International Transportation Is Fundamental To International Relations, Trade And Travel

The International Transportation Committee (ITC) discusses a wide range of issues that relate to the international transportation of goods and people, whether by air, ship, road or multiple modes of transport. The ITC’s focus is on legal issues involving international transportation law from both the private commercial and public government perspectives. Both areas of law form an integral part of the international and national systems of laws, regulations, and agreements which govern international transportation and the movement of goods and people across borders.

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Note from the Co-Chairs

We encourage all Committee and Section members to contribute articles to the Committee’s Newsletter. The ITC has members in a number of jurisdictions. Our members are involved with international transportation through a variety of interests, industries, governments, and subject areas. As this issue of the Newsletter demonstrates, we welcome summaries of legal developments, committee events, developments from jurisdictions worldwide, and all other news of interest.

We also encourage ABA International Section members to become active in our Committee. As discussed elsewhere in this Newsletter, we are actively engaged in developing Committee programs and presentations involving cutting-edge issues of international trade and transportation.

To become involved – or just learn more – please contact us or join us on our monthly Committee telephone conferences, which are held on the second Tuesday of each month. You can also visit our Committee’s ABA website at ABA SIL International Transportation Committee.
International Transportation Committee Named “Most Improved Committee” at Recent ABA SIL Leadership Retreat

We are pleased to report that the International Transportation Committee was recently named the “Most Improved Committee” for the ABA Section of International Law’s 2014-2015 Fiscal Year. The award was in recognition of the Committee's increased activities over the past year, including regular committee calls; re-introduction of the Committee's newsletter; the co-sponsorship of CLEs with other Committees; the presentation of a program panel at the ABA SIL’s Spring Meeting in Washington; a panel at the Fall Meeting in Montreal; and submissions to the SIL’s Year In Review. Committee Co-Chairs Andrew Danas and Ana Luisa Derenusson thank all of the ITC Committee members whose hard work last year helped the Committee achieve this award. Let’s make the Committee's 2015-2016 term even better!

Committee Presentation In Montreal

On Friday, October 23, 2015, at the ABA SIL Fall Conference in Montreal, the International Transportation Committee presented a program panel on Resolving Disputes on Your Terms: The Enforceability of Form Contract Choice of Law and Jurisdiction Clauses in Cross-Border Transactions. Committee Co-Chair and panel chair, Andrew Danas, spoke on how such clauses are used and enforced in the United States, including in international shipping contracts. Committee Vice Chair, Dr. Marco Remiorz, discussed how such contracts are enforced in the European Union, Germany, and other European countries, while Luiz Azevedo provided the Brazilian perspective. Rounding out the panel were Gordon Hearn, who discussed Canadian law and Pradnya Desh, who provided insights on how India approaches the issue. Our thanks to all of the speakers who, in addition to their excellent presentations, prepared detailed papers on the subject.

In addition to its own panel, the ITC was pleased to co-sponsor the International Environmental Law Committee’s program on Drones, GMOs, and Bio-Tech: Can Technology Save Nature? Or Does the Law Get in the Way?

The Montreal meeting was very successful, with over 1100 attendees, including ITC members who enjoyed the opportunity to network with one another and to compare notes on transportation industry legal developments in their jurisdictions.
US Airlines Hit Turbulence on Pricing Allegations; Capacity Restrictions

By Andrew Danas, Partner at Grove, Jaskiewicz and Cobert LLP, Washington DC USA

Allegations of antitrust collusion and price gouging resulted in a turbulent summer for major U.S. airlines. The turbulence is likely to continue for some time.

In July the U.S. Department of Justice confirmed that the Antitrust Division was looking into potential “unlawful coordination” among some major U.S. airlines. United Airlines, American Airlines, Delta, and Southwest Airlines have acknowledged that they have received Civil Investigative Demands (CIDs) from DOJ requesting information about their operations. These four airlines control approximately eighty percent of the domestic U.S. passenger market.

