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## **Declaration**

I, Charles L. Dougherty, declare that this thesis is a result of my research investigations and findings. Sources of information other than my own have been acknowledged and a reference list has been appended. This work has not been previously submitted to any other university for award of any type of academic degree.

Signature.....

Date.....



## **Acknowledgements**

The author wishes to thank his wife for her ceaseless optimism and faith in the process that has resulted in this thesis. He also wishes to thank his supervisor for his incisive critique and for introducing him to the ideas of human geography and labor.



## **Abstract**

The purpose of this thesis is to investigate the scalar nature of social dumping in civil aviation. Through the use of documents and interviews, this thesis investigates the labor strategies of Norwegian Air Shuttle ASA. This thesis has two goals. The first is to create a deeper understanding of the concept of social dumping, a concept which lacks a common definition or understanding in the literature. This thesis provides an overview of the concept, and also provides a scalar framework of social dumping to help better understand the phenomenon that the term is trying to describe. By understanding the scalar relationship between civil aviation's labor market, the state and organized labor, the potential for social dumping within an industry can be better understood. The second purpose of this thesis is to conduct a scalar analysis of social dumping in civil aviation. The thesis argues that when conducted, social dumping has an up-scaling effect on the scale of the civil aviation industry and its labor market, and a down-scaling effect on the state and organized labor. In addition, this thesis also provides further evidence for the argument that controlling the scale of labor negotiations is an effective tool for all actors involved in any labor relationships, further demonstrating the affect that scale can have on the practice of social dumping.





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## **List of Acronyms**

ECA – European Cockpit Association

ECAA – European Common Aviation Area

ETF - European Transport Workers Federation

EU - European Union

IATA – International Air Transport Association

ICAO – International Civil Aviation Authority

ITF – International Transport Workers Federation

NAS – Norwegian Air Shuttle

NAI – Norwegian Air International

NLH – Norwegian Long Haul

US – The United States of America



## 1. Introduction

When a journalist for the Guardian newspaper asked Norwegian Air Shuttle (NAS) where their cabin crews work, the airline replied, “In the air” (Zondag and Svaar, 2013). As intended, this answer created a difficult proposition for the journalist. By arguing that their employees workplace was neither in Thailand nor Norway, but in the air, NAS was in fact exempting itself from the rules and regulations that would come from operating a workplace on the ground within a particular state. By asking the question, “Where do your employees work”, the journalist was trying to understand which state was responsible for protecting the interests of NAS’s employees, and whose laws NAS was obliged to follow. In setting the workplace above the state, both literally and figuratively, NAS was able to problematize the issue of the workplace, and set the question of labor rights and benefits in a context that made the state look not only as if it didn’t understand where a transportation workplace is, but that the state was also increasingly irrelevant to the question.

Setting their aircrews in the air doesn’t just distance NAS’s workers from the state; it also distances the workers from the airline itself. Even though NAS now saw itself at the global scale, its employees were suddenly stuck in the context of their workplace, without any recourse to the state or any larger political organization than their colleagues. While NAS was able to move its business up from the nation-state scale to the international, it was at the same time able to move its employees down in scale, or at least away from the international scales. NAS was freeing itself from the state and taking the state and its protection away from its employees at the same time.

How is it that NAS has been able to do this, and what does it mean that NAS is able act in this manner? In order to investigate how NAS is able to see itself at the global scale while leaving states, labor organizations, and its employees below, this thesis will use scale to investigate social dumping. Social dumping is a business strategy to reduce labor costs that lies at the root of NAS relationship to its industry, the governments that regulate the airline and its industry, and the employees that make it all work. This is not just a question of geography, labor, or business, but a fundamental question of the role of the relationship between the state and the international economy.

Today's international civil aviation lies on the cusp of change. Since World War Two, the international civil aviation industry has been a heavily regulated industry whose trade has been strictly defined by bilateral agreements between states. However, these strict regulations have over time been slowly relaxed. Since the 1980s, North America and Europe have been on a process of liberalization, to the point where Europe today has a common aviation area and practically free air communication with North America.

While the opportunity to fly has never been more open than it is today, regulation still remains strict. Airlines today still typically have their aircraft registered in the same country where the airline is based, and crews are hired based also on the regulation set forth by the country in which it is based. However, these practices of binding capital and jobs to particular places or countries are coming under pressure, and have already weakened in the European Union. Airlines operate in an incredibly competitive market, and as such are seeking the easiest methods through which to save costs. In aviation, the quickest fix is saving money on labor costs. Through using strategies of fragmentation and relocation, airlines have begun a process of change that is resulting in social dumping. The particular form of social dumping airlines practice revolves around an airline's desire to move work and capital to countries with more appealing wage levels and social regulation than the airline's home country. This process requires both a desire on behalf of the firms hiring to pursue cheaper labor at the expense of their current workforce, but also participation from the government that is keeping its social policies from becoming expensive for any potential employer.

Social dumping is set to change the character of civil aviation. Social dumping can potentially open the world up to the free movement of capital and work in civil aviation in order to reduce labor costs. Pilots and cabin crews that once flew aircraft from their home countries will potentially be replaced by aircrews that are based thousands of kilometers away. The globalized labor market would change the face of civil aviation, and a globally flexible labor market would make state regulation that obliges airlines to uphold particular wages and work conditions irrelevant. Aviation capital would be lifted from the confines of state regulation, and at the same time leave behind both labor regulation and labor organizations at the level of the state.

While this has not yet happened in civil aviation, there are precedents in transportation. The clearest example is the international maritime industry and its flag

of convenience campaign. Gaining popularity since World War Two, ship owners have taken their fleets and registered them in far off countries in order to pay less tax and have access to an international labor market.

It is clear that the potential for widespread social dumping is having a dramatic affect on not just airlines, but governments, labor organizations, and international organizations around the world. Policy regimes and political actors that once had a large amount of influence over where companies were based, and how they could employ workers, have begun to lose their strength. Where once the state was most important, other scales have come to the fore.

This thesis uses the concept of scale in order to better understand how social dumping might affect the politics and economics of global society, and how Norwegian Air Shuttle is able to place its workplaces at the international scale, while keeping their labor relations at either the nation-state or local scales. Scholars have produced a large body of work over the last 20 years investigating the relationship between the politics of scale and the scalar relationships between capital, labor and government. This thesis is meant to contribute to this literature by exploring how the search for cheaper labor costs in civil aviation is pushing the search for (and control of) labor in civil aviation onto the international scales. This thesis uses scale to better understand the impact of social dumping on international society, and focuses on the relationship between the global, the regional and the nation-state scales.

The purpose of this investigation is two-fold. First, this thesis wishes to create a deeper understanding of the concept of social dumping. It is a concept that lacks a common definition or understanding in politics and academia, and is worth further investigation. The thesis provides a scalar framework in order to better understand social dumping. It argues that the practice of social dumping is conditional on the relationships between the scales, and is contingent on an uneven scalar relationship between the scale of an industry's labor market and the scale of the state that regulates the industry, and the industry's organized labor. Social dumping is contingent on a scale with discrete units such as states in order for it to take place, and is the attempt to realize the goal of an international labor market in industries that remain bounded by state level regulation and economic boundaries. In order to provide context and to further investigate this framework, the Analysis and Discussion chapter will identify NAS's social dumping practices, and their negative effects. Second, the thesis

investigates the effects of social dumping on the production and reproduction of scale in the international civil aviation industry. It argues that social dumping has an up-scaling effect on NAS's business practices, but a down-scaling effect on the state and labor's relationship to the airline. In addition, the thesis demonstrates that setting the scale of labor is very valuable for an actor, further demonstrating the influence of scale on social dumping.

The first chapter is a theoretical framework. It begins by looking at scale, beginning with a general introduction to the concept, and then digging deeper into the politics of scale in labor. The scalar hierarchy is then discussed. The hierarchy includes the local scale, the nation-state scale, the global scale, as well as the international regional scale. The international regional scale takes into account the role that European Union and Scandinavia plays in the case study, and presents a theoretical analysis of a region's role and place in the scalar hierarchy. Due to the difference in character between the two regions in the case study, two different types of regional scales are presented.

The theoretical framework then continues with a discussion of social dumping. It provides a general introduction and definition of social dumping, and then presents a scalar framework for social dumping. The section then discusses social dumping in the international maritime industry, presenting a case study that shows the social dumping defined in this thesis in practice in an industry comparable to civil aviation.

The second chapter provides a presentation of the international civil aviation industry today. It looks at the history of international regulation and standardization, discussing the evolution of the standard bilateral agreement that has regulated air transport between states since World War Two. The chapter then goes into industry and labor organization in the industry. It discusses both the scalar arrangement of trade and labor organizations within the industry, discussing the role of scale and the degree of coordination between organizations present at different scales.

After the context has been set, the third chapter presents a case study of NAS. The chapter begins with a brief history of Norwegian Air Shuttle, going into its origins and its growth story. The case study then focuses on the three events in NAS's history that best demonstrate the airline's pursuit of labor cost efficiencies. The focus of this section is on Norwegian Air International's current application for a Foreign Air Carrier Permit from the United States, the 2014 cabin crew strike and the 2015 pilot's strike.



The fourth chapter analyzes and discusses social dumping in civil aviation. The first section identifies what social dumping occurred in the case study. It looks at Norwegian's practice of using atypical labor relations in order to fragment and relocate their pilot and cabin crews corps and the negative effects the practices have produced. The second section is the scalar analysis. It is here that the thesis investigates the two tasks set out for this investigation: the effect of scale on social dumping, and effects of social dumping on the production and reproduction of scale. It first discusses how NAS has used social dumping to both up-scale its business practices and labor strategies while at the same time down-scaling their labor and state relations. Second, it discusses how social dumping has been used as a scalar tool, or strategy, looking at the different ways in which social dumping has been used to both preserve the nation-state scale in the United States and to promote the international scales in Europe at the expense of the nation-state scale. Third, it shows how the Norwegian Air Shuttle is an excellent case of how important setting the scale of labor negotiations is to the result of any dispute.

After the analysis and discussion, the paper ends with a conclusion. The conclusion summarizes the thesis, presents some limitations and possible issues with the investigation, and discusses potential subjects for further investigation.

To be concise, this thesis uses the term 'aircrew' to refer to both the pilots (or cockpit crew) and the cabin crew jointly. Any other use of the term crew will refer to either the cockpit crew or the cabin crew specifically.

## 1.1 Method of Investigation

This thesis uses a case study of a low fare airline in order to conduct a scalar analysis of social dumping in civil aviation. The purpose was to be able to provide an in-depth, qualitative study of a representative airline. The case of Norwegian Air Shuttle is an *instrumental case* that will help the author in an effort to construct a theory about the relationship between scale and social dumping (Stake and Savolainen, 1995 in Berg, 2012 #547). The class of analysis used for this case study is an airline, for it is social dumping practiced by airlines that is the focus of this investigation. The investigation could use an even more specific unit of analysis such as the low fare airline, but that step is unnecessary. The labor strategies that NAS employ are not only available to low fare airlines, and as NAS itself contends, other airlines not registered in Ireland are already using these practices for the international routes (NAS ASA, 2014a). The case

study presented is a longitudinal case study of NAS. It provides a general history of the airline, but then also presents specific investigations into three events from the last two years that are most relevant to the issue of social dumping. The case deal with very recent events and one of the events has not yet been resolved at the time of writing.

The primary purpose of this thesis is a theoretical investigation of the relationship between scale and social dumping, particularly in civil aviation. The purpose of this case study is not to provide an explanatory model or to test a particular hypothesis through pattern matching (Yin, 2003). When reasonable, the case should also allow the analysis to draw generalizations on the relationship between social dumping and scale beyond civil aviation. As such, while the thesis does discuss the rise of social dumping in civil aviation, the case study is primarily used as a tool for theoretical investigation. While the case study must show that there is social dumping in civil aviation, the primary topic of discussion is the role that scale plays in the practice of social dumping.

The evidence for the context and case study chapters was gathered from interviews, newspaper articles and documents sourced from relevant actors and government authorities. The author conducted three interviews. Two of them were with Einard Vegan, vice president in Parat Trade Union, and the final interview was with Henrik Bay-Clausen, branch chairman – Kastrup of 3F, the United Federation of Danish Workers. The majority of information addressing the context and case study chapters of this thesis relied on printed documents. For the context section, the author relied on newspaper articles, television broadcasts, academic articles, government documents, treaties, trade agreements, documents released by international organizations, and documents released by relevant trade and union organizations. The sources are in four languages: English, Norwegian, Danish, and Swedish. The author is fluent in English, and is proficient in Norwegian. As such, all of the translations provided in this thesis are the author's own. In any cases of uncertainty, the author did his best to appeal to others with greater expertise than himself for advice and counseling.

Data analysis was conducted through a form of open coding. In this process, the author went through the data collected to determine the categories and concepts that were relevant to the data. Any categories and concepts that were developed were tentative. As the author's understanding of the topic improved and further data was

collected, new questions, concepts and categories arose that led to a further development of the understanding of the data presented.

In general, gathering enough information to provide a thorough case study was not a difficult undertaking. Not only is NAS well known throughout Europe, all of the three events investigated in depth were also subject to intense media scrutiny. The pilot's strike, for example, was present in Norwegian media for every single day of the strike. Media in the United States, the United Kingdom, and every Scandinavian country covered Norwegian Air International's application for the foreign air carrier permit. Due to the amount of reputable information and the number of sources available, it was not difficult to construct a thorough narrative of the most relevant events in the case study.

The case study is presented as a narration of events rather than an explanation. Since the purpose of the case study is not to provide a comprehensive investigation into the practices of social dumping, but rather to understand the relationship between scale and social dumping, the case had to be constructed for the purposes of theoretical analysis, not deeper understanding of the behavior and motives of the actors. Therefore, due to the large amount of publicly available printed sources, documents and news articles that provided relevant satisfactory and corroborated information represent the largest amount of material in the case study. Interviews were used to gain background knowledge and understanding and to fill in gaps in the narrative on the rare instances when it was necessary.

Interviews were conducted over periods ranging from 30-60 minutes. They were performed either at the offices of the informant or over the telephone at a prearranged time. The informant interviewed at his office was recorded using an application on the investigator's phone. The recordings have been kept on the interviewer's password-protected personal computer and encrypted online back-up system<sup>1</sup>. The telephone interview was not recorded. The interviewer took copious notes, and in order to maintain the accuracy of the interview, any use of the telephone interview used in the thesis would be sent to the informant for them to confirm that that was in fact what they said. At the beginning of the interviews, the informant was briefed on the purpose of the thesis, what the interview would most likely discuss, and that the interview was being recorded. When the interview was recorded, the interviewer identified the

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<sup>1</sup> Spideroak online back-up. The information is encoded on the server, and only the owner of the account is able to decode the information.

interviewee, the date and the location of the interview. The interviewer then asked the informant to state that it was alright that the interview was being recorded, and that any transcripts or use of the interview could be made anonymous at the informant's request. The interviewer expected the informant to either agree or disagree to recording the interview, and to state if they wished the proceedings to be anonymous.

The interviews followed a semi-structured format (Berg and Lune, 2012). The themes to be discussed had already been decided by the interviewer, and some general questions had been written in order to provide the interviewer with oversight of what they wished to cover in the interview. An interview guide was constructed for each interview in order to lead the interview. The guide was a helpful tool as the interviews progressed to keep track of what had been discussed and what had not. The semi-structured interview also allowed the interviewer to be flexible in their approach to the interview. The formality of the discussion could be adjusted depending on the relationship that developed with the informant, and questions could be rephrased at will. It also allowed the interviewer to follow any new avenues of investigation that the informant presented. Generally, the interviews were not used to gather specific facts, but rather to understand the perspectives and relationships of actors involved in the case study presented here.

## 2. Theoretical Framework

This chapter provides a foundation in the two main theories used in this thesis, scale and social dumping. The scale section will first provide an introduction to the politics of scale and a literature review of the use of scale in labor geography. The second part of the scale section will then discuss hierarchies of scale, and present the hierarchy used in this thesis. It will go into detail discussing the place of the international region in the scalar hierarchy, and how the typical theorizing of a region in scalar literature does not adequately address the European Union and Scandinavia.

The second theory discussed is social dumping. This section will provide a theoretical definition of social dumping. It will then go on to discuss social dumping as a scalar issue and the presence of social dumping in transportation industries today.

### 2.1 Scale

#### 2.1.1 Introduction

First found in physical geography, scale was meant to refer to the relationship between an object and its representation. The definition used in this paper is that given by Delaney, where scale is, “The nested hierarchy of bounded spaces of differing size, such as the local, regional, national and global’ (Delaney and Leitner, 1997: 93). While this definition maintains the physical relationship between spaces, it is also directly relevant as social constituted spaces where economics and politics themselves are constituted (Smith and Dennis, 1987). Scale is more than just a descriptive tool that acts as a relational analysis between different geographic levels of analysis. What has become most interesting than the picture of scale itself, or an understanding of the particular hierarchy under present, is an investigation into the processes that continue to maintain, define, and rework the hierarchy under study. This perspective is a departure from the physical concept of scale.

