral." See ATW May 1994: 9. Finally, Mr. Herman de Croo, chairman of a special "wise men's" committee set up in 1993 by the Commission to make recommendations of the future of air services in Europe noted that "since August 1991 the Commission has approved state aids to European airlines totaling $10.35bn. That's roughly $10mil a day." See FT Fri. 2 Sept. 1994: 7.

42. The most important privatization of a European airline was that of British Airways in 1987, which entailed the absorption of British Caledonian and the shedding of thousands of jobs. Since that time, BA has consistently turned a profit, even in the depths of the recent downturn. BA management has been among the most vocal proponents of ending state subsidies, although decidedly less interested in allowing competing airlines slots at its main hub and Europe's busiest, London's Heathrow airport.

43. That state-to-state negotiations will continue to be the order of the day in air services is made clear by examining the most recent U.S. initiatives toward Europe. At a convention commemorating the 50th anniversary of the 1944 Chicago Conference, U.S. Transportation Secretary Federico Pena announced a plan targeting nine nations in Europe as likely candidates to negotiate liberal new air services accords. According to industry executives, the initiative seem remarkably akin to the tactics used in the late 1970s: "The U.S. negotiated less-restricted pacts with several smaller nations in the hopes that others in a particular region will follow suit." See AWST 7 Nov. 1994: 35-36.

44. Neil Kinnock, one of two U.K. delegated EU Commissioners, and serving as the EU Transport Minister, has recently created a major row by demanding the right to negotiate air service accords with the U.S. and other states on behalf of all EU members as a group. His attempted arrogation of this power has brought strong reaction from all quarters, most especially the national governments and the airlines. See FT: Wed. 2 Mar. 95: 1, Weekend 11 March: 2, Wed. 15 March: 1, and Fri. 24 March: 2.

45. The much-publicized failure of four small European carriers (Austria Airlines, Swissair, KLM and SAS) to combine into what would have been Europe's "fourth force" in air services (after Air France, British Airways and Lufthansa) demonstrated the difficulties inherent in separate national partners agreeing on a single business strategy. The so-called Alcazar deal collapsed in late 1993, apparently because KLM insisted on retaining its 20% equity link to the U.S. carrier Northwest, while the others thought Delta a better international partner. Said an executive from one of the other three prospective partners: "Alcazar was planned to be a primarily European airline but KLM's culture is primarily intercontinental. The breakdown is sad. We all said goodbey to $1.3 billion worth of European synergy for the sake of $50 million in synergy with the U.S." Cited in ATW Jan. 1994: 34.

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