In addition to the government investigation, and in the wake of the DOJ announcement, at least ninety two (92) different private consumer class actions have been filed against the main U.S. airlines. A hearing on a request to combine all of the private sector cases before a single federal court was heard this Fall by the U.S. Judicial Panel on Multidistrict Litigation. By Order dated October 13, 2015, the Panel ordered consolidation of twenty three (23) of these cases in the US District Court for the District of Columbia.

The allegations against the U.S. airlines come at a time of record profits following recent consolidation in the domestic U.S. airline industry through mergers. The U.S. Department of Justice investigation also follows complaints from some members of Congress and consumer advocates that U.S. airline prices are unreasonably high, especially in light of falling fuel costs.

The allegations of violations of the antitrust laws focus on whether the airlines have engaged in “unlawful coordination” so as to restrict passenger capacity and competition in the domestic U.S. market. Media reports indicate that the DOJ CID demands seek copies of all communications that the airlines have had regarding the need to restrict or limit passenger capacity. According to a Southwest Airlines Securities and Exchange Commission filing, the DOJ investigation “seeks information and documents about the company’s capacity from January 2010 to the present including public statements and communications with third parties about capacity.” The filing also states that Southwest has “received a letter from the Connecticut attorney general requesting information about capacity.”

All of the airlines named in the government and private antitrust allegations deny any violations of the antitrust laws. Industry commentators have stated that the DOJ investigation may have been triggered by individual speeches by multiple industry executives at trade conferences on the need to maintain “discipline” on capacity and pricing. They also note that without more direct evidence of explicit collusion it will be difficult to prove a violation of the antitrust laws.

(continued on page 10)
India Transport Sector: A half-yearly update

Ramesh K. Vaidyanathan & Riya Dutta

India is poised to be one of the fastest growing economies in 2015, ahead of China as per the World Bank’s Global Economic Prospects report. The importance of a seamless transport network in the country integrating roadways, railways, airways and waterways in India’s economic growth story can no longer be ignored. A fundamental shift has been the increased focus in planning alternative modes of transport to mitigate infrastructure bottlenecks. The reform-minded government’s approach to woo foreign investors with hybrid Public-Private Partnership (PPP) models is leading to a revival in road construction projects across the country. The hybrid model is essentially where projects are implemented through special purpose vehicles set up as joint ventures between a private enterprise and the central/state government and project risks shared by the parties. Some of the transformative regulatory changes may positively impact the transport sector in India in the coming years.

Railways: 100% Foreign Direct Investment (FDI) under the automatic route (without any prior approval requirement) is permitted in the construction, operation and maintenance of railway infrastructure projects such as a) Suburban corridor projects through PPP model, b) High speed train projects, c) Dedicated freight lines, d) Rollingstock including trainsets and locomotives/coaches manufacturing and maintenance facilities, e) Railway electrification, f) Signalling systems, g) Freight and passenger terminals and h) Mass Rapid Transport Systems.

While it is premature to gauge the impact of FDI in railway infrastructure, foreign investment in metro transport (permitted from 2001) has led to many Indian cities such as New Delhi, Mumbai, Bangalore, Chennai, Mumbai and Jaipur actively adopting metro rail as a mode of urban transport to reduce the stress on choked urban roads. FDI in railway infrastructure is expected to provide a much-needed boost for improving and modernising railway infrastructure in India.

Roads and Highways: While the transport sector contributes around 6% of India’s gross domestic product, 70% of that share is from India’s extensive road sector, which is the second largest road network in the world. While 100% FDI is permitted under the automatic route for the construction and maintenance of roads and highways since 2000, the Government of India has launched major initiatives to attract foreign investment to strengthen and upgrade the highways and expressways in the country. There is a standardised process adopted for various PPP models with the Build Operate Transfer (BOT) and BOT annuity models fairly common. A regulator for the road sector in India is also being constituted.

Ports: India has 12 major ports that are central government-controlled and 60 operational non-major ports (minor and intermediate ports). Sustained economic growth has resulted in a significant increase in cargo traffic and contributed to the demand for new minor ports and for expanding capacity in existing ports.