As Herod (1997) describes it, there are three main ways in which scale has been used: One, a natural feature of the world, something independent of humans; two an artificial and arbitrary construct meant to facilitate analysis; and three, a constructed concept used not just for analysis, but also as a tool for agency. While much traditional geography might agree to the epistemology of the first definition, or the practicality of

the second definition, the critical analysis present in this thesis uses the constructivist concept of scale that treats scale not only as created but creative. Scale in this case is not just a tool of analysis. It is also a natural feature of society, and as such is part of the ontology of society as much as states or societies. It is produced by, and produces society in an ever changing political relationship.

### *The Politics of Scale*

Neil Smith (1992) first defined the politics of scale in the afterword to the second edition of *Uneven Development* (2008). Scale is a vessel for the interactions, conflicts, and structures of daily life and events. “Geographical scale”, Smith writes, “is political precisely because it is the technology according to which events and people are, quite literally, “contained in space” (Smith, 2008: 230). The vessel is not independent of that which it holds, and that which it holds is not separate from its vessel, scale. The vessel and the society which it bears affect and influence each other. Each helps shape the processes that define both what occurs at a particular scale and how that particular scale was shaped. Scale is elemental to geography and politics, for in geographic terms, it is the fundamental form of spatial distinction. For Smith, scale is “the most elemental form of spatial demarcation, from the demarcation of the home to that of the globe” (Smith, 2008:229). Scale is the immediate abstraction of society, and is therefore intimately related.

The politics of scale is not a static relationship. As a society changes, so does scale, in a continuous cycle of influence, creation and destruction. A snap shot of scale, when seen from a politics of scale perspective, does not do justice to scale—it leaves it as a static, found phenomenon. As Delaney and Leitner put it, “...The politics involved in the social construction of scale is frequently an on-going, perhaps un-ending chain of events...” (Delaney and Leitner, 1997: 95). The virtue, then of analysis of the politics of scale of a particular class of events is to understand the why and the how of scale, not just the what.

### *Nested Scale*

The scales of a hierarchy are intimately related to each other. The different scales are nested, with ‘lower’ scales completing a ‘larger’ scale when the lower scales are assembled. The global scale today would not be what it is if not for the structure and qualities of the nation-state scale and the states that compose it. They are intimately related and do not stand apart from each other. This nested nature takes on another

level when scale is also a tool or an agent. As Smith argues that much like how a puzzle is not complete until all of the pieces are in place, 'lower' scales need to be brought together and joined if a particular issue is to be brought to the next scale (Smith, 2008). This nesting is not absolute, though. The idea of completely nested scalar relationships requires dogmatism in theory that does not particularly reflect reality. While there might be strict political hierarchies in the world, such as the different hierarchies in a government, hierarchy becomes much more complicated and interdependent in social hierarchies such as labor relations and social movements. The number of forces that go into creating society and scale are too complicated to be able to create a settled and neatly nested scalar hierarchy. This complex relationship between nested scales will become more apparent in the discussion on regional scales below.

### 2.1.2 The Politics of Scale in Labor

There is a large literature devoted to analyzing scale in labor. Herod clearly demonstrates that labor is an obvious actor in the politics of scale (Herod, 1997, Herod, 1995, Herod, 2005). Labor has a deep relationship to scale. First, labor has been able to use scale as a tool. For example, in his analysis of the east coast longshoreman unions, Herod clearly shows that unions, in fact, were the primary agents in establishing the scale of the labor dispute (Herod, 1997). Second, scale affects the behavior and strategy of labor organizations. Not only do workers and their organizations help define the scales of economic geography, workers and their organizations are also influenced in turn (Herod, 1995). Third, labor is able to use scale to its advantage and use it to create co-constitutive relationships at the national, regional and global scales (Sadler, 2000). While the studies of the politics of scale in labor have addressed a variety of industries and scenarios, much of the literature is based on analyses of different labor disputes in transportation industries. Below is a review of the different arguments and research on the role and influence of scale on labor in transportation industries.

Most of the discussion around labor and scale is concerned with understanding the role that scale has played in labor relationships between employers, workers, labor organizations and states. Typically, the discussion often revolves around the issue of 'up-scaling'. Workers or labor organizations up-scale when they either try to increase the breadth of their organization to include new geographic scale, or when they attempt to bring their issues or campaigns to the attention of a higher geographic scale. The latter tactic can be through either awareness campaigning, or re-defining or

contextualizing the issue so that the issue becomes a matter for a higher geographic scale.

The question of up-scaling is usually in relationship to the larger economic phenomenon of globalization, or the integration of the world economy. From this perspective, the liberalization of the world economy has led to a truly global marketplace in many industries and labor markets. This has created exceptional opportunities for capital, as a stronger global scale has helped contribute to the fluidity of capital. In regards to labor, this means that capital is not as embedded in a particular place and regulation does not provide as strong of boundary as they previously did. As such, workers, the local community and the state do not have the same influence over capital as they once had. Traditional avenues for improving work conditions rely on a place-based community. In the case of pilots and cabin crews, though, if their place of work is constantly moving and not bounded to a particular place, they lose the support that comes from being embedded in a particular place (Bourdieu, 1977, Carmichael and Herod, 2012, Herod, 2003). If labor is too expensive, capital can in many cases simply move to a place with cheaper labor.

Asymmetric scalar relationships have often been to the disadvantage of organized labor. There is a strong argument that labor is only as effective as its ability to operate on the same scale as industry (Commons, 1909, Ramsay, 1997, Ullman, 1955, Weller, 2007, Weller, 2009). In these uneven scalar relationships, employers and workers are organized and working on different scales, and their scalar relationship is uneven. While capital has been able to quickly adapt to the liberalization of the global scale, labor has not, and is often primarily organized at the national and local level.<sup>2</sup> Conflict can occur when an employer can act on a different, typically higher scale, than organized labor. This is why both up-scaling and fragmentation, which can be a form of down-scaling, are often the topics of research into scale and labor. For example, research has shown that in the construction of the EU market, many industries that once had multi-employer collective bargaining have now decentralized their bargaining into company level bargaining under the logic of international competition (Marginson et al., 2003). This sort of decentralization then creates a spiral of negativity, for as

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<sup>2</sup> There are exceptions to this rule, such as global unions like IndustriAll and UNI. There are also examples that would seem to break the rule in transportation, such as the ITF, but that will be discussed later.



cohesion at the higher scale (typically the nation-state scale) breaks down, state-level support for local unions weakens, creating even weaker support for workers. (Katz and Darbishire, 2000, Tuckman and Whittall, 2002)

The international maritime industry is an example of an industry where labor has not been able to up-scale to the global scale when ship owners scaled up. Coordinated capital is able to up-scale, while labor relations either remain at the same level, or are even down-scaled. As such, the different phenomena of the international economy experience their own hierarchies of scale. Lillie (2004, 2005, 2006) demonstrates that, while ship owners and managers have been quick to take advantage of a liberalized global economy, workers and trade unions have not been able to make the step up from national organization to the international level as effectively (Lillie, 2004, Christopherson and Lillie, 2005, Lillie, 2006, Lillie, 2005). From Lillie's perspective, organized labor's inability to act on the global scale has been to labor's disadvantage and has helped ship owners pay lower wages and offer worse conditions than they were once required to by national governments. For not only has up-scaling been an effective way for ship owners to make more money from liberalization, it has also been a successful political effort to alienate seafarers from their employers, and even perhaps their nation-states (Lillie, 2005). Scale, then, has both been a critical part of labor relations as well as a tool of negotiation. In order to effectively negotiate with ship owners, labor must up-scale. As such, Lillie argues that the success of an international union federation, the International Transport Workers' Federation (ITF), is a key to improving the conditions and wages of seafarers. The ITF, through its international representation of seafarers and its ability to organize and coordinate labor throughout the entire production chain, has been able to force ship owners to the bargaining table. The ITF will be discussed further in the Context chapter.

However, not all scholars agree with Lillie that the key to international labor issues is the scale of organized labor in relation to an industry's labor market's scale. Philipp Cumbers (2004) argues that, despite the interest in the international scale, the nation-state scale remains the critical scale at which unions operate (Cumbers, 2004). According to Cumbers (2004), the variation in organization between different national unions, and the different political circumstances under which they operate, shape international solidarity efforts to a significant degree. In these circumstances, it is not scale that is primary, but rather the effective practices of national and local unions.

In addition, Castree (2000) argues that international labor organizing only works when considered in relation to the local and the 'national-local' and the national level, and Bergene shows that global trade union strategies require rank and file, or local scale, involvement (Bergene, 2007, Castree, 2000). The nested nature of scale shows itself in the importance these authors invest in the "lower" scales in the hierarchy, and their importance in success at the "higher" scales. Further, Ruggunan (2011) has shown that this can be true in the international maritime industry as well, and that the global scale is not as important in the international maritime industry as Lillie claims. According to his study of Filipino and South African seafarers, the globalization of the maritime industry has not eroded the effectiveness of organized labor (Ruggunan, 2011). While their work has become more flexible, the seafarers in Ruggunan's case study remain organized and continue to have high wage levels.

Which argument is correct? Must labor try to upscale when it can in order to negotiate at the same scale as employers, or is it the national and domestic scales that matter most, and up-scaling to the global is not that important? Can labor effectively organize itself at the global level with the institutional conditions and limits presented to them by states that Cumbers describes? The last question is especially relevant, and for scholars who see the role of the state as an ideologue, the idea of the global scale as the capitalist scale and the national scale as the institutional breastwork against effective organized labor is entirely the point (Smith, 2008). While an interesting matter, this issue will not be resolved here.

However, the question remains important, as Smith believes that it is not the scale at which a struggle occurs that matters, but who determines the scale of the struggle (Smith 2008). In the case of scale and labor disputes, it has often been the employers who have defined the scale of conflict between them and labor. This is because of the fact that their responsibility and agency now lies at the international, or the regional and global, scales. Industries with mobile capital, such as shipping, some manufacturers, and as shown further down in this thesis, the civil aviation industry, are particularly susceptible to this. The airline and labor, then, have different scalar hierarchies, as the flexible nature of capital has allowed airlines able to push themselves up to the international scales, but has been able to keep labor down on the nation-state or the local scale. In these circumstances labor has to upscale if it is to neutralize the advantage that employers might have by setting the scale of a conflict to a different

scale labor. To do so, though, requires satisfying the nested nature of scale. Without the cooperation and the effort of all parts of the domestic scale that are present in the conflict, then labor cannot up-scale itself (or a dispute) to a another scale-the higher scales do not operate without the coordination of the lower. “By organizing the fractal spaces at one scale into a coherent, connected place,” writes Smith, “Struggles elevate themselves to the next scale up the hierarchy” (Smith, 2008).

However, employers do not have a monopoly over defining the scale of a dispute. Herod recognizes that in his analysis of the longshoreman’s debate (Herod, 1997). Ruggunan’s exception to the rule also presents to the debate unions that have been able to meet the challenge of an international labor market by maintaining a strong national scale, and as such has been able to partly define the scale of the conflict. It is worth noting, though that the labor unions in Ruggunan’s examples have not been completely successful. There have been changes in work conditions, including an increase in the flexibility of the workforce.

### 2.1.3 Scalar Hierarchy

The scalar hierarchy used here is based on Neil Smith’s hierarchy in *Uneven Development* (2008). Working with Wallerstein’s and Taylor’s work on World Systems theory and scale, Neil Smith argues that there are three primary scales: The urban, the national and the international (Taylor, 1981, Wallerstein, 2004). His perspective is Marxist, and is couched both in the language of Marxism and the concept of class struggle. This thesis will not directly address the concept of class struggle or the development of the capitalist system, but it will adopt much of his discussion on scale due to its apparent explanatory powers.

According to Smith (2008), the primary concept driving scale is international capitalism: Though the main scales presented here were inherited from earlier political economic systems, capitalism has taken them and turned them into functional parts of the global capitalist system. As such, the scales are intimately related through the international economy, and it is the international economy that binds them together. Business, government policies, labor and the worker all play a role in the politics of scale. This thesis will not use Smith or Wallerstein’s scales exactly, but will take the main hierarchy of the local, nation-state and global scales as the foundation of the discussion. The basic nomenclature of domestic, the state, and the international are

used, but are tailored to the particular case study at hand. In addition, there has been the addition of another scale, the international-regional. In this thesis, the international-regional scale is included so as to better understand the role of the European Union (EU) and Scandinavia in the politics of scale and the international economy. This thesis cannot take a stand on whether or not there is a universal set of scales that would be applicable to any study of the politics of scale. Rather, this study uses Smith's hierarchy, but also adapts it to the labor case study at hand.

As mentioned, the scalar hierarchy in this theory includes the international regional scale. Smith and others have taken into account regions in political economy, but the regions has not been set it in the archetypical local-state-global template. In the case of NAS, though, it is clear that the regional scale plays an important economic role and political role. What that role is though, is unclear, as it shares qualities of both the nation-state scale and the global scale. Like the global scale, the region is a scale of nested states. However, it is clearly not the global scale, as the region is nested within the global (much like the state). The region is not a nation-state either, as it does not satisfy the description of a unit of nation-state scale presented below, and the unit of the region is the nation-state. The regional scale exemplifies the complicated, interdependent nature of scalar hierarchies for social phenomena. It shows that while a scalar hierarchy can be seen as nested, requiring lower scales to be unified to construct a higher scale is unreasonable. However, it is clear that it plays a particular role in the politics of scale in civil aviation. It is both a scale of interaction, has influence over other actors and scales, and can be used as a tool. While it does not fit neatly into the nested hierarchy, the international region clearly embodies the qualities and behaviors of a scale.

The question of the international region becomes more complicated in the case present here. In the case of civil aviation in Europe, particularly for a Norwegian airline, there are two regional scales that have to be addressed: The EU or European level, and the Scandinavian level. The European level clearly belongs, as it has demonstrated its ability to shape the behavior of other actors at all scales through its policy making and limited sovereignty. However, Scandinavia is also a region that has a role in the politics of scale. While it does not have the same policy making abilities, or state-like qualities, it does have a strong cultural and political affiliation amongst its states that make Scandinavia a force in the civil aviation industry. This is just a cursory description of the

role of the international region and the challenges that arise in its theorization. The international region will be discussed further below.

Much has been written on the problem of regionalization in hierarchical scale (Marston, 2000, Leitner, 2004, Brenner, 1999, Storper, 1997, Deas and Ward, 2000, Keating, 2000, Lovering, 1999, Paasi, 2002, Paasi, 2003, Perkmann, 2002, Prytherch, 2010). Much of the discussion is based on the inadequacy of nested or hierarchical scale to be able to explain the development of regions (For example, (Amin, 2004). The same drivers of globalization, such as open transnational flows of ideas and information, are breaking down the bounded spaces of regions much in the same way as they have done with the state.

The literature, however, focuses on the development of regions within the state or at most the phenomenon of the resurgence of nationalities and identities that lie at the border between states or within states (Lovering, 1999, Prytherch, 2010, Keating, 2000, Allen and Cochrane, 2007). While these are valid case studies, the study of national regions, in the case of Prytherch (2010), or economic regions, like most of the urban studies researchers like Allen & Cochrane (2007) or Lovering (1999), do not address the concept of a region defined by states, such as Scandinavia. Where once Scandinavia was a region defined primarily by shared culture and identity, it is now also a collection of three states that have shared policy perspectives and are governed by three sovereign governments that have been present since at least 1905 (Hilson, 2008). The states are not the product of globalizing forces. If anything, states have had to resist them over time. Rather they create a region composed of the traditional bounded and sovereign state. They are not the product of new topologies, but are historical phenomena. This region has been around much longer than the EU, and does not attempt to break states—in many ways, it appears to attempt to preserve them.

It is important to note this thesis occasionally refers to the “international scales”. In this thesis, the international scales refer to the global scale, the regional scale, or both.

### *Local Scale*

The local is important due to the role that the local plays in the reproduction of labor. It provides the labor market and the general society and daily economy that helps support pilots and cabin crew. In addition, it also becomes the scale at which the

international economy becomes physically manifested. The consequences of social policy, economic forces, and general consumption occur at the local scale. For the international aviation industry, though, it includes both the countryside and urban areas, as its labor market is not made up of a particular urban area. Flight crew can live wherever they please, so long as they make it to their base for their scheduled work.

For flight personnel, the local is only the place of residence—It does not include the workplace. This is contrast to the idea of the urban and the traditional question of industrial relations. Typically, workers live in the same place as their work, and this place, typically a town or a community, has much to say over the relations between the workers and their place of employment. Both the capital of the workplace and the workers who are employed in that work become embedded in that place which they share. This sharing of space has much to say over the economy and politics of not just that particular space. It is an influence that can travel up the scales and affect industries, economies and politics at practically any level. This relationship, though, is notably absent for workers who work in mobile workplaces, such as pilots and cabin crews. Their home becomes spatially detached from both their place of work and the capital that they operate. Workers then lose the influence that they once held over the capital that they once shared a place with. Those places, and the workers attached to them, lose much of the economic and political influence that those two groups once had over the industry the workers work in and the economy that the industry is a part of.

#### *Nation-State scale*

The nation-state scale is the primary scale of regulation and institutions. It is composed of the local places within a particular bounded geographic area. The state is the membrane between the global scale and the domestic, helping to shape the domestic to the needs and the demands of the global scale and the international economy. At times, it can also act on behalf of the local at the global or regional scale. At this level lies the state government, the body that in modern times has developed to hold the primary authority over the space of the nation-state (Tilly, 1990). The state is the sovereign government, in that it has formal sovereignty over domestic matters within its geographical boundaries, and there is no superior authority that has control over the state's space. The state government is the final arbiter of the rule of law over the land it controls. The state does not have political superiors, only peers, and should be

considered a set of equals. The state should be distinguished from the nation-state, though, as other entities, like the EU, can have state-like characteristics.

