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National Interest and International Aviation

ERWIN VON DEN STEINEN

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by

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To
the unnamed aviation professionals in government as well as
industry whose work and dedication to quality have made
air transportation the safest and most innovative means
of travel in world history

About the Author

Erwin von den Steinen is a leading analyst in the field of international aviation policy and regulation. Since establishing a private consultancy in 1988, he has completed some 40 studies and projects for public and private sector clients working independently or in cooperation with major law firms, economic and management consultants or engineering firms. He is an expert in the international relations impact of aviation.

Erwin von den Steinen has advised both European governments as well as the US Government from which he retired in 1988, having served 30 years as a naval officer, consul, diplomat and senior air transport negotiator, including assignments in five Asian and European countries as well as in Washington, DC. He now lives and works in Bonn, Germany.

While he has authored a number of articles, this is Erwin von den Steinen's first book.

Preface

ABOUT THE THINKING AND EXPERIENCE BEHIND THE BOOK

A short study done in 1990 for the US Federal Aviation Administration titled '*Aviation and the US National Interest*' in a way is a genesis for this book. The FAA had been concerned about how best to persuade the US Department of State (which I had left in 1987) that more FAA representatives were needed overseas to increase international support for US aviation policy objectives.

State Department administrators were under constant pressure from quarters such as the Congress to control the size of US official presence. This meant meeting what Americans term the Missouri or 'show me' test. That is, any public body wanting to station staff overseas needed to overcome a rebuttable presumption that such assignments were not essential and should not be made. I advised the FAA to make a national interest line of argument. This seemed the right and only thing to do.

Born in China of German and American parents, emigrating at the onset of World War II and then growing up in the United States, I had served as an officer of the US government during the Cold War (1958–87), as a naval officer, consul and diplomat, with international assignments in five other countries. During the last seven years in government, I acted as an air transport regulator in Germany (of air services to and from Berlin) and as an international negotiator in Washington. Since 1988 I have operated a consulting practice specializing in analysis of policy problems in international aviation.

Thus, though I have now spent some 25 years living with international aviation policy, I came to aviation as a second career. This fact has shaped my perspective. As a student of history (which I also taught briefly at the undergraduate level) and a practitioner of international politics, I felt – from the beginning of my relationship with aviation – that a vital dimension in the

air transport industry's understanding of itself and of the larger world's understanding of the industry was not well defined or not addressed.

This misunderstood dimension has fundamentally to do with the fact that air transportation is a cornerstone of the economic and social process we label as 'globalization.' In is an archetypical international business and it has also influenced international relations.

Learned friends have produced many hundreds of studies of the international aviation business and how to organize, regulate (or not regulate) it. I have been involved in some 40 myself. These have examined and predicted the course of the industry from a variety of legal, economic, technological and so-called 'aeropolitical' perspectives.

Such studies typically embody a certain paradox. On the one hand most of them propose that air transport be treated as any normal business (that just needs more scope or pressure to improve its commercial practices); on the other hand, the airline industry stubbornly seems to remain a special case and almost always in trouble – a patient endemically sick; hence the need for so many doctors and diagnosticians.

Sometimes the airline business seems like a great shark surrounded by hordes of pilot fish counseling directions in the line of march while feasting off the body of the host. In this book I shall try to swim a bit away from this school and its conventional points of view.

While one should not and cannot escape economics, my focus will be political. Politics as used herein mean the advocacy, imposition or balancing of interests. Nothing more, nothing less.

I address international aviation regulation primarily from a 'realist' international politics perspective – as the balancing of national interests; that is, as reflecting rules that states have been able to agree on in their perceived national interests. I then pose questions about where this regulatory process might go.

How should national or public interest be represented as we venture into the challenging and indisputably dangerous world of the 21th Century? Should national regulatory controls progressively give way to multinational controls? Is this an 'either/or' equation?