100% FDI is allowed under the automatic route for projects related to the construction and maintenance of ports and harbours. The landlord port approach is being gradually adopted for expansion of major ports combined with PPP models such as build-own-operate-transfer (BOOT) for development of new minor ports and augmenting capacity in established ports.

Aviation: India is one of the fastest growing aviation markets in the world and is projected to be the third largest aviation industry by 2020 preceded only by the United States of America and China. Aviation is one of the 25 key sectors identified under the “Make in India” program, which is a major national initiative to transform India into a global manufacturing hub.

(continued on page 10)
Since Uber began providing its services in Mexico, taxi drivers have initiated a series of demonstrations against Uber arguing that it engages in unfair competition and is a risk to consumers. Indeed, Uber is not subject to the same regulation as taxi drivers are and does not face the same entrance costs they do. Thus, as in other countries, taxi drivers requested a prohibition from the Mexican government on the continuation of services being provided by Uber. Without doubt, that is Uber’s business model. It is an app-based ride service that leverages the Internet and smart phones to match excess capacity in private durable goods with demand. It has drastically altered transportation services in Mexico. Taxi regulations were designed for a model that Uber has made obsolete. Uber, like many sharing economy businesses models, relies on self-regulation via ratings and reviews.

On June 10, 2015, The Federal Economic Competition Commission issued a non-binding opinion about this controversial matter. Particularly, it analyzed the impact of those companies which provide transportation services through app-based electronic platforms. In its opinion, the Commission highlights that the market of transportation services suffers from market failures; particularly, from information asymmetries. Technology and electronic platforms such as Uber aim to provide a solution to those information asymmetries. In particular, the Commission identified these companies allow consumers to:

(i) know the identity/reputation of the driver and the information of the vehicle before usage;
(ii) automatically plan the route, preventing drivers to unduly detour from it;
(iii) be charged a dynamic tariff in accordance with real-time demand and supply;
(iv) pay electronically, without requiring cash;
(v) obtain invoices in accordance to applicable tax legislation;
(vi) have transparency on the tariff they will be invoiced;
(vii) evaluate drivers depending on the quality of the service provided; and
(viii) know, in real time, the availability of the service and the required waiting time.

Thus, the services provided by these companies constitute a new product in the market and a new alternative for consumers which operate through a self-regulation scheme. App-based electronic platforms offer consumers more certainty, reliability, safety, comfort, and a reduction in search costs, than regular taxis. Consequently, they increase consumers’ welfare, promote innovation, and exploit network efficiencies. Moreover, the Commission states that:

For these reasons, the Commission recommended that the applicable transport regulations should recognize that this is the new form of service.
US FMC Collects $1,227,500 in Ocean Shipping Penalty Payments

By Andrew Danas, Partner at Grove, Jaskiewicz and Cobert LLP, Washington DC USA

Adapted from FMC News Release

The US Federal Maritime Commission (“FMC” or “Commission”) recently announced eight compromise agreements for violations of the U.S. Shipping Act, resulting in the recovery of civil penalties totaling $1,227,500. The agreements were reached with one vessel-operating common carrier, United Arab Shipping, located in Dubai, U.A.E., and seven non-vessel-operating common carriers (NVOCCs), located in China, Taiwan, New York, and California. The agreed penalties resulted from investigations by FMC personnel in New York, Seattle, and Washington, D.C. In announcing the compromise agreements, the FMC stated that “the parties settled and agreed to penalties, but did not admit to violations of the Shipping Act or the Commission’s regulations.”

Under the U.S. Shipping act of 1984, as amended by the Ocean Shipping Reform Act of 1998, ocean transportation between the United States and foreign countries is regulated by the FMC. Carrier services, either by vessel operating ocean carriers or by NVOCCs, can be offered pursuant to published tariff rates or contracts filed with the Commission. The statute generally prohibits certain types of unfair or unjustly discriminatory practices in the provision of ocean transportation services in the U.S. foreign trades. This includes a prohibition on common carriers, either directly or indirectly, “allowing a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means.” 46 U.S. Code §41104(1).