The state is generally organized around capital, and not labor (Smith, 2008). While the state sets the particular geographic and political boundaries that regulate its labor force, the state is not directly related to the composition of a particular labor force. Rather, the nation-state is typically organized around “national”, “immobile” capital that requires a social and economic infrastructure to maintain and protect it. (Smith, 2008: 189-191, discussing Marx)

### *Global Scale*

The global scale encompasses the entire planet. From a nested perspective it is the total geographic space of the earth. The unit of the global scale is in most cases the state, but it is also possible that the regional scale can contribute to the construction of the global scale. The global scale is the scale that encompasses the global capitalist economy. It is the scale at which the international economy is constructed, and is the scale from which the economy derives its internal logic. It is also the global scale of production. It provides the flow of communication, capital, people and goods that transcends the state. The global scale is not defined in the same manner as the nation-state scale; it is not a political entity that organizes the earth. Rather, it is the scale at which states or regions interact with each other from a global, unified perspective. The global scale facilitates these interactions and transfers, but also is in turn influenced and is partly defined by these global behaviors.

### *Regional Scale*

Typically the regional scale refers to an economics regional scale within a state, but for this thesis the regional scale is referring to an international regional scale. This is to address the two particular classes of international regional scale in the case study: The European Union (EU) and Scandinavia. The European Union is an international organization or government that has developed into an entity that behaves as both the global and the national in scale. For the states that are part of the EU, the EU appears as a pseudo-state that lies above a state- it is not the global scale, but it is an authority that behaves as a state over other states. This is demonstrated by the ideological nature of the behavior of the union, and the regulation that it writes in order to harmonize its members to the international economy. As Ball (1996) explains, the European Community Treaty imposes, much like a state on its people, “positive obligations on

Community institutions and Member States with the functional objective of establishing and maintaining a transnational capitalist society” (Ball, 1996: 308). The purpose of the community is economic integration, and social policies are secondary, “addressed only to the extent that they impact upon economic integration” (Ball, 1996:309). The EU carries the international capitalist logic within its foundation, and acts as a logic of cooperation that European states feel compelled to follow (Ball, 1996, Heyes, 2011). Much like a state, its role is to act as a facilitator between the global and the local scales.

This is not to argue that the EU is the new state. As Heyes (2011) shows, European regulation has become softer over time and states have resumed some of the power that they originally volunteered. The EU now relies primarily on the voluntary cooperation of states (Hobbs and Njoya, 2005 in Heyes, 2011 #442). As such, there is not a true transnational state to be addressed here. Rather, it is a formal region, in contrast to the discursive region of Scandinavia.

#### *Formal Region*

An international region is a formal region if it is a region of states that have surrendered part of their policy-making authority to a regional government or governance tool like the EU. The formal region is important because it re-contextualizes the perspective of states. Social policy that was once a domestic concern becomes not just an international question, but a regional question (Deacon, 1997). A policy formed at the formal regional scale produce significantly more binding interaction and commitment from sovereign states than the global scale. Social policy for states is not just international, then, it is regional, and by signing up to the EU or the European Economic Area, states have invested a portion of their sovereignty into the European Community and the ideology and compromises that it represents. In addition, a region is one of many throughout the world. As such it could have peers that would, in addition to the EU, add up to the global scale, satisfying scale’s nesting characteristic.

However, it is not a solution to say then that the regional international is a scale that sits between the nation-state scale and the global scale. First of all, a region does not need the complete nesting of all states in order to become a region. The EU exists despite the fact that there is no comparable region in any other part of the world and it is able to interact with the global scale. As such, there is not always a formal region between a state and the global scale. Only the states within the region need to be combined to create the region; these states become a particular subset of the global set



of states. Secondly, there is not just one type of regional international. The regional scale does not just refer to supra-national organizations that demand some sacrifice of sovereignty from its members. It can also be a geographic region that shares a particular set of historical or cultural relationships that encourages states to look at a particular issue from a collective perspective. There are many instances of this, but the relevant example here is Scandinavia.

#### *Discursive Region*

This particular type of region based on shared culture and social practices is called here a discursive region. Scandinavia, or Denmark, Norway and Sweden, has a long cultural and political history together (Hilson, 2008). Norway, at one time or another, belonged to both Denmark and Sweden. This long history together has developed a close-knit region of three neighboring states that have developed very similar social welfare states with strong social security and employment policies. They share much of a common culture, and their languages are very similar. While this has led the states to work closely in regional and international affairs, this intimacy has also led to close cooperation between their civil societies (most notably labor organizations) as well. As shown later, Norwegian pilots in Norwegian Air Service did not see themselves just as striking on their own behalf in 2015, they demanded a common agreement for pilots from all three of the Scandinavian states. This is a significant development that will be discussed further in the Analysis and Discussion.

This shared past and common identity cause Scandinavia to share the most in common with the national and economic regions described in the literature review earlier on region and scale. The difference in this circumstance is that the unit of Scandinavia is not a common economic region or a single nation, but is itself a nested scale. It is created by three states, and the absence of one would not allow the other two to create a 'Scandinavian' action or international position. In addition, the units in Scandinavia are states. As such, they are geographical territories that have their own scale, and it is a scale that combines to create the region. The region in this case is clearly a part of the scale hierarchy. It is the product of the other scales, influences the other scales in turn, and can be used as a tool for the purposes of an agent operating at that scale.

### *Scales of Relevant Phenomena*

The purpose of identifying this scalar hierarchy is to show the characteristics of the different scales that the relevant actors in social dumping in a particular industry can organize themselves at. The discussion of social dumping, then relies on understanding the scale of the labor market, the scale of the state, and the scale of organized labor. The scale of the labor market is the primary scale at which a firm in an industry can claim to be able to hire workers without having to cross significant regulatory boundaries. It is a regulatory bounded space in which there are few to no barriers to employment for workers or employers. An example of a labor market at the global scale is the global market for seafarers. If a ship owner has its ships registered in a flag of convenience state, they can in practice hire seafarers from wherever they choose, and their practices over time have demonstrated their ability to do this. In contrast, a labor market at the state level is one that is highly regulated by a state level authority or a labor market that is embedded in a place that does require its employees to be legal residents in the place where the work takes place. This could be, for instance, local bus drivers, teachers, or workers in an industry that is not international in nature or has particularly embedded capital.

This definition requires a degree of flexibility, as no labor market is homogenous. There are varying degrees of freedom of employment and regulation throughout an industry. Using the case study presented here as an example, Norway has particular residency requirements for any aircrew that wishes to be based in Norway that other European states do not require. However, it would be unreasonable not to include Norway in the discussion of the European aviation market.

The scale of the state is the scale at which the relevant governments that control bounded political and economic territories are organized. Typically this is the nation-state scale, as the nation-state scale and the state are heavily dependent on each other for their relevance in the world. A state could, though, also reside at the regional level, like the EU, a global level, or even at a local level. The definition is not absolute and open to interpretation, as the idea of sovereignty and strict boundaries are difficult to measure in their own right. (Christiansen, 2005) The key, though, is that the scale of the state is the scale at which the highest authority resides, namely the scale at which sovereignty resides.

The scale of organized labor is the scale at which labor is most effectively organized in a particular industry. This can be at any scale, however traditional or historical relationships to the local and the state level have hindered labor's desire to rise to any higher scales than the national. This is also due to the fact that organized labor receives much of its ability to legally influence any negotiating partners through influence and power granted to labor organizations by states or regulating authorities. As such, it is difficult for organized labor to rise to a scale higher than the scale of the state as they would lose organization and authority.

The scale of the industry is the scale at which an industry can be considered to be organized. This takes into account both the scale of the industry's market, to what space they collectively market products, as well as the scale of operations. For instance, the scale of the international maritime industry is global, as both the market and the firms in the industry are generally organized at the global scale. This does not mean that a industry that is present everywhere is a global industry. Practically all countries have taxis, but there is no global taxi industry—they are still organized on the local or nation-state scale.

## 2.2 Social Dumping

### 2.2.1 Definition

There is no clear consensus definition of social dumping (Bernaciak, 2012, Eurofound, 2013). The different definitions have been proposed by authors fall into three categories. The first category includes those definitions that try to define social dumping as a policy issue. For instance, Alber and Standing (2000) focus on states limiting wage and social welfare growth in order to encourage investment and economic growth in a state (Alber and Standing, 2000, Mosley, 1995). Developing states, then, focus on retarding their social policy in order to attract new foreign investment (Dimitrova, 2006, Sinn, 2001). However, developed states can also practice social dumping by limiting or compromising on social benefits for its workers. Instead of attracting new investment, though, this particular perspective concerns developed states' desire to retain capital and to create economic growth, with an emphasis on creating new jobs over preserving older jobs (European Economic and Social Committee, 2010, Ball, 1996, Busemeyer et al., 2008, George and Taylor-Gooby, 1996,

Heyes, 2011, Heyes et al., 2012, Krzywdzinski, 2014, Leibfried, 2000, Mosley, 1995, Standing, 1999). What this creates, then, arguably, is a race to the bottom where states are constantly lowering social standards in order to appeal to investors (Hyman, 1997, Deacon, 2000, Gough, 2000, Hay et al., 2006, Ramesh, 2004). These types of definitions focus on the mechanism of social dumping and the agency of states. In these definitions, a less developed country gains a cost advantage or 'unfair' advantage over producers in more developed countries (Bernaciak, 2012).

The second type of definition focuses on the behavior of businesses. The focus is on businesses that either export production and capital or import labor in order to undercut local workers and their associated costs. These definitions focus both on business practices and government policy in more-developed countries instead of less-developed countries. For instance, the Centre of Economic Policy Research (2013) argues that social dumping is a business practice by a business in a developed country to "Supply its domestic market through production located in a developing economy where labour standards do not comply with the minimum requirements adopted by the home country, therefore allowing the firm to enjoy lower production costs" (Cordella and Grilo, 1998, in Eurofound, 2013 #570).

These definitions appear to be typically formulated by governments. In Europe, the focus on social dumping comes through the issue of posted workers, where a company sends employees from one country temporarily in order to provide cheaper labor. The European Commission describes social dumping as, "Where foreign service providers can undercut local service providers because their labour standards are lower", and the Norwegian government, "Present both if foreign employees are subject to breaches of health, safety and working environment regulations and if they are paid wages that are unacceptably low" (Commission, 2015a, Norway, 2008). These definitions focus on the business as the agent of social dumping, and are concerned with states whose workers suffers when less expensive workers are imported into the country to the disadvantage of its citizens. They also appear circumstantial in nature. There is no clear understanding when foreign providers provide too low of prices and undercut their competitors, or when foreign workers are paid "unacceptably low" wages in Norway. In contemporary context, it also appears to be a particularly European perspective, possibly related to the unique threat that the open European labor market presented to workers in high-wage countries such as Norway.

The third type of definition takes into account all of the factors already mentioned, but takes the discussion further to consider the state not just as a passive actor or mechanism in social dumping, but rather one of the agents that perpetuates it alongside business. A useful example of this type of definition is Vaughan-Whitehead (2003), where social dumping is defined as “Any practice pursued by an enterprise that deliberately violates or circumvents legislation in the social field or takes advantage, notably in terms of competitiveness, the state also playing a determinant role” (Vaughan-Whitehead, 2003: 325). Here, it is the intention of a business to deliberately circumvent legislations that matters. Another of these definitions is Bernaciak (2012), who argues that a definition of social dumping must also consider the effects of lowering social standards and negative implications for a society. Bernaciak defines social dumping as, “The strategy geared towards the lowering of social standards for the sake of enhanced competitiveness. It is prompted by companies but indirectly involves their employees and/or home and host country governments, and has negative implications in the social sphere” (Bernaciak, 2012: 25). While Vaughan-Whitehead argues that it is the intent to dump that matters, Bernaciak believes it’s any strategy that relies on the lower of social standards, and in support of that, tangible negative consequences.

This third type of definition is different from the first two because it addresses not just the mechanism of social dumping (permissible social policy in both states at either end of the social dumping practice), or businesses as the performers of social dumping. Rather, the third type of definition provides a broad definition of social dumping which address the mechanism (social policy), the agency of both the state and business, the description of the purpose of social dumping and in the case of Bernaciak, social dumping’s negative consequences.

This thesis will use Bernaciak’s (2012) definition. While Vaughan-Whitehead’s (2003) definition uses social policy to draw a line in the sand between business practices that conform to social policy set by governments and those that do not, Vaughan-Whitehead does not adequately address the role of the state in social dumping. Part of the phenomenon of liberalization, including in civil aviation, has been the increased passivity of government legislated social policy in both developed and less-developed states regarding employment and the movement of capital. On the one hand, states have become complicit in social dumping by creating social policy that is so

permissive that businesses do not have strong social policies to disregard. Secondly, the issue becomes obfuscated when there might be conflict between two overlapping regulatory regimes. This is clear in the NAS case study. From a Norwegian perspective, the movement of work from Norway to Spain might circumvent social policy in Norway. From a European perspective, it does not—the European Economic Area and the ECAA permits the movement of capital and work. To use Vaughan–Whitehead’s definition in regards to NAS, then, the thesis would have to decide if NAS is a Norwegian airline or a European airline. It is, most likely, both Norwegian and European, and social policy does not provide a useful test for NAS’s labor practices. From Bernaciak’s definition, though, the thesis is only required to identify practices that lower social standards for the sake of enhanced competitiveness, and that these practices have negative effects in “the social sphere”. As such, it does not matter Norwegian is judged from the regional or the nation-state scale—it is only the results of their labor practices that matter.

It is also important to note that the discussion of social dumping should not include all forms of social policy - welfare dumping should be distinguished from wage dumping. Sinn (2001) makes this distinction clear, and he argues that it is not social security policies and the social support net that affects a firm’s interest in investing in a particular country. Rather it is the regulation that defines wages and social support that would be considered ‘wages-in-kind’ that add up to increase an employers’ labor costs. (Sinn, 2001). These wages-in-kind would include things like social security payments, maternity leave, and sick pay. These should be held in contrast to other welfare programs that are redistribute in nature, as those are policies that should not directly affect the labor costs for a potential investor.

That is not to say that focusing on the effects of business practices on the social sphere removes all ambiguity from the discussion. To claim that an effect of an international business practice is “negative” is a judgment based on a particular perspective, not a fact. The question of good and bad in the international economy is a difficult question, and any result can be analyzed not just from different theoretical perspective, it can also be manipulated temporally so that a short term negative effect becomes a long term success story. In addition, the question can always be reframed to be about when there are both losers and winners in social dumping. Is there a positive effect in social dumping if NAS pays Thai cabin crew more than the average salary in Thailand? The question of winners and losers becomes even more difficult when the

debate also discusses about what is considered good or bad. For instance, are higher wages good even if social dumping retards the development of strong social policies in Thailand? The positive effects are difficult to measure.

This thesis, though, will define the negative aspects of social dumping from a scalar perspective. This scalar perspective is significant to the discussion of social dumping today. Social dumping is a particular perspective on international capital and labor movement that reflects an uneven scalar relationship between the international economy and those actors that perceive social dumping to be a potential threat to the wages and conditions of workers, namely the state and organized labor. Social dumping, then, has a negative effect when the practice of social dumping prevents labor from participating in the industry that it works in. Labor, then cannot help define the social dimensions of that industry and a firm can then take advantage of the scalar disparity in order to save on labor costs at the expense of labor without labor's permission or participation. If the scalar unevenness is resolved, and labor can participate in constructing a strategy that could lead to worse labor conditions or pay, then the practice is no longer social dumping, but rather an international business strategy. This is assuming that the business strategy subscribes to the limits and prescriptions of relevant states and regulators.

Social dumping, then, can be described as a scalar phenomenon, and the presence of social dumping reflects an uneven relationship between the scale of an industry's labor market and the scale of the state. In the case of social dumping, the labor market has been up-scaled to a scale that the state and organized labor has little influence or control over. As such, workers in that labor market have lost their traditional advocates. If a state cannot effectively regulate a labor market because the market transcends the traditional boundaries of political or economic regulation and has been trans-nationalized, then the state does not have the opportunity to regulate the market. In fact, the state feels pressured to reduce its labor regulation even more so to either prevent capital flight or to invite new capital into the country. In addition, labor organizations that are not on the same scale as the labor market or the business with which they wish to negotiate also do not have the same ability to advocate on behalf of the workers. Organized labor typically has to rely on the mechanisms of the state in order to be able to negotiate with businesses and influence their behavior. The trans-nationalization of an industry and its workforce, then, leads to a situation where

the company, has control over the manner in which it hires workers from this transnational labor market.

As will be discussed in the analysis chapter, while a labor market might be international in scale, it does not mean that the workers in that market share the same scalar presence as the market in which they participate. International workers are not necessarily internationally organized. As such, businesses can choose labor strategies that can maximize their earning while minimizing their labor responsibilities and expenses. Due to the uneven scalar relationship between the state and an industry, a business has the opportunity to conduct international capital and labor movements that could negatively affect a state's social sphere. In other words, to practice social dumping.