The answer to the last question is an unequivocal 'no.' Just as globalization is a simultaneous mix of both centralization and decentralization, of both distributing and concentrating tendencies, regulatory answers must address local as well as global questions. National interests will not and should not fade away. Underpinning the story I shall try to tell are four premises or propositions that I believe experience demonstrates:

1. A functioning aviation system (though not necessarily the fate of particular airlines) is a vital national interest of the modern state.
2. The safeguarding of this interest, because of the inherent nature of international aviation (a flight that starts in one country ends in another), cannot rely on unilateral means. National interest therefore requires international cooperation, which, however, is not a replacement for it.

3. Neither the airlines nor the aviation system can survive much less prosper under conditions of anarchy (defined as absence of socially agreed rules). Hence international regulatory context is indispensable.
4. Regulatory standards for aviation require constant review and adaptation. Hence, innovations in technology will require adaptations in organization.

Regulation is not just one-way. It not only embraces what governments enforce onto industry. Very importantly it must also include rules that bind governments from infringing freedoms. Air transport's essence or being lies in the day-to-day expression of the freedom of people to travel. We do well to reflect on the fact that in aviation's historic regulatory framework international traffic rights are defined as 'freedoms of the air.'

However, any industry also requires a framework in which to operate. An attractive market depends on known rules and rights that give buyers and sellers confidence to transact. Many analysts and policymakers (notably but not only in the United States) have argued that over-regulation has been part of the airline industry's endemic problems. I shall try to make the (more rarely attempted) case that regulatory innovations in the form of strengthened quality controls are equally critical to any long-term solution.

Personal and national security as well as industry health in the 21st Century will depend on better regulation.

KEY SOURCES

This is not an academic study as much as a set of observations and findings based on a general education combined with extensive and intensive experience. To the extent that I am aware of relevant literature, I have drawn on and cited it. I have also drawn on certain formative ideas that collectively shape the entire analysis. There are six of these.

First is the theory of Charles Darwin or, more germane, its cultural effect in the form of so-called 'Darwinism,' that is, the derivative impact on behavior and policy of Darwin's theory of evolution presented in his *Origin of the Species* (1859). We may ask: What can biological theory developed in the 19th Century have to do with global markets, air transportation and national interest in the 21st?

Darwin's central thesis was that life forms adapt and diversify across time. 'Natural selection' occurs through adaptation and competition.[1] The best or 'fittest' evolve and survive and tend to so by developing or breeding specialized attributes. A bit of reflection tells us that the logic of evolution drives many of our contemporary institutional processes. Thinkers other and older than Darwin have also influenced this. The parallels, for example, between Darwinian theory and market economics (as defined by Adam Smith), with its emphasis

[1] Charles Darwin, *On the Origin of Species*, London, John Murray, 1859, 472.

on selection through competition, the development of new products and the division of labor, are hard to ignore.

Moreover, Darwinian concepts even seem present in aviation regulation. The institutional theory of the Chicago Convention, as will be discussed, foresees constant adaptation of the regulatory structure in order to set global performance standards. 'Fitness' is also a term that has entered the basic vocabulary used in regulating airlines.[2]

Perhaps a timely question is: how should we think today in terms of survival policies? In the 19th Century so-called Social Darwinists associated survival with dominance.

Experience, however, has shown that dominance is a dangerous tool and in human affairs can be self-defeating. The core issue of survival is adaptation, which may not be the same thing as dominance. The successful predator must find ways to stay in balance with its food supply, and this may require establishing self-respecting boundaries.

Thus, a final (and perhaps the critical) question is: Does selection not depend on the use of trial and error, on the critical learning capacity of the particular species? For better or for worse the international aviation policy process that I am about to analyze has depended from the outset on conscious applications of intelligence, if you will of sometimes stubborn minds usually working in quiet ways to build the better mousetrap or engine or discover the newest marketing technique.

The issue of conscious adaptation is fundamental when approaching the other half of this book's title, the question of national interest. Here formative influences come from my former professor at Williams College, the late Frederick L. Schuman and his 'big black book' of *International Politics*. Schuman and his contemporary analyst the late Hans Morgenthau contributed to the development of the so-called realist school of international relations. The test of realism is rationalism; that is, the ability of the state to really know what its national interests are and then realistically to pursue them.