The law also prohibits common carriers from providing service in the liner trade that is “(A) not in accordance with the rates, charges, rules, and practices contained in a tariff published or a service contract that is entered into” under the Shipping Act and is not otherwise excepted or exempt from the Act. 46 U.S.C. § 41104(2).

In addition to its prohibitions directed at carrier activities, the Shipping Act also contains a general prohibition on any person from obtaining ocean transportation in the U.S. trades at less than applicable rates. 46 U.S. Code § 41102(a) provides that “a person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.”

The recent settlement agreements entered into by the FMC illustrate the various ways in which the Commission can find violations of the Shipping Act’s general prohibition on unlawful deviations from the published tariff or filed contract terms. In the United Arab Shipping Company (S.A.G.) settlement, the Commission alleged that UASC violated 46 U.S.C. 41104(1) by unlawfully rebating to its NVOCC customer, Falcon Maritime and Aviation, Inc., a portion of the applicable service contract rate in the form of an administrative fee that was not identified in the service contract, and for which no services were provided. The Commission also alleged that USAC violated 46 U.S.C. 41104(2) by providing transportation not in accordance with the rates and charges in its published tariff. The Commission reports that UASC agreed to pay $537,500 to the Commission pursuant to the terms of its compromise agreement.
With respect to Falcon Maritime and Aviation, Inc., the New York NVOCC that allegedly benefitted from receipt of the allegedly unauthorized and unearned service contract administrative fee, the Commission alleged that the fee constituted an unlawful rebate in violation of 46 U.S.C. § 41102(a). Falcon Maritime and Aviation reportedly agreed to pay $85,000 to the Commission to settle the investigation.

Several of the other compromise agreements entered into by the FMC illustrate alleged violations of the Shipping Act, specifically 46 U.S.C. §41102(a), when service contract rates and services are provided to parties who are not authorized to use the contracts.

In one of the compromise agreements, the Commission alleged that Hyundai Logistics (USA), a California NVOCC, violated 46 U.S.C. 41102(a) by knowingly and willfully allowing third parties to access service contracts to which Hyundai Logistics (USA) was the contract signatory, thus allowing the third parties to obtain transportation at less than otherwise applicable rates. Hyundai Logistics (USA) reportedly entered into a compromise settlement in the amount of $100,000.

In a second compromise agreement, the FMC alleged that a licensed and bonded NVOCC located in Taiwan, Oriental Logistics Group, violated 46 U.S.C. 41102(a) by knowingly and willfully misrepresenting the names of shipper accounts on one of its service contracts, thus allowing them to receive rates that would otherwise not be applicable. The Commission also alleged that the NVOCC misdescribed cargo under such contract, and that it violated 46 U.S. C. § 41104(2) by providing transportation not in accordance with the rates and charges in its published tariff. Oriental Logistics Group reportedly entered into a compromise settlement of $100,000.

In a third compromise agreement, Sea Gate Logistics, Inc., a licensed NVOCC and freight forwarder based in New York, was alleged to have violated 46 U.S.C. § 41102(a) by knowingly and willfully obtaining transportation at less than applicable rates by means of improperly obtaining access to service contracts to which it was not a signatory. The Commission also alleged that the NVOCC violated the Shipping Act by not providing transportation in accordance with the rates and charges in its published tariff. Under the terms of its compromise settlement, Sea Gate Logistics made a payment of $80,000.

The final compromise settlement announced by the Commission involved three NVOCCs, City Ocean Logistics Co., Ltd., a bonded NVOCC in Shenzhen, China; City Ocean International, a licensed NVOCC and freight forwarder in California; and CTC International, a licensed NVOCC and freight forwarder co-located with City Ocean International in California. The Commission alleged that City Ocean Logistics and City Ocean International “knowingly and willfully obtained ocean transportation for property at less than the rates and charges that would otherwise be applicable by improperly utilizing rates limited to certain “named accounts” in service contracts, and through collection of forwarder compensation on export shipments in which City Ocean Logistics acted as an NVOCC.” The Commission also alleged that CTC International “unlawfully collected forwarder compensation on shipments in which City Ocean Logistics, City Ocean International and/or CTC International had a beneficial interest.” Each of the companies were also alleged to have provided transportation in the liner trade that was not in accordance with the rates and charges set forth in their published tariffs.