### 2.2.2 Analytical Tools

The analysis of social dumping relies on two analytical tools, relocation and fragmentation. According to Galóczi, et al. (2006), relocation is, "A type of offshoring, i.e. of cross-border investment, when economic activities are shifted towards foreign locations" (Galgóczi et al., 2006: 503). In the question of European integration, the debate has revolved around the fear that companies will practice a type of substitution by taking advantage of cheaper states in order to exploit wage and working differentials in different countries.

Fragmentation is defined by Jordhus-Lier as, "Refer[ring] to all barriers that keep workers from constructing solidarity and shared identity" (Jordhus - Lier, 2013: 38). This can include a variety of processes, from spatial fragmentation through the breaking up of work places, temporal fragmentation through manipulating shifts and working hours, and finally the organization of capital. Most relevant for this case is the organization of capital, which Jordhus-Lier describes as an, "Elusive network of labour market intermediaries and direct employers that make it challenging for workers to identify which party holds the employer responsible (Jordhus - Lier, 2013: 38, referring to Benner, 2000 #577).

As airlines continue to move towards using 'atypical' employment, or any other labor relationship other than typical permanent open employment, both relocation and fragmentation can both become more prevalent in the international aviation industry. (Yves Jorens et al., 2015). Social dumping takes advantage of a combination of fragmentation and relocation in order to create an international, though divided,



workforce. As such, fragmentation and relocation are worthy of further investigation and their use will become obvious in the analysis chapter.

### 2.2.3 Social Dumping in Transportation

Transportation industries create special spaces for workers. As will be discussed later, moving work places such as aircraft, ships or vehicles create unique circumstances for their operators. The workplace is not tied to a particular place related to the home of the worker, the workplace often crosses borders, and can even operate in international no man's lands such as the ocean. These particular workplaces, then, create ripe circumstances for social dumping, especially compared to those industries with workplaces that are very connected to a particular place. This section will illustrate a case of social dumping in an international transportation industry, showing the presence and relevance of all of the criteria of business and state agency, regulatory mechanisms, the enterprise's strategy, and the negative results.

As mentioned in the introduction, while social dumping is not prevalent in the international civil aviation industry, there is fear that the acceptance of social dumping in other transportation industries will set a clear precedent for airlines to follow. The industry that all activists point to as the product of uncontrolled social dumping is the international maritime industry. Today, the international maritime industry represents one of the clearest cases of the movement of both capital and labor from one region to another in order to reduce labor costs. This section will provide both a narrative of the development of the 'flag of convenience' in the international maritime industry, as well as a brief scalar analysis of the successful development of the practice of social dumping.

Since the 1920s, the international maritime industry has experienced a dramatic trend of liberalization and deregulation. This phenomenon has been termed 'flagging out'. The first flag of convenience established was Panama, and its intention was to attract American ship owners to register their ships in the Panamanian registry. Flagging out is the flight of capital and jobs from one country to another. In this process, countries such as Panama created a very attractive regulatory regime that allowed foreign capital to register their ships in the Panamanian register for far less than what ship owners had to pay in their home countries. The savings were not simply the price of registering, but in the cheapness of the new industrial regulation. Panama and other such countries practice an incredibly light touch regulation method in both social and

industrial regulation. The costs of owning and operating a ship based in a flag of convenience nation were much cheaper than those of an owner's home country. From a social dumping perspective, Panama actively suppressed the social welfare and wage conditions of workers that would work on Panamanian flagged ships in order to attract capital, in this case ships, to the Panamanian register. This passivity also includes the states that have had once large national fleets. Where once there many ships and many seafarers from a particular country, such as Norway, the ships and the labor market have practically disappeared, and the state has not stopped this process despite the loss of jobs and tax revenue. Both developed and developing countries have developed social dumping policy regimes. Since it started its practice, Panama has remained one of the main flags of convenience in the world, and the number of ship owners that have flagged out their ships has only increased. Today, 73% of shipping today is "foreign flagged" (UNCTAD Secretariat, 2014: 38).<sup>3</sup>

Flagging out has had a drastic effect on the labor market for seafarers around the world.<sup>4</sup> First and foremost, flags of convenience have led to the 'trans-nationalization' of the global shipping industry, and as such the maritime labor market is now global in scale. Trans-nationalization has led the international maritime industry to practice not at the level of states, but in a sense 'above' states. Capital, in this case ships, moves where it wishes, and hires who it pleases, without regulation at the national scale. The international maritime industry lives in a sense above the regulatory boundaries of the state. Flags of convenience allow ship owners to hire crews from wherever they please in the world, a stark contrast to the older shipping nations in North America and Europe that have always held a strong nationality requirement in the composition of crews on ships flagged in these countries. Where once sailors were typically from the same state as their ship, sailors today come from labor supplying countries that have no connection to the flag of the ship, and it is very common to have multiple nationalities on the same ship. This has led to the rise of new labor supply countries, such as the Philippines, and the decline of traditional seafaring nations such as Norway. This fragmentation of the workforce has strong scalar consequences as well. By using the global scale to take

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<sup>3</sup> The term "foreign flagged" refers to a situation where a vessel flies a flag different than the nationality of its owner. While not equal to a flag of convenience, the two concepts lie very near to each other.

<sup>4</sup> Seafarers are the crews of the ships

away any sense of place relationship between workers, employers are driving seafarers ever farther from any support that the local scale might be able to give them.

This change in the center of gravity in the supply of seafarers from capital-supplying countries to labor-supplying countries has given new opportunities to labor-supplying countries, but has also taken away opportunities from the now primarily capital-supplying countries of the ship owners. This is a complicated and possibly normative question, as there are clear winners and losers in this situation. However, the result is that flagging out has led to a decrease in the typical pay and working conditions of seafarers. (Lillie, 2006, International Transport Worker's Federation, 2012). The up-scaling of the labor market has led to downward convergence of labor and work conditions in the industry, and much of it is due to permissive policies from both sides of the issue.

This up-scaling to the global level was both the intention of ship owners, but also co-constituted by states and organized labor. States that have seen their ship registries decline remained quiet about the disappearance of both capital and labor from their national markets, and have generally accepted the presence of flags of convenience due to international economic pressure. This is expressed both at the national scale by governments, but also internationally through the behavior of international organizations. For example, while the International Labor Organization has always had seafarers within their mandate, the ILO did not take their first regulatory action on labor and working conditions until 2006, when it passed the Maritime Labor Convention (MLC) (ILO, 2006). It is meant to be the 'fourth pillar' to international maritime law, and is the final pillar. While it has been in effect since 2013, many question its effectiveness. It presents a sort of minimum standards for the international maritime industry, discussing primarily working conditions. While member states' governments ratify the convention, there is no specific enforcement mechanism. As such, the convention relies on the very flags of convenience that it is meant to regulate to enforce the rules of the MLC (Ardia, 1997, Bauer, 2007, Lillie, 2008). In addition, while states have now adapted the MLC into the national regulatory frameworks, it took until 2006 for states to officially act to secure decent working conditions and benefits for seafarers. Capital-supply states have not only created policies that contribute to social dumping, they have also encouraged the international community to do so as well.

Organized labor has been both the victim and co-constituter of the global labor market of the international maritime industry. While labor has suffered because of the up-scaling of the labor market, it has also allowed the global scale of the global labor market to become stronger due to the fact that labor was not effectively organized at the international level until the 1990s. First, labor was put at a serious disadvantage due to the up-scaling of the global labor market fostered by the introduction of flagging out. This was because, like in many industries, labor in shipping was organized at the same level as the industry was originally; in this case the national level. As such, a seafarer's union's influence was based primarily at the national and domestic scale. While flags of convenience catered to the easy up-scaling of capital, it did not provide those same opportunities to labor and its organizations. Like other industries that have quickly become globalized, seafarers organized at the traditional national level have not been able to wield influence at the new scale, the scale where capital now is coordinated (Commons, 1909, Ramsay, 1997, Ullman, 1955, Weller, 2007, Weller, 2009).

Second, the very same issues that have led labor to be a weak actor at the international level has only reinforced the success of the global labor market in shipping. This should be of no surprise after the discussion of the effect of fragmentation in labor relations discussed in the scale section. Due to the silence of states and the transnational nature of the global scale in shipping, the national scale has had very little influence not only over the behavior of actors at the global scale, it has had very little say over the development of the global scale. The international maritime industry's transnational nature and strong global scale is so robust because of the ineffectiveness of labor at the global level.

## 2.3 Conclusion

Social dumping is an uncertain term. There is no agreed definition, and its use has a normative meaning. Where a firm might call its labor strategies simply effective expansion strategies, those that suffer negative any consequences of these labor strategies social dumping instead. Social dumping, then, implies a perceived failure of an actor, whether a business or a state, to preserve the social welfare and labor conditions of a workforce and its community. Whether or not social dumping is a normative issue, though, cannot be solved here. However, the practice called social dumping does exist, and as discussed above can be accurately described by a definition

that takes into account the mechanisms and effects of social dumping, the agency of the state and business, and the role of social policy.

In addition, Scale is a useful theory through which to construct a framework to describe social dumping. Social dumping is the product of an uneven scalar relationship between the scale of the labor market, the state and organized labor. While an uneven relationship does not guarantee social dumping, this particular scalar constellation is almost necessary for the particular business practices that constitute social dumping. Through trying to identify the particular scalar relationships within a particular industry, the possibility of social dumping can be better understood by applying a scalar lens to an investigation into the industry. Scale, then, is used as both a descriptive and investigative tool to better understand the complex relationships between business, states and workers that make up the global economy and the coordination of capital and labor. Scale allows a researcher to both better explain social dumping in an industry, but can also be used as a tool to investigate business practices to help understand if they are in fact social dumping.



### **3. Context-Aviation Today**

Civil Aviation is an exceptionally complex industry. It is global in its reach, considered a strategic and prestigious industry by governments around the world. The industry is dependent on a global logistics and supplier network, uses and relies on cutting edge technical equipment. It holds enormous amounts of financed debt, and hires a wide variety of employees across the globe. There might be no other industry in transport, or in any other sector for that matter, that has the complexity of the civil aviation industry. While the many facets that make up the civil aviation industry are all interesting in their own right, this thesis is focusing specifically on labor in the civil aviation industry.

There are reasons for workers, unions, and global union federations to be concerned about labor in the civil aviation industry. Where once airlines hired all of the workers involved in the airlines operations, from aircraft maintenance to customer service, most airlines have gone through a stunning process of reducing their payrolls and labor responsibilities (Doganis, 2005). In many instances this has been a industry-wide practice of atypical employment relations.

Through atypical employment relations, airlines have begun to hire temporary contract workers, either directly or through labor suppliers, in order to fulfill practically every role in the airline industry (except perhaps management). These practices are meant to create more flexibility, and casualize and fragment the workforce through outsourcing and downsizing (Yves Jorens et al., 2015). When practiced across international borders, this outsourcing and downsizing can also be called “international outsourcing” and “offshoring” (Galgóczy et al., 2006: 503). As will be discussed in the analysis, there is a strong argument to suggest that these atypical employment relations can, in many situations, be social dumping.

While the challenges facing labor in civil aviation are manifold, this thesis focuses on the issue of social dumping and aircrews. Social dumping is reliant on the relationship between an industry, regulators, and labor. As such, this section will focus on the regulatory development surrounding labor and social support in relation to the aviation industry, and how airlines have adapted and used the regulatory environments presented to them. This section will first provide a small history of the civil aviation industry. It will then discuss how the industry is composed today, and how labor and

airlines have organized themselves both in the industry and in relation to each other. The section will then go on to provide specific examples of attempts at aircrew social dumping in Europe. The discussion will be supported by examples from civil aviation, and will include a brief introduction to the case study, Norwegian Air Shuttle ASA.

### 3.1 Aviation Background

Civil aviation is a comparatively new industry. The first airline in the world, Deutsche Luftschiffahrts-Aktiengesellschaft, was founded in in 1909, and it only operated dirigibles, not airplanes. The first scheduled fixed wing service only started in 1914, between St. Petersburg and Tampa, Florida—a distance of only about 30 kilometers. Since then, the aviation industry has grown dramatically. The International Civil Aviation Organization, an UN body established in 1944 to help develop standards for national civil aviation regulation, writes that from 1970-2012, the volume of airline travel grew ten-fold<sup>5</sup>, significantly faster than the global economic growth in the same period (International Civil Aviation Organization, 2011, 4). In addition, the ICAO states that in 2012 the number of passengers that travelled by plane reach about 3 billion, and is expected to reach 6 billion passengers by 2030 (International Civil Aviation Organization, 2012b, International Civil Aviation Organization, 2012a) This spectacular growth is due to a specific set of factors.

First, air freight has been a major driver of the growth of civil aviation. While air freight is expensive, it has been vital to the development of just-in-time strategy management (International Civil Aviation Organization, 2011). Second, urbanization has played a key role. Air travel relies on the development of airports and consumer catchment areas. Airports are the most lucrative to developers and governments where population is densest, and the phenomenon of urbanization that has taken place in the 20th century has provided substantial market opportunities to airlines. As the number and density of urban areas has increased, the number of potential travellers for urban airports has increased. These growth of airline travel is reflected in and driven by the growth of urban areas. In the same time 40 –year period in which air travel grew ten fold, most of the growth has been in major urban area to major urban area

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<sup>5</sup> As measured in revenue passenger kilometers (RPK). RPK is calculated by multiplying the number of paying passengers aboard an aircraft by the distance travelled on the aircraft.



(International Civil Aviation Organization, 2011). Travel between smaller cities and areas has not grown at the same pace, further demonstrating the rich markets that urban areas can provide to airlines (International Civil Aviation Organization, 2011).

Despite the indications that urbanization and wealth will continue to grow in the near future there is no guarantee that the airline industry will also continue to grow. First, there is a clear indication that the European and North American markets have reached a saturation point (International Civil Aviation Organization, 2011). As such, the number of passenger trips is not likely to increase in the near future. Second, the revenue per passenger in the industry is being challenged. Airlines have rarely been profitable, if measure on a 10 year scale, and airlines are being challenged by increased competition due to liberalization (which will be discussed further on) (Doganis, 2005, Hoffer Gittell, 2002). This does not mean that airlines appear to be reaching dark times, though, as airlines have had the opportunity to reduce costs.

Airlines have been able to face an increasingly competitive market by offering cheaper travel than they have previously. Part of this has been due to technological innovation and the development of planes that are cheaper to operate. Much of the reduced costs, though, are not technological in nature but the result of cost cutting measure in the organization of the airline. In order to compete, cost-cutting is no longer a short term solution to slow times in the industry, it is a long term necessity (Hoffer Gittell, 2002). The first target of cost cutting in the airline industry is labor costs, which can account for anywhere from 25-40% of an airline's operating costs (Doganis, 2005, 24). This number is especially significant for short-haul airlines, as the increased number of landings and takeoffs required in short haul operations boosts increases the total ground costs of an airplane.

The most significant place in which an airline can reduce is costs compared to its competitor is in roles or positions that can be, in the words of Doganis, "relocated"(Doganis, 2005)<sup>6</sup>. If an airline is based in a high-wage country, it cannot compete on the costs of work that must be done on the ground in that expensive country, such as baggage handling. The airline can, however, try to relocate work or that is not dependent on the location of the work performed to countries with lower wages.

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<sup>6</sup> The inner quotation marks are Doganis', indicating that he himself recognizes the use of this word as an euphemism for what the airlines are doing in practice. He does not go on to say explicitly what he believes airlines are doing.

By doing so, their aircraft would still be able to fly the same routes as they always have, but with cheaper operating costs. In essence, the most effective manner for an airline to cut costs and compete on pricing, then, is through social dumping (Gittell and Bamber, 2010). It is important to note, though, that social dumping is not the only measure that has been taken to reduce labor costs.

Most airlines today have also begun to operate a degree of atypical employment strategies where the airline devolves their employment responsibilities onto sister companies or to labor agencies (Gittell and Bamber, 2010, Gittell et al., 2004, Harvey and Turnbull, 2010, Harvey and Turnbull, 2012, Cappelli, 1985, International Labour Organization, 2013, Galgóczi et al., 2006). It is important to remember that, while these labor cost-cutting strategies are seen as separate phenomena, the strategies are not independent of each other. In particular cases, such as the Ryan Air case below and the question of the European Union, atypical employment efforts are combined in the pursuit of lower costs.

The airlines that have exploited cost cutting measure to the fullest are low fare carriers. These airlines distinguish themselves but not just cutting the costs of operations, but also by cutting services to their customers. This includes services such as food, checked-baggage, and even printing a ticket. These cuts dramatically lower the price per seat, and offer opportunities for more revenue by charging customers additional fees for services and products that are taken for granted on traditional flag carriers and charter airlines. In addition, low cost carriers have also been able to reduce the costs per flight by increasing the number of hours that an aircraft is in the air. By cutting some of the customer service and expecting more time in the air per day from their aircraft, low cost carriers have been able to increase the productivity of each flight and therefore their revenues.

Low fare airlines have typically been the object of attention for most labor organizations and commentators when discussing social dumping in civil aviation. These airlines have been the airlines that have taken the most opportunities to press the boundaries of labor regulations (Harvey, 2009). This is especially true in Europe, where Ryanair and NAS have operated. This is markedly different that in the US, where the largest low fare airline in the US, Southwest, has some of the best labor relations in the entire industry (Hoffer Gittell, 2002) (Gittell and Bamber, 2010). It seems, though,

that European low fare airlines have come to see organized labor not as an opportunity, but an adversary.