Looking at history one can be skeptical about the ability of states to perceive their national interests accurately. Rather than applying the economist's tool of 'opportunity cost' analysis (that is, asking what is the most productive use of scarce resources), politicians often prefer to oil the old and rusty wheel which squeaks the loudest – to defend old positions that are crumbling rather than build future areas of advantage.

This aspect of national interest definition introduces the third source of formative ideas, namely the work of Graham Allison and colleagues in analyses of the Cuban missile crisis demonstrating the power of so-called 'bureaucratic politics,' that is the interests of narrow constituencies, to shape or control the

[2] Under US aviation regulations the US Department of Transportation must determine that licensed airlines are 'fit,' meaning, *inter alia*, being '*able to conform to the provisions of the Statute and the rules, regulations and requirements issued under the Statute.*' See US Code of Federal Regulations 2003, 14CFR204.2(g).

policy definition process. In pluralistic societies in which policymakers do not want to injure the interests of any particular group, the idea that all advocacies must not only be respected but always catered to can have stultifying consequences. New ideas must demonstrate their necessity not merely their benefit. Typically this means having to prove a negative case – that an existing policy or practice has become destructive.

A fourth shaping idea (and a finding that bridges *realpolitik* and bureaucratic politics in a way particularly relevant for aviation) is the concept of the national 'technical team' as elaborated to me by Professor Werner Braatz of the University of Wisconsin (Oshkosh). Braatz, with whom I worked briefly in 1979–80 in the context of State Department-University exchange program on German policy, had done research on the interwar (1920's) strategies of the German military (*Wehrmacht*) to maintain and develop aviation capability in spite of the Versailles Treaty controls on German rearmament. These strategies involved organizing various ventures outside as well as inside Germany. Examination of the history revealed the importance and role of special organization; that is, creation of a network of specialists and planners around and not only in government to build up a body of knowledge and capability that could later be applied in order to maintain technological pace.

Braatz then, I believe, looked at several other countries (as I also did in the following years) to deduce that the idea of having a national technical team was being pursued implicitly if not explicitly by modern states, that it went beyond narrow national security thinking to the issue of technological competence and currency more generally and could clearly be related to the concept of industrial policy (and the national interest definition this implies) as we know it.

Fifth and perhaps most importantly, I draw on the perspective of Professor Michael Porter in considering the role of regulation. As Porter discusses in *The Competitive Advantage of Nations*, a state that obtains international acceptance of its standards and regulates its industries cost-effectively will help make these industries globally competitive. I interpret this as the regulator positioning himself or herself on the demand-side of the market; that is, setting and enforcing standards from the perspective of buyer or consumer. This demand-side perspective arguably extends to public interest or goods such as sustainable environment, public health and above all to public safety.

For a final formative idea, I am indebted to that father of famous phrases (capitalism is *creative destruction*) the late economist Joseph Schumpeter. Tucked away in a study of business cycles and the capitalist process, Schumpeter makes a one line observation that has preoccupied me ever since I became seriously involved in air transport policy – namely that all innovation results from changes in just two things: technology and organization.[3]

[3] Joseph A. Schumpeter, *Business Cycles A Theoretical, Historical and Statistical Analysis of the Capitalist Process*, abridged with Introduction by Rendigs Fels, New York, 1964, 425.

While I will say a few things about technology, the issues for the international air transport system – are, and have been for quite some time (not unlike estate agents who stress 'location, location, location!'), ones of organization, organization, and organization!

International relations and the legal acts that formalize them reflect decisions on organization. Put another way, innovations that are technically feasible require institutional acceptance and support.

We can see institutional lag (in some cases for founded reasons) at virtually every corner of the system. Ending of many of these lags depends on nations agreeing to rethink traditional positions, to take a fresh, informed view of national interest.

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