In addition to paying the FMC $325,000 to settle its investigation, the compromise agreement entered into by these three companies required the surrender of the ocean transportation intermediary (OTI) license of CTC International.

In announcing these compromise agreements, FMC Chairman Mario Cordero stated: "I commend the staff at FMC in fulfilling their responsibility to protect the American shipping public from entities who may be in breach of the Shipping Act. The compromise agreements demonstrate how serious we are about protecting the international shipping marketplace from fraud and threats to cargo security, and in our commitment to shield the many lawful participants in international trade from commercial deception and other unlawful trading practices."
The Brazilian Drones’ Regulation

By Ana Luisa Castro Cunha Derenusson
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Brazil

Considering the increasing interest of society in the use of the so-called “DRONES” as well as the interest of the Brazilian National Agency of Civil Aviation (“ANAC”) and the Brazilian Legislative Power to develop specific regulations with respect to the matter and finally the increasing numbers of legal consultations about the legality and the formalities required for the uses of DRONES in Brazil, we deem important to discuss certain regulatory issues related to the matter.

DRONE means the nonprofessional term for unmanned aircraft system (“UAS”), which is designed to operate without a pilot on board, with non-recreational character and with cargo loaded. The UAS can be classified as: remotely piloted aircraft (“RPA”), in which the pilot is not on board of the aircraft and controls the aircraft remotely through computer simulator, or remote control device; or autonomous aircraft (“Autonomous Aircraft”), which once programmed not allow foreign intervention during the flight’ operation.

The UAS is different from the model aircraft (so called “aeromodelo”) due to the form of its use, since the model aircraft shall be operated only for recreational purposes (sports and leisure) or competition. The model aircraft is ruled in Brazil, by DAC Order No. 207/STE, dated as of April 7, 1999, which is not applicable to UASs.

The regulations on the use of UASs refers only to the RPA category and restricts those involved in scientific projects for experimental purposes, defined thereby as operation for the purposes of: a) research and development; b) crew training; and c) market research. Thus, sections 21.191 and 21.193 of the Brazilian Civil Aviation Regulation No. 21 (“RBAC 21”) determine the guidelines for Experimental Flight Authorization Certificate Application (known as “CAVE”), which can be applied to a RPA.

The Supplemental Instruction No. 21-002 Review - A (“IS 21”) aims to detail and guide the implementation of RBAC 21 requirements for issuance of such CAVE for RPA with experimental scientific purpose. We note that with regard to the UAV category Autonomous Aircraft, IS 21 expressly forbids its applicability. We understand that such exclusion is based on the high potential risk of its pre-programmed flights, since it does not allow foreign intervention in its accomplishment. We also understand that such exclusion was based on the Circular issued by the International Civil Aviation Organization - ICAO (ICAO Circular 328-AN/190 - Unmanned Aircraft System (UAS)), which states that in the foreseeable future.

The IS 21 indicates, among other things: the type of information which shall be included in CAVE’s requirement; the form of issue and the validity of the CAVE; the form of cancellation or suspension of the CAVE; permits ANAC to carry out local inspection in the RPA to determine its airworthiness; and guideline registration, identification and registration marks of the RPA, among other matters.

In addition, IS 21 points out that regardless of possession of CAVE, as well as for conventional aircraft, the RPA operation shall be subject to authorization and instructions of the Brazilian Department of Airspace Control (“DECEA”), the National Telecommunications Agency (“ANATEL”), and in some cases, the Ministry of Defense or the Air Force Command.
The Sub Department of Operation of DECEA by means of the AIC-N 21/10 - Unmanned Air Vehicles reports the required information for the use of RPA (also excluding its applicability to UAS category Autonomous Aircraft), previously establishing the general provisions for the classification of RPA operations (operating in the sight / operating beyond the sight) and their nature (plain operation / confidential operation).