Some low fare airlines are particularly marked out for their creative attempts to reduce labor costs because they have had the opportunity to exploit the deregulation of European airspace in 1997. As Vegard Einan, vice-president of Parat labor organization in Norway, describes it, low fare carriers were able to take advantage of the deregulation of the industry in the 1990s because they did not have the same operating model as the older flag carriers (Einan, 2015). Flag carriers had to build their systems and operating models based on the earlier regulation and union relationships, and those systems and union agreements could not be dropped when the system deregulated. Flag carriers could not perform the same experiments in labor because they did not have the flexibility that the new deregulated market permitted the newer carriers. New carriers were able to start without the obligations developed before deregulation, and this was to the flag carrier's disadvantage.

*"...By just deleting all those regulations with the stroke of a pen, you also undermine their possibility to compete on a level playing field, because you give all the good cards to the companies starting that day and forward, and giving the bad cards [to the flag carriers]" (Einan, 2015).*

Many low fare airlines have done their utmost to take advantage of the flexibility offered by deregulation. One of the most notable is Ryanair. Established in 1985, Ryanair's goal was to break into the Ireland-UK air travel that up until then had been held in a duopoly due to the bilateral agreement between Ireland and the UK. The duopoly was broken in 1986, when the UK and Ireland deregulated air travel between the two countries. Due to its place as an Irish airline, Ryanair was the first low cost airline that was able to take advantage of liberalization and deregulation in the European airline industry.

The inclusion of Ryanair in the aviation market had a very positive impact for consumers: prices on routes between Great Britain and Ireland were reduced by over 50 percent, and the number of passengers travelling by air was doubled (Barrett, 1997). Ryanair was able to take advantage of liberalization in a manner that British Airways and Aer Lingus could not. Ryanair was not able to expand its presence from outside of the UK and Ireland until 1993, when Europe further deregulated the aviation industry. In order to take advantage of the suddenly expanded European market, Ryanair floated itself on two stock exchanges and expanded its services to Norway, Sweden and

Brussels. Since then, Ryanair has only grown as new markets have appeared in the ECAA and smaller markets are continually opened to flight travel. It has kept its prices low and has grown to become the sixth largest airline in the world in 2013 in terms of passengers carried (IATA, 2015b).

While Ryanair's success has led to cheaper and more convenient air travel for consumers, the company has not always had happy labor relations. The airline has been strictly adversarial to labor unions, and refuses to negotiate with them. The process began in 1998, when the current CEO of Ryanair, Michael O'Leary, first joined the board of directors of Ryanair. Ryanair was facing renewed competition from Aer Lingus, the Irish flag carrier, and it was decided that costs should be cut further. Ryanair asked its pilots to take substantial pay cuts and changed working conditions, despite the fact that they were already paid less than Aer Lingus pilots. When the pilot's union balked, Ryanair responded by hiring Romanian pilots on work permits that would have no recourse to the Irish pilots union. When the Irish pilots complained, Ryanair threatened to fire them (Gittell and Bamber, 2010). In order to run a successful low fare airline in Europe, Ryanair appears to believe that engaging with unions can only hurt the firm. In contrast to the flag carriers which were bound to agreements with unions, and business strategies that included union representation, Ryanair was taking all that it could from its employees, and stopping them from trying to get more from their employer (Creaton, 2014, in Gittell, 2010 #341, Gittell and Bamber, 2010).

Of the two instances of Ryanair's relationship to labor described here, the policy mechanisms and the agency of states and businesses that could indicate social dumping are present. While it is airlines that chose strategies of social dumping they have to be permitted, if not enabled, by their state government. Firstly, there is a clear regulatory permissiveness of social dumping. Ryanair was legally able to ignore the pilot's union, and instead of hiring Irish workers, bring in Romanian pilots on international work visas. The right to association is clearly stated by the ILO, an organization that Ireland is a member of, and as such Ireland must be actively denying pilots their rights of association. Secondly, the state has to be knowingly permitting Ryanair to hire foreign pilots and import them to work on Irish aircraft. This is an exception in Europe, especially before the common market and the European Common Aviation Area were established in the 1990s.

### 3.2 International regulation and standardization

Regulation in the global civil aviation industry is characterized by a very strong international regime that guides state's regulation of their civil aviation industry. States have a large amount of control over commercial and labor practices within their own states, and must in the end apply regulation themselves. However, much of the regulation regarding issues from security to navigation and the environment is drafted and codified by two main international organizations, the International Civil Aviation Organization, a UN organ, and the International Air Transport Association, an airline trade association. This section will first discuss the major international regulation that defines today's civil aviation industry, focusing on the ICAO and the IATA. The section will then discuss the different types of commercial regulation that characterize the industry, focusing on bilateral and open-skies agreements at the international level, and cabotage on the domestic level. Both domestic and international regulation in the civil aviation industry are relevant to social dumping as both levels influence the development of policy and the practice of employers. In addition, social dumping requires in practice the cooperation of different sets of rules on different scales in order to for social dumping to succeed. The most graphic illustration of this is the EU, where the boundary between the domestic and the international in civil aviation has been practically erased.

The civil aviation industry is a very safety oriented industry, and it is the International Civil Aviation Organization (ICAO) that sets the 'best practices'. ICAO was established in 1947 so that, "International civil aviation may be developed in a safe and orderly manner..." (International Civil Aviation Organization, 2006: 1). ICAO's purpose is to set and develop standards and recommend practices (SARPS) for the civil aviation industry. It is a United Nations Specialized Agency, and its purpose is to help develop and improve states' own regulations and standards. It is a mix of both safety and political objectives, ranging from airplane safety to security, border disputes, war, environmental issues and even the sustainable development of the aviation. The ICAO's effort is impressive, as today it has instituted 10,000 SARPS, and 191 states are members of the ICAO.

Alongside ICAO sits the International Air Transport Association (IATA). The IATA is not an international organization mandated by any government or international body such as the UN; it is a trade association. However, its presence in civil aviation is

essentially baked into the industry. While it does not have the international authority of the UN behind it, it has a large amount of influence over the regulation of the industry due to the vital role of airlines in achieving both the business and safety goals of the industry. The airlines have always been at the forefront of regulation. In fact, the IATA was established in 1945, before the ICAO, and drafted the original safety provisions that became a part of the Convention on Civil Aviation. In addition, the association's size means that it can define the practices of an overwhelmingly large number of firms in the industry, thus defining the industry by its own decisions. The ramifications of the influence of the IATA will be discussed later.

Regardless of the amount of international regulation, though, it is important to recognize that state governments set safety and security standards. While the ICAO establishes best practices, and the IATA tries to create a harmonious international market, it is up to the national aviation authority of each state to implement rules and to regulate airlines that are based and flagged in their country. As such, at its foundation civil aviation is still regulated at the state level. The state is not only responsible for safety and security, though-it is also responsible for regulating and negotiating international air travel.

### 3.2.1 Bilateral Agreements and Open Skies

Air travel between states is regulated at the state level. States see air travel as a form of communication and trade between two states, and as such, they regulate its practice as they could any other form of trade. Today's regulatory regime features two types of agreements between states, a bilateral agreement and a multi-state agreement. The degree of regulation covers a wide spectrum. The most conservative agreements specify the airlines that are allowed to fly, when they are allowed to fly where they are allowed to fly to. The most open are nearly completely liberalized relationships that take away state boundaries and allows for new levels of international competition between airlines. Most states have bilateral agreements that lie somewhere on that spectrum. There are, though, exceptions to this practice, most notably the European Common Aviation Area (ECAA), a clear multilateral agreement. This section will discuss the history of international regulation over air travel, bilateral agreements today and then a discussion of the ECAA.

The regulation of air transportation as a form of trade was first established in the 1944 Convention on Civil Aviation in Chicago (also known as the "Chicago Convention").

This is the same convention that established the ICAO. The first type of trade agreement used in civil aviation was the bilateral agreement between two states. Bilateral agreements in the civil aviation industry are trade agreements between two states that control access to each states aviation market. The first formal bilateral air service agreement was established between France and Germany in 1913 in order to regulate air ship service between the two countries. However, the modern bilateral agreement was first established in 1944 and the blue print for bilateral agreements used today, the 1946 Bermuda Agreement between the United Kingdom and the United States (1946).

While the 1944 convention established the foundation to a global regime that would coordinate and regulate air travel, there were many issues left unresolved in Chicago. Air transport agreements (ATA) are now organized around a set of nine 'Freedoms of the Air' (International Civil Aviation Organization, 2015). They are a wide-ranging list of rights or privileges that states may grant to one another in ATAs. Some appear self-evident, such as the first freedom, which permits scheduled international air service to fly across another state without having to land. This might seem logical, but the reason that this rule must be stated explicitly is because the very first article of the Chicago convention states that every state has complete and exclusive sovereignty over airspace above its territory, and a state may require an aircraft flying over its territory to land and be received at a customs facility (International Civil Aviation Organization, 2006). As such, no free movement is taken for granted. The routes in the air above a state are treated just the same as the roads on the ground below.

Considering the degree of sovereignty given to states over their airspace in the Chicago Convention, the rules that would coordinate and regulate air travel between states were not obvious, and in fact they were not resolved until the 1946 Bermuda Agreement. In 1946, the United States and the United kingdom met in Bermuda in order to come to agreement over how the growing trans-Atlantic air travel industry between the two states would regulated. As mentioned, much had been left unresolved in the Chicago Convention, and only the first two freedoms, the right to fly across a state without landing and the right for an aircraft to land in the case of an emergency or "non-traffic" purposes had been agreed to (International Civil Aviation Organization, 2015). These rights, though, did not satisfy all of the issues around the burgeoning inter-continental air traffic. The reason that the Chicago agreement had not been more

successful in this matter was because of the opposing viewpoints of the United States and the United Kingdom. The United States wished for a more liberal regime, and in the end won over the representatives from the UK.

The result of the Bermuda Agreement was the first bilateral agreement, the template for all future agreements between states in civil aviation. While in substance only two pages long, the agreement between the US and the UK led the way for establishing the minimum rights needed for two states to engage in air commerce between them (1946). It deals with both the administrative and economic issues involved in the facilitation of travel between two different states. These agreements will identify which airline or airlines can fly on agreed routes between the two states, where they can go, how often they can go, and even potentially when they can go. Part of the requirement for these agreements is that any airline that is designated to fly a route between these two states must be “substantially owned or effectively controlled” by nationals of one of the agreed states (1946). For example, if Norway and China wrote a bilateral agreement in the 1970s, then the airline Norway designates to fly between China and Norway must be owned and controlled by Norwegians. In this agreement the IATA would set the prices, or tariffs.

Bilateral agreements still regulate most of international air traffic today. However, the degree of regulation within bilateral agreements has diminished since the 1970s, when flag carriers came under too much pressure from unscheduled charter flights that were not subject to the bilateral agreements. In fact, the US today has tried to take most of the regulation out of Air Traffic Agreements between states. In a seeming contradiction, the US Department of State says that regulation, or “government interference” over the commercial decisions of air carriers hurts consumers and as such advocates open skies bilateral agreements (U.S. Department of State, 2015). In regulating to create less regulation, Open Skies agreements have, “promot[ed] increased travel and trade, enhanc[ed] productivity, and spur[red] high-quality job opportunities and economic growth” (U.S. Department of State, 2015). In terms of scale, the U.S. department of State sees the development of Open Skies agreements as going “hand-in-hand” with “airline globalization”, and has given U.S. airlines the flexibility they require to succeed.

The United States has also tried to develop and advocate multi-lateral Open Skies agreements throughout the world. So far, it has succeeded in building two: the



Multilateral Agreement on the Liberalization of International Air Transportation (MALIAT), established in 1997, which now includes New Zealand, Singapore, Brunei, Chile, Samoa, Tonga, and Mongolia. Second is the 2007 Air Transport Agreement with the European Community, which signed on behalf of its member states. While these Open Skies agreements are liberalized versions of earlier ATA agreements, they only have liberalized the communication between two states. In practice, they are just a collection of harmonized bilateral agreements between a group of states. They do not address business practices or labor laws; these are still left to state level regulation and political negotiation and are absent from the standard open skies agreement (U.S. Department of State, 2012). In fact, despite the claims of the US government, open skies agreements are not especially liberal—they only open the market to increased competition and increased access to destinations. The best example of an international civil aviation industry that is liberalized on practically all dimensions is the European Common Aviation Area.

While the US has tried to increase market access through its ATAs, the EU has liberalized its international Air Traffic industry and Market. The European community has been concerned with open the European skies to all of its members' airlines, the first real development did not come until 1987. Called the "December 1987 Package", it introduced a liberalized fare regime and encouraged the entry of new lines into the market place (Doganis, 2005). Previous to this, and even to a large degree after this, European air travel was based on bilateral transport agreements, just like everywhere else in the world. Despite the articles on competition in the Treaty of Rome, states were still taking protective measures to protect their national airlines.

Complete air deregulation in Europe came eventually in 1993, hand-in-hand with the advent of the single internal market of the (then) European Community (European Council, 1992). In the "Third Package", the European Commission established open market access among its member countries. Airlines could fly from wherever they please to wherever they pleased in the community, regardless it was between two countries, neither of which was its home country. The right of cabotage, or the right for a foreign airline to fly between two domestic airports in another country, was not permitted until 1997. Second, it abolished price controls in the European aviation market. Airlines gained the freedom to determine fares and cargo tariffs however they

pleased. Finally, it harmonized the criteria for operating licenses and air operator's certificates between states.

Today, the European aviation agreement is called the European Common Aviation Area (ECAA). It includes the EU, Norway, Iceland, Switzerland, and a host of central and eastern European states that are not EU members. The ECAA is distinct from its American bilateral open skies cousin in two ways. Firstly, it is a multilateral agreement between a group of states, not just the compilation of a set of bilateral agreements between different states. Secondly, the third package is the first international package to allow cross-border majority ownership of airlines. States that are signed up to the third package could not stop individuals or firms from other signatory states from investing in an existing airline or starting and operating a new airline. These rules, however, do not supersede bilateral agreements between signatory states and other states outside of the ECAA (Doganis, 2005). For instance, an Irish aircraft owned by a Norwegian company cannot fly between Ireland and Mexico if the bilateral agreement between Ireland and Mexico maintains a requirement for national ownership. The goal of the European Commission, though, is a fully integrated European Civil Aviation Code, possibly with the goal of superseding all of the national aviation authorities (European Commission, 2012).

### 3.3 Trade and Labor organization

#### 3.3.1 Airline Trade Associations

The international civil aviation industry is governed and regulated by national governments with the oversight and participation of international organizations, most notably the ICAO and the IATA. To further understand the industry and the case study presented here, it is necessary to continue the investigation into the airline industry by understanding how airlines and their employees organize themselves in this industry. This thesis has briefly discussed the airlines' international trade organization, the IATA, but it is further investigated here and will focus on the organization of North American and European airlines.

Airlines are organized on the global scale by the International Air Transport Association (IATA). The association was founded in 1945 in Havana, Cuba, with 57 members from 31 states. Today, the IATA represents approximately 250 airlines that account for 84% of total air traffic measured in available seat kilometers (IATA, 2015a).

The IATA tries combine the issues of safety, security and profitably into role as a trade organization whose mission is, “to represent, lead and serve the airline industry” (IATA, 2015c). The task that the organization sets itself is essentially one of harmonization. It wants to make the industry successful and profitable through international cooperation over commercial issues in air transportation. This is a wide mandate, and uses a policy platform that ranges from international treaties and environmental policies, to how takeoffs and landings should be managed, or how airports should address security. The IATA was in a manner the first international aviation organization, and was in fact the forerunner to the ICAO. In addition, the IATA once had a significant consumer protection role-it was its job to set standard tariffs on international air routes that airlines had to abide to. That role has changed, though, with the industry’s liberalization has gotten rid of standard tariffs. Its consumer protection roles are now limited mostly to lobbying for a single passenger rights regime for around the world.

The airlines are not just organized at the global scale, as the IATA does not address all commercial issues that might concern an airline. The IATA is interested in creating an efficient and effective international air travel, and as of now that has not included traditionally domestic issues like labor, taxation, and certain areas of regulation. To address labor issues, the airlines are also organized at the scale of the labor market, which in civil aviation is not global, but based on regulatory areas. In the case of the United States, that would be the state level, and for European countries, that would be the international regional level of the European Community<sup>7</sup>. The largest American carriers are organized in the Airlines for America trade organization (“A4A”). According to the A4A, their member carriers carry more than 90 percent of all U.S. airline passenger and cargo traffic. Most recently, their activity has been focused on regulation regarding the upgrading of the national air traffic controls system, a reduction on the tax on airline tickets, and improving the airlines energy efficiency (Airlines for America, 2015). On the labor front, A4A has not been a strong supporter of workers who have wished to unionize. In 2010 it sued the United State’s National

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<sup>7</sup> It is important to note, though, that there are still state-level trade organizations in Europe like the British Air Transport Association (BATA). BATA works with national level regulation and government budget prioritization within the United Kingdom. It is uncertain whether all countries have such an organization, and if so, if these organizations play the same role.

Mediation Board for establishing procedures that make union organization for workers in the rail and airline industry easier (Maxon, 2011).

In Europe there is one primary airline trade organization, the Association of European Airlines (AEA), and another organization that includes regional airlines European manufacturers, suppliers and airports, call the European Regions Airline Association (ERAA). The ERAA is not directly relevant to our discussion, as it includes suppliers and manufacturers as well. The AEA, however, is focused on much of the same issues that A4A, including regulation and regulation. AEA does deal with some issues that the American trade organization does not have to address, though. For instance, Europe competes with other regions, such as the Middle East, as a hub and connection between the US and Asia. When Europe does not see itself as a destination, but rather as a point of access, it is concerned even more about its competitive abilities when compared to airlines such as Emirates, which is owned and financially supported by the United Arab Emirates. As such, airlines in Europe see themselves as subject to the international market to an exceptional degree (CAPA Centre for Aviation, 2010). In addition, low fare carriers have changed the face of European air travel to a degree that has not happened with low far carriers in the United States. European airlines also have to compete with other modes of transport that are not yet available in the United States, such as high speed rail, which can easily transport passengers quickly between the European cities that, in contrast to the U.S. lie so near to each other.

The AEA, however, does not represent low fare airlines. These airlines have, instead, their own association. The European Low Fares Airline Association (ELFAA) represents the second generation of airlines in Europe, the generation of airlines established to take advantage of liberalized aviation in Europe. This association represents the largest low fare airlines in Europe, including EasyJet, Ryanair and Norwegian Air Shuttle. According to the association, it represents 43% of scheduled intra-European traffic (ELFAA, 2015). ELFAA is concerned about having an as open and liberal market as possible. This is of particular concern to low fare carriers because their flights are almost entirely short haul, and in the case of Europe almost always take off or land in an ECAA country. As such, they are entirely under the regulation of the European Commission, and the Commission has made Europe an expensive place to fly. By being almost exclusively European, these airlines feel that they are put at a disadvantage. For example, a current issue that ELFAA is working on is emissions

controls in Europe. Under the current Emissions Trading Scheme in Europe, only flights from within the EEA fall under the scheme. Airlines that fly into Europe, such as many of the flag carriers that low fare carriers are competing with, do not have to take into account their emissions in the same manner that the low fare carriers do (Commission, 2015b, ELFAA, 2014). For airlines looking to save as much money as they can, this sort of extra regulation or friction in their business models is seen as incredibly burdensome.<sup>8</sup>

Airlines have organized themselves at the international and global scales in order to be present at the scales where the most significant regulatory and political decision making take place. Airlines are in a very strong position when it comes to the regulation of their industry. First of all, there are not that many airlines in the world. The barriers to entry into the industry are incredibly high, and to operate at any level but the domestic requires large amounts of capital, financing, and an exceptionally large business organization. In addition, the market is incredibly competitive, and there are far more airlines that have gone bankrupt in the past than there are in existence today. Second, airlines fill a strategic role in transportation and communication that cannot be easily replaced. Governments and industry rely on them for fast transportation, and much like other indispensable industries, the issues of firms that play strategic roles for a country are considered not just commercial but political. As such, airlines are well placed to influence how their industry grows and is shaped on both the global and the nation-state scales.

While airlines still compete with each other, there has also been the development of strong cooperation between airlines. In the second half of the 1990s, airlines began to create operating alliances between themselves. These are not lobbying associations, but business agreements that bind airlines into cooperative practices. This is a significant trend that has developed into a market with three major alliances that represent practically all of the major legacy airlines remaining in the world today. The key driver for the development of alliances was to create more revenue. Airlines do this by creating an international route network of alliance partners that provides a degree of flexibility and coordination in international travel that was once unheard of. This international cooperation tends to improve the alliances market share at hubs where

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<sup>8</sup> Interestingly, ELFAA members seem to be waiting for an international solution to this problem to be presented by ICAO.

the airlines interconnect, and can also reduce costs. There are also a wide range of alliances, ranging from those that are primarily based on commercial concerns like marketing and code-sharing between flights, and those that become full mergers such as that between Northwest airlines and KLM (Doganis, 2005). While alliances have become a major dimension in the airline industry, they are not very important to understanding the business of low fare airlines, and as such are not entirely relevant to the case study presented here.

What remains then is a discussion of the organization of workers in the airline industry in order to understand where they fit into the industry and how workers have managed (or not managed) to meet their employers and regulators at the different scales of the international civil aviation industry.

### 3.3.2 Worker Unions and Associations

The aviation industry requires a wide range of workers to maintain the aircraft, crew the aircraft, and keep operations on the ground running. All of these roles require workers trained in different capacities and skills. While this thesis focuses on the cabin crew, it is valuable to look at all the roles in an airline to better understand the fragmentation within the industry. Airline employees have tended not to organize themselves as 'airline workers'. Rather, when they have organized themselves, they have organized themselves under the type of work they do. For pilots and cabin crew, their roles are limited exclusively to aircraft, and as such identify much more with the industry than, for example, airplane mechanics. Mechanics in the United States have tended to remain independent from other airline employees, and see themselves as technical workers first (Hoffer Gittell, 2002). Workers in a particular role are not always represented by the same union, and there can even be a divide between workers filling the same role in the same airline. For example, not all pilots in the US are members of the same union, and pilots in the same airline sometimes even choose to be members of different unions.

This sort of division and overlap is also present in Europe. In Norway, there are at least two unions representing pilots, Parat (which includes pilots flying for NAS and other airlines) and the Norwegian Pilots Association, which represents, among others, SAS and Widerøe, a Norwegian domestic airline. As such, it is very difficult to illustrate a simple and elegant model of union representation and organization within the airline industry.

The mosaic of representation does not become a clear picture at the international level, either. To continue with Norway as an example, only a portion of Norwegian pilots are represented at the European and international level. The European Cockpit Association (ECA), which is the representative body of European pilots at the “European Union (EU) level”, only includes the Norwegian Pilots Association as a member, and not the Norwegian Pilots Union or Parat. This is significant, as Parat represents approximately 1,200 pilots from all different airlines in Norway (Einan, 2015). This, apparently, is the result of the ECA allowing only one delegation from each country to be represented. As such, pilots affiliated to Parat are excluded from being represented by a pilot’s association at the “European Union” level. Furthermore, the same pilots are also absent from the international pilots union, the International Federation of Air Line Pilots’ Associations. As such, NAS pilots are not present in a global pilot’s association.

How important this is, though, is another question. IFALPA is seen more as an association of pilots than of a union, focusing on safety, training, and “enhancing the role and status of professional pilots” (IFALPA, 2015). While a member of ICAO, IFALPA and other trade associations are not members of the ILO, though the ECA is a social partner of the EU’s Sectoral Social Dialogue. In contrast, Parat is a member of the European Transport Worker’s Federation and the International Transport Worker’s Federation, both members of the ILO. According to Vegard Einan, Parat is focused on the labor issues that affect pilots, and less on the professional issues such as safety that the ECA and IFALPA would be (Einan, 2015). As such, pilots are represented by a mix of organizations with different skills and priorities at all scales.

### 3.3.3 The ITF and International Solidarity

While pilots are not all represented by the same organizations at any scale, some organizations have been especially successful in coordinating successful action focused on the social issues that aircrews face. The most significant of these are the International Transport Workers’ Federation (ITF) and the European Transport Workers’ Federation (ETF), of which Parat is a member and the ECA is not. These two advocacy organizations are Trade Union Federations, in that their membership is comprised of national trade unions that operate in transport industries. Of the two, the ITF has been the most relevant to social dumping in global transportation industries, and as such will be discussed further. Both federations are broad reaching cross-

sectoral TUFs that have had considerable success in working against social dumping in transport industries. The most significant success that the ITF has had has been in international maritime industry and its Flag of Convenience (FOC) campaign. This was briefly discussed in the social dumping section of the Theoretical Framework, but it is worth understanding further how the ITF has been able to work against the FOC convention in the international maritime industry in order to understand what action might be required to create global scale impact in other transportation industries.

While the ITF has not achieved its goal of ending the FOC convention, it has become a significant actor on the global scale on behalf of labor. While the ITF's Flag of Convenience campaign has included a strong awareness and activism effort, perhaps the most substantial gains it has made is through its efforts to place labor agreements on every FOC vessel in the world. Through its ability to coordinate the efforts of national unions throughout the world and conduct negotiations with ship owners and owners associations on a transnational scale, The ITF has been able to bring basic bargaining agreements to around 150,000 seafarers on 33% of FOC shipping (International Transport Worker's Federation, 2014a). This has been the product of a global campaign to ensure that all seafarers maintain a basic level of wellbeing and labor conditions while they are on a ship. The basic levels that the ITF bargains for are not set by, or mandated, by governments or international organizations. Rather, they are defined by the experience of the ITF and its affiliate unions, and are put on ships due to the authority created by the ITF. The strength of the ITF comes from the authority and confidence given to it by its global union membership. However, while the affiliate unions do much of the work on the ground, the affiliates would not have had the success they have had on behalf of their memberships if not for the ITF.

This is primarily because of two institutions that the ITF has been able to establish. The first institution is the ITF agreement. These agreements address the social, professional and financial aspects of being a seafarer. They provide the advantages of negotiated contracts, while at the same time addressing the geographic variation in what is considered a good contract while still maintaining a minimum standard established by the ITF (International Transport Worker's Federation, 2015). The second relevant institution is the inspectorate. The ITF inspectorate is a group of professional trade union organizers, typically employees of the local union. Their job is to go inspect ships and to address any issues that have been brought to the attention of



the ITF. If an inspectorate is not please with the circumstances of a particular ship, the inspector has the ability to have the ship boycotted by local dockworkers. This is a product of the close relationship between seafarers and dockworkers that has been built by the ITF and its organization of the different sectors within the international maritime industry. Much of the ITF's success in bringing owners to signing agreements has been its ability to stop work on a ship if an ITF affiliate believes that a ship needs a basic employment agreement, or is not satisfying the conditions of its agreement with its employees. This is the role that the inspectorate plays. The ITF has a network of approximately 130 inspectors worldwide (International Transport Worker's Federation, 2014b).

The ITF is able to wield this impressive power despite not being a union because it acts as both a geographic and industrial sector coordinator. Firstly, the ITF is a geographic coordinator because it facilitates cooperation and communication between inspectors across the world. This helps inspectors either identify suspect ships, but to also warn other inspectors that a ship that might be arriving in their area of responsibility needs to be inspected, and if necessary boycotted. For example, a Swedish inspector might choose which FOC-flagged ship to inspect based on reports made by Latvian and German inspectors made months previously (International Transport Worker's Federation, 2014c). Without this geographic coordination, it would be very difficult for unions to boycott and enforce agreements on such mobile units of capital and work places such as ships. Second, the ITF acts as a sectoral coordinator because it has successfully created a strong solidarity relationship between seafarers and dockworkers. As such, the ITF can call on dockworkers unions around the world to not service a particular ship if the ITF has discovered that ship either does not have a basic agreement that satisfies the ITF's demands, or the owner has not fulfilled the requirements of the agreement between the owner and the crew. The ITF, unlike the ILO and its MLC, has an effective method through which to enforce its minimum standards for seafarers.

This coordinator role is exceptionally useful at the global scale for transportation industries, particularly in its ability to coordinate sectors within the same industry. Due to the fact that capital is so mobile, it is very difficult to boycott a ship in the same manner that workers could boycott a factory. While the ITF hasn't eradicated the FOC convention, its efforts on the global scale to mitigate the effect it has

had on labor have produced results. By scaling up the effort of labor unions, the ITF has helped seafarers overcome the problems of being organized on a different scale than employers. In addition the ITF has also helped shape the global scale in the international maritime industry through the authority and influence it has developed through its ability to impose agreements on ships and the authority it has been granted by its affiliate unions to bargain on their behalf in the IBF.

### 3.4 Conclusion

Understanding how employers, regulators and employees are organized provides an excellent picture of what role scale plays in the international maritime industry. It's a complex image that shows not only where influence lies, but also where these different groups of actors think influence should lie, the scalar relationships between the actors, and the scalar relationships between the scales themselves.

Where airlines organized themselves shows where they believe the most influence over their industry lies. As such, while the industry is a global industry, states and the EU play a decisive role in the industry. There is a clear desire for international cooperation, and the IATA plays a very important role in regulating the international industry. However, what are most important for airlines are the borders between open markets. The scale at which these borders lie is the most relevant for airlines

For the US airlines, that border is the US border and the nation-state scale. The U.S. government holds an important place in the regulation that affects the US airlines. This is because of the very large domestic market in the U.S. aviation industry. Regardless of how international an American airline is, the domestic market is still an important part of its business strategy. However, the American aviation industry is also globally oriented due to the amount of international traffic that flies in and out of the US on a daily basis. American airlines would like to have as large a portion of that market as possible. In addition, the US still controls the bilateral agreements on international traffic into the US, and as such helps define the competitive character of routes into the U.S.

In Europe, the picture is a little more complicated. It is clear that the state plays a role in air regulation because it is the state that must, in the end, turn European regulation into state law, but the European level also plays a decisive role in the industry-with the advent of the ECAA, European states have given up a portion of their

sovereignty and control over their policy making to the European union. As such, the ability of the EU to influence and control markets has increased. In addition, the domestic markets of most European countries have not been the same market as is found in the US. Until de-liberalization, most countries had an international airline and a domestic airline. This was due both to the strict regulation of the market, but also the fact that in many countries, the domestic market for air transport is very small, and in some instances must even be subsidized by the state in order to provide air service to certain regions. As such, the domestic market is not as competitive or potentially lucrative as the international and European markets, and the ability to influence decision making at the international regional level is very important.

Pilot and cabin crews have not had the same degree of coherent organization in the aviation industry as their employers have. While they have taken advantage of their ability to associate and form unions, the picture is fragmented. Pilots and cabin crews are members of a wide variety of disparate unions. This fragmentation is significant, to the degree that employees in one airline can be represented by different unions, even if they are all working for the same airline and stand on the same seniority lists. This becomes significant at the international level, for as the example given above of the Norwegian market shows, the not all of the unions are represented in the global or regional-international union trade alliances. In terms of scale, this means that much of the focus must lie on the nation-state scale. This is because this is the only level at which all pilots and cabin crews that wish to be represented are represented. This will have particular consequence for European employees, and will be discussed in the analysis and discussion below.



#### **4. Case Study - Norwegian Air Shuttle**

Norwegian Air Shuttle ASA (NAS) is a low fare airline based in Oslo, Norway. It founded in 1993 and began as an airline that wet leased<sup>9</sup> aircraft to the now departed regional airline, Braathens. Since then, it has grown into one of the largest low fare airlines in the world, carrying nearly 24 million passengers in 2014 (NAS ASA, 2014b). NAS's growth story and the success of its business model are impressive. However, the airlines success has also brought with it controversy, particularly regarding its labor policies. Unlike Southwest, NAS has not chosen a model of cooperation and friendship with its employee's unions. While its relationships have not been as negative as those between Ryanair and its employees, NAS's leadership does not see the Norwegian model of business and employment as a viable model for a successful international airline (The Guardian and Topham, 2014). As such, the airline has done its best, like all airlines, to reduce its labor costs in order to increase profits (Doganis, 2005). However, the airline has chosen to follow an atypical labor strategy, such as hiring cabin crews from Asia to service flights that do not depart or arrive in Thailand, and to do its utmost to create a fragmented employee base throughout Europe, the US and Asia.

These strategies have not gone unnoticed by competitors, governments or labor organizations. NAS has face stiff resistance, and has not been able to follow the path it has desired. This section tells the story of Norwegian Air Shuttle, describing the airline's rapid rise and giving in depth investigations into the multiple labor issues that NAS's creative business strategies have brought about. This section will first briefly tell Norwegian's story as a regional low fare carrier that turned its focus to the international. It will then describe the establishment of the subsidiaries Norwegian Long Haul and Norwegian Air International in order to fly cheaper long-haul routes. The section then give thorough accounts of the two largest labor confrontations between the airlines and cabin and aircrews, the cabin crew strike in 2014 and the pilot's strike in 2015.

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<sup>9</sup> Wet leasing an aircraft is when an airline leases an aircraft from another airline complete with crew, maintenance and insurance.

#### 4.1 History

Norwegian Air Service (NAS) started 1993 as a replacement for a regional air service in western Norway. Its first base of operations was in Bergen, and it flew routes along the coast from Kristiansand to Trondheim, with a connection to Oslo as well. By 1999, the airline has six twin-turbine Fokker 50 aircraft and would carry 500,000 passengers by the end of the year. At this time, NAS was a wet leaser to the regional Norwegian airline Braathens (Valderhaug, 1993).

In 2002, NAS' operations changed dramatically. Braathens was purchased by SAS, and SAS terminated Braathens contracts with NAS. At that point, NAS decided to change its business strategy, and become a low fare operator that would fly on the busiest domestic routes. It began with four routes in total. The company was listed on the Oslo Stock Exchange in 2003, and earned its first profit as a low fare carrier in 2005. Today, NAS is the third largest low fare airline in Europe.