In accordance with provisions of AIC-N 21/10, the application for the authorization for the use of the Brazilian airspace by RPA shall observe the location in which the RPA intend to fly, as the Brazilian airspace is divided into sub-regions flights under the responsibility of different regional operational departments, subordinated to DECEA, as follows: four (4) Integrated Centers for Air Defense and Air Traffic Control - CINDACTA; and the Flight Protection Regional Service of São Paulo - SRPC-SP, regional department exclusively responsible for the use of the airspace between Rio de Janeiro and São Paulo air terminals.

ANATEL by means of Law No. 9,472 date as of July 16, 1997, is the responsible agency for the issuance of radio frequency use authorizations, which is required for the operation of radios used both in common aircraft as in the RPAs. Therefore, the RPA and its radios must be approved by ANATEL, which shall issue the license for station operation.

Finally, with respect to the regulation of RPA with experimental scientific purposes, the Brazilian Regulation of Aeronautics Ratification No. 91, known as RBAH 91, section 91.319, paragraph (a) states that no person may operate a civil aircraft with CAVE for purposes other than those for which the certificate was issued or use such RPA with experimental scientific purposes of transport passengers and cargo under remuneration.

Considering the abovementioned regulations, on May 29, 2013, the company XMOBOTS Aerospace and Defense Ltda. - ME was the first RPA's owner and operator with experimental scientific purposes to receive the CAVE by ANAC in connection with the RPA bearing Brazilian registration marks PR-XMK. On July 3, 2013, the respective certificate of experimental registration was issued by ANAC. Currently, six (6) RPAs hold valid CAVEs, e.g. two (2) held by the Environmental Police of São Paulo, two (2) held by the Federal Police one (1) held by the National Department of Mineral Production and one (1) held by the Institute of Technological Research of São Paulo. We note that special permits for certain municipalities were issued in order to authorize the RPAs’ use to fight “dengue” epidemic.

Therefore, ANAC has not issued specific regulation with regard to the operation of the RPAs for commercial or business purposes, such as for example those used for pollinating crops, mail delivery, filming, photography.

However, in order to make viable the RPA operation for commercial or corporate purposes, the operator may address to ANAC an operating permit application based on the provisions of Article 20 of the Brazilian Aeronautical Code (“CBA”), highlighting the characteristics of the intended operation and RPA project for the purpose of demonstrating to ANAC that the project security level is consistent with the risks associated to the operation (risk to other aircraft, people and properties on the ground).

It is important to highlight that ANAC’s Decision No. 127 dated as of November 29, 2011 (for which we have no knowledge of revocation and/or suspension), authorized the operation of RPA by the Brazilian Federal Police Department, accepting arguments in the same direction explained above, since the RPA would not be used for experimental scientific purposes.

Based on the foregoing, in the event of breach of the aforementioned aviation rules, and by applying analog interpretation of the rules applicable to conventional aircraft, the RPA operator shall be liable for the payment of fines as established under the CBA and the amounts set forth in specific regulations issued by ANAC, as well as under the rules established by the DECEA and ANATEL, if applicable.

(Continued on page 11)
US Airlines Hit Turbulence on Pricing Allegation Capacity Restrictions

Commentators have also noted that with respect to complaints that the airline industry has not reduced prices in light of falling fuel costs many carriers in the industry enter into fuel hedging contracts, which are designed to protect them from both increases and decreases in fuel costs.

Alleged violations of the antitrust laws are not the only issue causing turbulence for domestic U.S. air carriers this past summer.

The U.S. Department of Transportation announced an inquiry on July 24, 2015 into the possibility that American, Delta, JetBlue, Southwest, and United engaged in pricing gouging after a May 2015 Amtrak passenger train derailment in Philadelphia, Pennsylvania. Rail travel was disrupted and delayed in the corridor between Washington, D.C. and Boston, Massachusetts as a result of the accident.

A letter sent to each of the carriers by the U.S. DOT noted that: “Pursuant to 49 U.S.C. § 41712, the Department may investigate and decide whether an air carrier has been or is engaged in an unfair or deceptive practice in air transportation and may prohibit such conduct. Generally, a practice is unfair if it (1) causes or is likely to cause substantial injury to consumers, (2) cannot be reasonably avoided by consumers, and (3) is not outweighed by countervailing benefits to consumers or to competition.” After citing its authority to police the air carriers’ practices, the DOT letter then asks each carrier for price and market information related to their routes that may have been affected by the Amtrak derailment.