NAS is led by Bjørn Kjos, CEO of Norwegian Air Shuttle. Born in 1946, Kjos is a former Air Force Pilot, a lawyer and entrepreneur. One of the founders of NAS, he was at the helm of the airline in 2002 when it changed its business model and became a low cost airline. He has become the figurehead of the airline, and is its public face. In the pilot's strike of 2015, he was constantly present in the media, both in print and on Television. After the very profitable year in 2009, Kjos was named "Leader of the Year" and "Entrepreneur of the Year" (Boarding.no, 2009, Slettan, 2009) He is also writes thriller novels, publishing his first book, *The Murmansk Affair*, in 2009.

#### 4.2 The Growth of NAS

NAS has been interested in becoming an international airline since its change in strategy in 2002. In 2006, NAS became truly international when it opened its first base in Warsaw, Poland, to improve its coverage of Central European destinations<sup>10</sup>. Two years later, it announced that it would open a new hub in Copenhagen, Denmark. Since then, NAS has opened a total of 18 bases, three of which are in the United States and one in Bangkok, Thailand. The primary crew bases are Scandinavia, the UK, Spain and Finland. In addition, NAS's route growth has been very impressive as well. In 2013, the most recent year available, NAS opened 81 new routes, and flew ten million more available seat kilometers than in 2012.

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<sup>10</sup> NAS's aircrew base in Poland has since been closed down.

Like other airlines, Norwegian has experienced both impressive profits and significant losses throughout its history. Its best years have been in 2009 and 2012, when its annual earnings before taxes were 623 million Norwegian Kroner (NOK) each year (NAS ASA, 2015c). However, 2014 was by far its worst year, recording a loss of 1.627 billion NOK (Norwegian Air Shuttle ASA, 2014).

NAS has been flying intercontinental services since 2008, when NAS began to fly from Stockholm, Sweden and Oslo, Norway to Dubai, UAE using its new medium-haul 737-800, an updated 737 aircraft (NAS ASA, 2015b). However, NAS did not begin to fly long-haul until it received the first Boeing 787's into its new fleet in 2013. These first flights in 2013 were for routes from Scandinavia to New York and Bangkok, and are operated under the NAS subsidiary Norwegian Long Haul (NLH). NLH is a Norwegian company that has been issued its own air operators certificate distinct from that of its parent company, NAS. Since those first long haul routes, though, the list routes has grown to include Oakland, California; Los Angeles, California; Orland, Florida; and Fort Lauderdale, Florida (NAS ASA, 2015b).<sup>11</sup>

NAS received the first of its Boeing 787's in 2013. Since then, the 787 fleet has grown to seven, with a final expected number of 17 (NAS ASA, 2015a). The purchase of Boeing 787 aircraft was a significant step for NAS, for without the development of these new efficient long haul aircraft, a low fare model for long haul flying would not have been feasible. The purchase of these aircraft is what makes NAS's long-haul ambitions feasible (The Guardian and Topham, 2014). Unlike many other low fare airlines, NAS's has made a significant effort to invest in a modern aircraft fleet. Its first large purchase of new aircraft was in 2007, when it purchased 42 new 737-800 aircraft from Boeing. The 737 has been the workhorse and primary aircraft for all of NAS' routes, including the over 5,000 kilometer route from Scandinavia to Dubai. However, the composition of NAS's fleet is set to change in the near future. In 2012, Norwegian placed an exceptionally large aircraft order at both Boeing and the European manufacturer Airbus. This purchase was intended both to update the current fleet to cutting edge versions of the 737, and introduce the Airbus A320 to its fleet. The numbers are

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<sup>11</sup> Understanding which airline operates which particular long haul flight is very difficult. For instance, Norwegian Air International needs to wet lease its aircraft to either NLH or NAS in order to be used on routes to the US. Which airline operates which particular aircraft on a particular route is very difficult. However, it is almost certain that all long-haul flights are operated by either NLH or Norwegian Air International

considerable, with 122 new 737s and 100 A320s ordered (NAS ASA, 2015a). While the 787 is intended for long haul routes, the 737 and the A320 are considered direct competitors for short and long haul routes.

The growth of the fleet and the investment in new technology gives a clear indication of NAS's ambitions to grow. As indicated recently, NAS's planned to grow does not lie in Scandinavia. Its ambitions lie in the large cities of Europe and the US (Solheim, 2015). This plan is evident in the focus and effort that NAS has put into expanding the number of routes it flies and the effort it's putting into accessing the American market. For Norwegian, the focus on outside of Scandinavia is a product of the logic of the market and the pursuit of profits. As Kjos argued in 2014, there are far more important markets than Norway or Scandinavia. Speaking to The Guardian, Kjos responds to complaints that NAS is no longer Norwegian saying, "We [Norwegian] don't give a shit about that. We go where the passengers go. Norway is just too small to survive" (The Guardian and Topham, 2014).

This fast-paced growth has not come easily. Not only does NAS face stiff competition from its competitors, it is constantly in pursuit of lower operating costs. As discussed in the chapter Aviation Today, the most direct place for an airline to cut costs is through cutting labor costs. This has been the policy pursued by Norwegian, and it has not come without resistance. Norwegian has argued that their employees, particularly Scandinavian employees, expect unreasonable working conditions and benefits (VGTV, 2015). However, Norwegian has chosen certain strategies that have not been received well their employees and others. There are three main examples of Norwegian's labor strategies. The first is the Norwegian Air International application for a Foreign Air Carrier Permit in the US currently under consideration; the second is the cabin crew strike in 2014; and third the Norwegian Pilot's Union strike in 2015. The discussion focuses on the 2015 pilot's strike, as that was the largest and most significant strike and the most significant conflict in NAS's history. The pilot's strike was the summation of the tensions that had been building up in the firm through the use of subsidiaries and employment agencies. As of the time of this thesis's publication, the US government has not ruled on NAI's application for a foreign air carrier permit. As such the consequences to scale and social dumping in civil aviation of any future ruling cannot, unfortunately, be discussed here.



#### 4.3 Norwegian Air International

For NAS to take best advantage of the opportunities presented by the ECAA, it was in its interest to set up a subsidiary in the European Union, and notably in Ireland. As such, in 2013, NAS established its subsidiary Norwegian Air International (NAI) in Ireland. This was in order to, “Access future traffic rights to and from the EU,” and to escape Norway’s immigration rules for the employment of foreign workers in the Airline (Flight Global, 2014). According to Kjos, the subsidiary is necessary if all of NAS’ aircraft are to be able to fly between US, Europe and Asia (Scott and Dastin, 2014). This is particularly important for NAI’s expected entrance into larger markets in Europe. While the US treats Norway as part of the EU Open Skies agreement, China does not. As such, to gain access to routes from Europe to east Asia, NAS needs a subsidiary in an European country (Flottau et al., 2014). However, another important purpose of this strategy was to be able to take advantage of Ireland and the European Union’s more relaxed labor regulation. The goal was to hire Asian citizens, namely Thai, as cabin crews for NAI long haul flights to crew the flights between Europe and the United States. By replacing European and American cabin crews with Thai cabin crews paid Thai wages hired as contract workers, NAI (and thereby NAS) would reduce their labor costs, and thereby their operating costs, significantly.

This strategy of hiring Thai cabin crew has created a large amount of reaction in Norway, Europe, and the United States. While this strategy resonates with the practice of ship owners in the international maritime industry, it is still a new phenomenon in international civil aviation. Much of the reaction has been negative, particularly from labor unions and American airlines (Global, 2014, Cameron, 2014).. However there is considerable support from Europe, primarily the European Commission and the Norwegian Government (Euractiv.com, 2014, Gustavsen, 2014). The logic of the supporters is mostly consumer oriented. By allowing NAI to fly Europe-US, then consumers would be offered even cheaper and flexible opportunities to fly between the two areas.

Since NAI had already gained an operators certificate from the Irish government, it only requires the American foreign air carrier permit in order to fly between Europe and the US. In the case of NAI, then, the US government has the final say over whether or not NAS gets to pursue the business strategy that it hopes to. Unfortunately for NAS, some of the strongest opponents to NAI’s business plan are large American airlines and

aircrew unions (Reed, 2014). They argue that NAI's strategy of operating in a country where they had no intention of flying to the US from, with crews recruited in Thailand, did not satisfy the social agreements of the US-EU open skies agreement. These unions and airlines wield a large amount of influence within civil aviation in the United States, and as such their pressure on the US Department of Transportation (DOT) to deny NAI's application has been enormous. They have even brought to bear a large amount of support from the US congress, including 192 congressmen who signed a letter against NAI's application (Reed, 2014, Lindeberg, 2014).

NAI's reply is that the conditions of the US-EU Open Skies agreement oblige the US government to grant the permit. NAI is a certified air operator in Ireland, and as such must be permitted to fly to the US under the US-EU Open Skies agreement. The point that unions, airlines, and even politicians in the US have made is that NAI is not operating according to the Open Skies Agreement. In 2010, an additional article was added to the agreement, titled "Social Dimension". In this, the document states, "The opportunities created by the Agreement are not intended to undermine labor standards or the labor-related rights and principles contained in the Parties' respective laws" (2010: 11). According to opponents of NAI's application, a Norwegian-based carrier operating on an Irish certificate with Thai crews would clearly undermine American, European and Norwegian labor standards, rights and principles.

This also begs the question of whether or not NAI is using Ireland as a flag of convenience. First and foremost, while NAI's aircraft will be Irish-flagged, NAI has no scheduled flights to or from Ireland. It appears, then, that NAI must be registered in Ireland for purposes other than to establish a base or fly from Ireland. There are also other factors that make Ireland appealing as a base for NAI. As already discussed, there is the strong incentive of being able to hire crews from other countries to operate on flights to and from other countries than which the crew are based in. The other incentives are the strong economic opportunities that being registered in Ireland present to NAI and its parent company. Ireland has significant aviation financing resources, and NAI will be able to apply to the Irish export credit agency and the Export-Import Bank of the United States for financing of purchases of both Boeing and Airbus aircraft (CAPA, 2014, Flottau et al., 2014). In fact, NAI has already applied for a 100 million USD guarantee for purchases (Carey, 2015). In addition to the financing

opportunities, NAI will be able to take advantage of Ireland's lower corporate tax. (CAPA, 2014)

While financing and low corporate taxes would not necessarily count as government policy related to wages or wages-in-kind, it is clear that Ireland has set up a relaxed regulatory structure that is meant to attract international firms to Ireland. Cheaper operations, lower taxes and more flexible labor laws are the hallmarks of Flags of Convenience in shipping, and the parallel in this case seems apparent. The one issue that reprieves Ireland from the label of a Flag of Convenience on par with Panama, for example, is the lack of a systematic flight of capital to Ireland. There are many circumstances that lead to the uniqueness of the NAI case, but it is certainly not exceptional-the grounds for capital flight to Ireland are open to any who wish to pay tax in Ireland even if they do not even fly there, as long as the firm is based in Ireland.

In its defense, NAS argues that it is not pursuing a flag of convenience strategy by establishing NAI in Ireland. Rather, Norwegian argues that it is due to the other financial and legal benefits of being based in Ireland (NAS ASA, 2014a). NAS explicitly says that it did not choose Ireland as a Flag of convenience. It argues that it could have pursued the same crewing strategy in any other European country. Furthermore, NAS argues that other airlines already practice the labor strategies that Norwegian itself chooses to do, and they are not based in Ireland. NAS does not, however, identify which other airlines practice the same strategies as NAI (NAS ASA, 2014a).

In order to understand NAS's strategy, it is important to understand that the strategy is meant to satisfy two different priorities: to expand into new routes and to reduce costs. The establishment of subsidiaries has been meant to satisfy both of these desires. It is clear that the establishment of Norwegian Air International (NAI), NAS's subsidiary in Ireland, was meant to improve NAS' access to long haul routes from Europe. However, it also had a clear cost-reduction purpose. This is because, under an Irish Air Operators Certificate, Norwegian could hire aircrews for less money on terms more favorable to the airline. In addition, NAI would be able to hire crews from outside of Europe to fly on routes within Europe and from Europe to the United States. The significance of this last point is two fold, and both of them are instances of social dumping. First, there is the cost incentive-Norwegian chose to establish itself in Ireland. Put simply the labor laws and regulation in Ireland are more liberal than in Norway, and as such it allows different hiring practices than those that would be permitted in

Norway. The aim of these liberal practices was not to hire European crews cheaper than Norwegian—that would have been legal. Rather, it was to hire Thai cabin crews to man those flights, even if they aren't travelling to or from Thailand.

In November 2014, the US DOT delayed NAI's permit application. As of April, 2015, NAI was still waiting a decision on its application for a foreign air carrier permit. What the conclusion will be is uncertain, but it is clear that NAI faces a long uphill political battle in the US if it is ever to be accepted by the industry, unions, and the government. Despite the NAI's uncertain future, its aircraft are still busy. NAS has gained permission from the Norwegian Aviation Authority to wet lease NAI aircraft, with their Asian-hired crews, to conduct long haul operations for NAS or NLH (Redaksjonen, 2014).

#### 4.4 Cabin Crew Strike

On 28 April 2014, NAS cabin crews based in Norway and Denmark began labor negotiations with two of NAS's daughter companies, Cabin Services Norway and Cabin Services Denmark. In this round of negotiations, the cabin crews were concerned about the general development of temporary labor in the aviation industry and the use of temporary contract employees through employment agencies (Holm, 2014). In the months before the negotiations, the Norwegian and Danish cabin crews had been transferred over to the two new subsidiaries, Cabin Services Norway and Cabin Services Denmark (Leth, 2014). For the four previous years before the two cabin services companies were established, cabin crews from Norway and Denmark shared a joint employment agreement (*tariffavtale*) with NAS, and were employed by the same company. By moving the cabin crew into these new companies, these two groups of cabin crews would not automatically be allowed to negotiate their next employment agreement together.

By creating the two cabin service subsidiaries, NAS was not only fragmenting the work force, it was using a scalar strategy to accomplish it. Where once the employees were able to negotiate on the regional scale with their employer, NAS was now attempting to relegate employees to the nation-state scale for negotiations. Norwegian was attempting to set the scale of negotiations at the scale that would be most advantageous to the firm. The Danish and Norwegian cabin crews intent was to maintain the agreement that they had signed three years previously, and keep the international bargaining block. The cabin crew's main demands were to retain the

current salary structure and the common salary structure between cabin crew in Denmark and Norway, wage increases in line with the rest of society, a clarifying of the rules around work benefits, and the acceptance of the rule that demands for permanent labor can only be filled by permanent employees. (Grymer and Husø, 2014)

In the first round of negotiations, these conditions were completely rejected by the employer. According to Parat, the large union representing the Norwegian cabin crews union, Parat's lead negotiator had never experienced such behavior from an employer during mediation (Grymer and Husø, 2014). As such, the cabin crew chose to go on strike. On Wednesday the 7<sup>th</sup> of May, the union took one cabin crew member out on strike. According to the union, the strike was so small because the employers association, NHO Aviation, threatened an employee lock out if employees did not complete their mediation with NAS before the next. NHO Aviation denies this, but Parat still chose to take out only one employee on strike (Grymer and Husø, 2014).<sup>12</sup> Danish cabin crews, however, could not go out on strike at the same time as their Norwegian colleagues. This was due longer periods of notice required in Denmark than in Norway, and the earliest that the Danish crews could have joined in strike was 18 March. (Grymer and Husø, 2014).

Parat's conditions were not well received by the airline, and during the negotiations, NAS sent out an SMS message to all of its employees. The SMS was received as an aggressive attempt to convince employees that if the union did not withdraw its demands, the airline would one, close all of NAS's cabin crew bases in Norway except Gardermoen; two, outsource the cabin crew base in Copenhagen to Proffice, an employment agency; and three, suspend employee-priced tickets for three years (Grymer and Husø, 2014). According to Anne-Sissel Skånvik, communications director for NAS, the SMS message was not a threat, it was simple an expression of the consequences of a strike (Grymer and Husø, 2014). Regardless, Hans-Erik Skjæggerud, leader of Parat, this SMS message was the direct cause of the end of negotiations on the Wednesday when the strike began (Holm, 2014).

The strike concluded on, 18 March. The Danish and Norwegian unions received an employment agreement (*tariffavtale*) that would apply to both Denmark and

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<sup>12</sup>The reality of this threat has been put under suspicion after an interview with the nestleder in Parat responsible for aviation. He did not recall that a threat of a lock out drove Parat's decision-making.

Norway. None of the Norwegian bases were closed, employees in Denmark were still employed by the company, and the employee price air tickets were not revoked (Wichmann, 2014). In the end, there was only one cabin crewmember that was taken out on strike. What could have been a substantial blow to NAS's services became a symbolic, though effective, strike. In addition, the Danish cabin crew union never even warned that it would strike—the threat of issuing the notice received enough attention. This first strike was the first significant battle in Norwegians labor history that addressed NAS's clear interest to reduce costs and, potentially, the proportion of NAS labor force based in Scandinavia.

The conflict between NAS and its Scandinavian cabin crews is not over. After the end of the recent pilot's strike, Parat came out saying that the cabin crews desired to have the same agreement that the pilots achieved in 2015 (NTB, 2015a). Much like the pilot's strike in 2015, the cabin crew strike of 2014 did not resolve the problems at the heart of the dispute, it merely rescheduled the negotiations for three years in the future.