Whether this summer’s government investigations of domestic U.S. airline industry pricing will result in substantive charges or findings of actual violations of the U.S. competition laws remain to be seen. However, it is likely that airline industry pricing will remain under the microscope in the US. for the foreseeable future as a result of the initiation of these inquiries, especially when combined with the multiple private antitrust suits that are now pending.

India Transport Sector: A Half-Yearly Update

The aviation sector has been opened up for foreign investment gradually. 100% FDI is permitted under the automatic route for new airport projects and 74% FDI is permitted under the automatic route for existing airport projects. FDI up to 49% is permitted under the automatic route for scheduled air transport service, domestic scheduled passenger airlines and ground handling services. 100% FDI is permitted in helicopter/seaplane services and flying/technical training institutes. A progressive civil aviation policy is expected to be introduced by the Government of India shortly to focus on the holistic development of the sector such as development of airports, cargo sector and helicopter aviation and the modernisation of air navigation services in India.

1 - Mr. Ramesh K. Vaidyanathan, Managing Partner and Ms. Riya Dutta, Associate, Advaya Legal, India. They can be contacted at ramesh@advayalegal.com and riya@advayalegal.com.
5. http://dipp.nic.in/English/policy/changes/press2_00.htm
(Continued from page 5) The Federal Economic Competition Commission considers Uber to be pro-competitive

Moreover, the Commission affirmed that regulation should be limited to protect legitimate public goals (such as safety measures to protect passengers) without imposing anticompetitive barriers. According to the Commission, it should be avoided (i) the imposition of unjustified requirements (such as special license plates) to obtain governmental authorization to provide the service; and (ii) the regulation of tariff schemes.

Other competition agencies, such as in Canada, France, Germany, Italy, Spain and the US, have spoken up in favor of not imposing burdensome regulatory restrictions on Uber. They have called for reviews of taxi regulations to identify which ones are truly necessary, as well as reforms to allow companies as Uber continue operating.

After this opinion was issued, taxi drivers threatened the government with an “anarchy plan” where they would stop observing the regulations that they are currently subject to as long as the government did not expressly prohibit Uber and similar companies from operating in the market.

(Continued from page 9) The Brazilian Drones’ Regulation

Additionally, we note that based on the analogous application of Article 303 of the CBA, it allows RPA detention, in the event RPA is flown in the Brazilian airspace with violation of the international conventions or acts, authorizations and the rules of air traffic set by DECEA.

Finally, it is our conclusion that the number of applications for CAVE for RPAs for the purpose of experimental scientific and/or commercial or corporate purposes will increase, which will certainly, promote the aviation industry, especially the RPA manufacturer and supplier players, as well as, as a consequence it will drive ANAC, DECEA and ANATEL to issue their decisions based on specific and detailed rules regarding RPAs.
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Participation in Steering Group

We encourage ABA International Section members to become active in our Committee. We would be pleased to add your name to our Steering Group at your request. The ITC has members in a number of jurisdictions and our members’ interest in international transportation involves a variety of interests, industries, governments, and subject areas. We discuss and explore a wide range of issues and would like to benefit from your expertise! Please join us for our monthly Committee telephone conferences, which are held on the second Tuesday of each month at 12:00 noon Eastern U.S. Time.

Please contact a Committee co-chair or vice-chair and tell us about your particular interest. We always need members who are interested in developing new programs for the Committee and Section meetings; writing for our e-newsletter or International Law News; working on Committee projects such as a compilation of international governmental regulatory agencies involved with international transportation; or other projects that strike you as being relevant. International transportation involves legal issues that are purely commercial; purely governmental; and sometimes a combination of the two. Our goal is for the Committee’s work to be useful and pertinent – not only to the members of the ITC but also to the many other Section members whose professional activities involve international transportation issues from time to time.

With best regards,
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