#### 4.5 Pilot's strike

On 28 February 2015, Scandinavian pilots in NAS struck after a failed attempt at mediated labor negotiations between the pilots and their employer. The strike would last 11 days, and affect a calculated 200,000 passengers. The strike began on Saturday, February 28<sup>th</sup> with an initial removal of 70 Pilots. However, on Wednesday 4<sup>th</sup> of March, 650 pilots were taken out on strike (NTB, 2015b). Many of the pilots taken out were also Danish and Swedish, as all Scandinavian pilots were hired through Norwegian Air Norway (NAN), a subsidiary to NAS. The strike was not unexpected. The new negotiations between Parat, the parent union to Norwegian Pilot's Union (NPU), with NAN and its parent company NAS, were expected to be difficult—the initial positions of the two parties were irreconcilable. NPU felt that, much like the Danish and Norwegian cabin crew in 2014, Scandinavian pilots were being marginalized in the company, and their working conditions and terms of employment were under threat, and that there were clear dangers that Norwegian pilot jobs were going to be transferred to cheaper bases in other countries. This was based on the fact that pilots that were once directly employed by NAS had now been transferred to NAN. The fear, though it could not be proven, was that NAN was set up to fail and potentially go bankrupt. The purpose of NAN, the union suspected, was to lose money in order to create grounds for changing

the salaries and benefits that the pilots received. Instead of working for a strong parent company, the pilots would be forced to negotiate with a weakened child company that would demand further sacrifices from the Scandinavian pilots (Flybranchens Personale Union, 2015b). The foundation for the strike was the Norwegian pilots felt that their jobs were at risk, and that NAS was using the system of subsidiary companies to employ pilots to remove the risk and costs of employment from NAS and burden a subsidiary with them.

The demands of the pilots were, in practice, two fold: First, they wished to negotiate a new employment agreement (*tariffavtale*) with NAS directly, and not with NAN. The pilots were not primarily concerned with pay levels and benefits; those were not the primary issue at stake. Rather, pilots wanted to make sure that they were not alienated further from NAS, and that any future labor negotiations would not be just with NAN, but with NAS. The demand that the employment agreement for pilots be negotiated with NAS is based on the legal requirement in Norway that employees should negotiate with their real employer. According to Parat, the union that represents the Norwegian Pilot's Union, NAS is the real employer of all the Scandinavian pilots. Kjos disputes this, arguing that NAS is now just a shell company and does not have employees (Solheim, 2015). Parat does not agree with Kjos' perspective, saying that NAS does in fact have employees and is an operation in and of itself (Solheim, 2015). Second, the pilots wanted this employment agreement to apply to not just Norwegian pilots, but to the Swedish and Danish pilots employed in NAN as well. This is an interesting point, and it indicates that the Norwegian pilots did not just see their marginalization and the movement of pilot positions to other bases as a Norwegian issue. Like the cabin crews, the pilots saw it as a multinational, even Scandinavian issue. This point will be discussed further in the Analysis and Discussion chapter.

From the starting point, NAN/NAS was not willing to surrender these points. The most important issue to NAN/NAS was that NAS suffered over a billion NOK loss in 2014, and cuts had to be made. The firm's fiscal stability was the firm's primary focus (Fredrksen and Lorentzen, 2015). NAN/NAS' initial position included salary freezes for all crew, a reduction in pension costs and a reduction in insurance for pilots that had to stop flying due to medical issues (NTB, 2015b). Lower costs and increased flexibility were the priority (Fredrksen and Lorentzen, 2015). As such there was little opportunity for compromise to be found in the beginning of the negotiations. As one Norwegian

commentator put, it, “Rarely have we seen such a deadlocked/stubborn employment conflict in Norway” (Staavi, 2015).

As seen by these initial positions, NAS was attempting to frame the negotiations around issues that were not the most important to the unions. This difference was taken advantage of by NAN/NAS through the public relations battle that panned out while the strike and further negotiations were under way. From the beginning of the negotiations, NAN/NAS chose to frame the negotiations as a wage issue, and that the pilots were behaving unreasonably (Tollersrud and Sættem, 2015). NAN/NAS even went so far as to offer voluntary wage arbitration (*frivillig lønnsnemnd*), as if that particular approach would solve the labor dispute (Skjetne et al., 2015). In addition, the CEO of NAS, Bjørn Kjos, went out to the press at the start of the negotiations and revealed that there were some pilots that earned larger salaries than he did, and the company revealed that some of its senior pilots earned well over 1.1 million NOK annually (Tollersrud and Sættem, 2015). This sorts of statements seem intended to turn public opinion against the pilots if there was to be a strike.

NAS/NAN was able to bring forward other public relations strategies that, in the end, won them greater support from the public than the pilots did (Jakobsen, 2015). First, Kjos was able to place the debate in the context of the international economy. From his perspective, Norwegian could not succeed if it was not able to keep costs down and maintain a workforce in the manner that NAI intended to (Solheim, 2015). Kjos has a reputation as trustworthy and successful entrepreneur—he has a particular character in the Norwegian economy that people are familiar with, and by placing himself as subject to external forces that he has to respond to if he, his company, and his consumers are to succeed, the public will trust him (Jakobsen, 2015). Second, Kjos was able to approach the issue as a champion for the consumer. While he was concerned about the amount of money he was losing, in public he also showed intense concern for the welfare of his customers (Solheim, 2015). From his perspective, he argues that the consumer came first, and he was disappointed to be cancelling flights and inconveniencing the passengers. These arguments, though not directly relevant to the labor dispute, were much easier for the public to understand than the fears of NPU.

While the strike started off in a friendly manner, the tone turned for the worse as the strike progressed (Sættem and Tollersrud, 2015). While negotiations were maintained throughout most of the strike period, Parat and NPU argued that NAI was



not conducting honest negotiations. The first charge was that NAS wet leased in crews and aircraft from other airlines and used NAS crews from other bases to fly routes between Scandinavia and Europe (Ytterstad and Mogen, 2015). This, according to the union, was strike breaking. NAS did not dispute that it had wet leased in aircraft from other airlines and used crews from other bases. In fact, the Spanish pilots union felt that its pilots were being used unlawfully as strike breakers. The union filed a complaint in Spain against NAS, NAS' child company in Spain, and the employment agency OMS aviation, for using Spanish crews in strike breaking (Hustadnes, 2015). NAS argues though, that the solution was permitted, as it was not NAS who was sitting across from the pilots at the negotiating table, it was NAN. As such, any plane operated by NAN would remain on the ground. Taking advantage of their parent-child company relationship, NAS was able to legally say that they were not bound by the strike, and could do what they needed in order to replace the aircraft and aircrews that NAN could not operate on behalf of NAS.

Second, there were reports of intimidation of striking pilots. The first report was on 3 March, 2015, when a representative from the Swedish Pilots Union reported that "Norwegian" had called multiple Swedish pilots said that the pilots had to accept a new employment contract with OSM Aviation, the employment agency, or they would be fired (Zuiderveld, 2015). Further reports were also made that NAS pilots had been threatened in Norway and Denmark with a similar threat specifically delivered by OSM Aviation (Ekehaug, 2015). NAS denies the charge, and Parat has admitted that the accusations were false (Einan, 2015). Regardless, the charge remained standing throughout the strike, and colored the public coverage of the strike.

Third, NAS decided to establish three new firms in the middle of the strike (Fredrksen and Lorentzen, 2015). These firms were called Pilot Services Norway, Pilot Services Denmark, and Pilot Services Sweden. In an echo of their strategy in their negotiations with the cabin crew in 2014, NAS was attempting to use scale to fragment and down-scale the pilots into different national companies, forcing them to negotiate separately. The pilots from Norway, Denmark and Sweden were to be placed into their respective child companies, isolating them even further from NAN and NAS. The pilots were also threatened with dismissal if they did not sign contracts with OSM Aviation and these new companies (Wergeland et al., 2015). The pilots ignored both of the alleged attempts to force the pilots to break with the strike.

The strike did not go entirely as planned for the union, either. In addition to the struggle to be able to define the labor dispute in the public discourse, the unions were not able to create solidaristic action, whether domestic or international, that it had hoped. Parat blamed legal hurdles for the lack of solidaristic action. For Parat, the current legal landscape gives too much power to the employer (Lorentzen, 2015). For a Norwegian firm to go on sympathy strikes requires a long process of evaluation which can lead to a an 18 day waiting period before a sympathy strike can take place. This sort of timing is especially difficult for unions facing cases of strike breaking, as Parat accused NAS of during this particular case. Industrial action, in this case is difficult if there is not cross-industry support, in this case catering or fueling services, to disrupt the practices of the firm conducting strike breaking. While three Danish unions, including Flyvebranchens Personale Union and the union which represents security personnel at airports, warned on 5 March 2015 that they would strike in sympathy for pilots in NAN, they would have to wait through a 14 day warning period before they could go on strike (Flyvebranchens Personale Union, 2015a, dr.dk, 2015). International aviation labor organizations were not able to make a particular impact on the events, either. While IFALPA requested a boycott of NAS while the pilots were on strike, pilots still choose to fly the aircraft for NAS's wet leases during the strike.<sup>13</sup>

As such, this issue with creating solidarity actions both within and outside of Norway shows the difficulty that airline unions might have creating the same cross-sectoral support that has shown to be so important in the ITF's FOC campaign. In the end, the only immediate support that the pilots could rely on was the threat of strike, or of the notice of strike. While this has demonstrated itself to be valuable in the case of strikes against Norwegian, it is likely that this could not be compared to an actual cross-sectoral strike

The final agreement between the parties has not been made public, but some of the details are available. NPU did not, in the end, get an employment agreement between the pilots and NAS, though did get a "legally binding agreement" that satisfied the pilots' relationship requirements to the mother company, at least for the next three years until the next round of negotiations. In addition, the pilots union was able to successfully internationalize the dispute and have the Scandinavian pilots treated as s

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<sup>13</sup> The support of IFALPA is interesting in this case, as NPU is not even a member union of IFALPA. Regardless, IFALPA still thought it was necessary to support the airline.

single block. The agreement guarantees that Scandinavian pilots will pilot flights within Scandinavia. Scandinavian pilots will have common negotiations with NAS, and European pilots will be listed on a common seniority list (Nordahl and Strømme, 2015). Despite NAS' efforts to break down the pilots bargaining abilities to the nation-state scale, the pilots were able to successfully create an agreement that not only represented all of the Scandinavian pilots through the binding agreement, but also integrated them into one unit through the common seniority list. If the pilots have a common seniority list, it does not appear that one Scandinavian country can be set above the others, and that the pilots see themselves not just as a united front, but an integrated workforce.

What the future holds for Scandinavian pilots in NAS and its daughter companies is uncertain. However, the future does not look bright for Scandinavian pilots. Their jobs might have been protected in this latest agreement, and they appear to have been able to craft a more international front for pilots within the company, but the long term perspective is not positive. Analysts believe that the market for Scandinavian pilots will not grow in the future. As such, there will be fewer new hires, and in all likelihood fewer Scandinavian pilots when they negotiate next (Nordahl and Strømme, 2015). While the pilots were able to work towards maintaining their current status and condition, there was little headway made in improving the long term prospects of Scandinavian pilots. In fact, some argue that the issue that sparked the strike has not been solved, only pushed forward for three more years (Nissen-Meyer, 2015).



## **5. Analysis and Discussion**

### **5.1 Introduction**

This chapter is composed of two sections. The first section will identify practices of social dumping in the case study. While NAI's labor strategies are clear instances of social dumping, this thesis argues that NAS's labor practices in Europe should also be seen as a form of social dumping, even if it takes place legally within the ECAA. This section will discuss the use of subsidiaries, employment agencies, and the peculiar spatial phenomenon of working in the air to show this combination of fragmentation and relocation can be called social dumping.

The second section is a scalar analysis of social dumping in civil aviation. It will first analyze the use of scalar strategies in social dumping, showing how NAS has been able to use social dumping to both upscale its own business and labor practices, while at the same time both keep its labor from either up-scaling, or even forcing labor to down scale its own organization. Second, this section will demonstrate the scalar model of social dumping presented in the theoretical framework. Through analyzing the success and failure of NAS's labor strategies in the US and in the EU, this section will demonstrate how social dumping is the product of uneven scalar relationships between the scale of an industry's labor market on the one hand and the scales of the state and organized labor on the other.

The scalar analysis will focus primarily on the case study, but where it is deemed appropriate, the analysis will also try to draw larger conclusions about social dumping and scale in the international civil aviation industry and the international economy itself. While social dumping has an undeniable effect on the local scale, the analysis focuses on the global, regional and nation-state scales. The discussion of social dumping and the local scale would require a much larger context and case study chapter that this thesis does not have appropriate space for. In addition, it would take away from the focus of this paper on the international relationship between scales, and the unique role that the regional scale plays.

## 5.2 Social Dumping

Social dumping is not a regular practice in the civil aviation industry. The industry remains highly regulated, and political pressure in many states prevents the adaptation of social dumping as a common practice. NAS is attempting to be one of the groundbreakers in social dumping in the international civil aviation industry. The airline is able to do this as it sits in a special position in the industry, as it has focused on a long-haul business strategy that the other low fare airlines have not committed themselves to do. The technological key to this strategy is the Boeing 787, an aircraft that promises to provide operational costs that are low enough to be a significant advantage over flag carrier airlines that fly long haul routes on less efficient aircraft.

In addition to the 787, NAS is also searching to reduce its operating costs through by decreasing its labor costs. The two tools that Norwegian has used most to its advantage are subsidiaries and employment agencies. These atypical employment practices can save the airline money, but it also has a direct effect on the workforce (Yves Jorens et al., 2015). These two practices result in workforce fragmentation and relocation. The social dumping practices in NAI are clearly stated in the case study. NAI's practice fits into the archetypical model of social dumping, as both the states and airlines involved are clear of the purpose of both the social policies and the business strategy of the airline. What is less clear, though, is if NAS' labor strategies in Europe can be considered social dumping as well. From a policy or state perspective, they are not social dumping. The states involved have come together in a common market space with a unified labor market. The states involved have accepted the practice of labor arbitrage between them. Lower wages in one country, then, are not social dumping, but rather the product of a common social policy and economic convergence. However, this does not satisfy the criteria established in the theoretical framework. While this might satisfy the second type of definition of social dumping focusing on business practices, state participation does not remove the fact that NAS's practices have negative social consequences.

In order to conclude whether or not NAS practices social dumping in its European businesses, NAS's relocation and fragmentation practices need to be broken down into their respective parts. NAS' intentions, and the results of their actions, must be taken into consideration. Their behavior needs to be set in relationship to the state policies and behaviors of both the home nation and other states in order to see to what

degree NAS uses the movement of labor and capital as part of a strategy to reduce labor costs, what degree other nations of governing bodies encourage social dumping, and to what extent NAS's practices have a negative effect on the social sphere (Vaughan-Whitehead, 2003, Bernaciak, 2012). By looking more deeply at NAS's practice of using national subsidiary firms and employment agencies, this section will show the international nature of NAS's labor strategies in Europe and why they should be considered social dumping not on the nation-state scale, but on the regional scale.

#### 5.2.1 Relocation and Substitution

In addition to creating fragmentation, using subsidiaries also allows NAS to practice relocation and move work and capital to cheaper locations (Galgóczi et al., 2006). An obvious example is NAI's use of Thai-based aircrew. However, it also clear that NAS has attempted to subsidiaries in order to reduce the number of Scandinavian pilots in their European business. As discussed in the case study, it appears that part of the purpose of Norwegian Air Norway was to be used as a vehicle through which not just to renegotiate labor agreements, but also a way to marginalize Scandinavian aircrew. In addition the agreement that came out of the 2015 strike only preserves Scandinavian routes for Scandinavian pilots. As Norwegian has made clear, that is not the future source of growth for NAS. While the airline grows in the future, it does not appear that it expects its Scandinavian aircrew corps to grow with it. If NAS's growth goes as predicted, the Scandinavian aircrews will represent an ever smaller proportion of the workforce. This sort of capital relocation is clearly not just a case of expanding NAS's international market; it is a clear example of international expansion for the sake of economic efficiency.

The attempt to break the pilots and the cabin crews into small subsidiaries is not the only method through which NAS has attempted to create fragmentation in their pilot corps. It has also been part and parcel of NAS's attempts at relocation. European pilots that fly for NAS or NLH and are based at bases in Europe are not hired directly by NAS-they are employed by subsidiary firms as well. This is to distance any employee liability from NAS. NAS pilots, then, are not all hired by the same company, and in many instances are hired on temporary contracts. Adecco has been identified as the primary firm in Thailand, and in Europe and the US the primary agency is OSM Aviation, a Norwegian firm that also works in the maritime industry. OSM Aviation is the agency in particular that has played a significant, if not the largest, role in finding pilots for NAS

throughout Europe and the US. Styling itself “The New Generation in Aviation Management”, OSM aviation offers crew employment management services through out the world (OSM Aviation, 2015). This combination of fragmentation and temporary labor contracts has created a weak bargaining force for the pilots, as they are not only not organized on the same international scale as their employer, but they are also hired in a manner that limits the degree to which they can pursue organization. If a pilot’s primary employer is an employment agency, and not NAS, then its labor rights as a pilot flying for NAS are limited in comparison to a pilot hired directly by NAS or one of its subsidiaries.

#### *Workplace Transience*

While there are many consequences of the complexity and the uniqueness of transportation industries, NAS has been able to take advantage of the transient workplace in order to practice relocation and substitution. This is an example of both the difficulty that states face in dealing with social dumping in the transportation industries, but also how the state is complicit in social dumping’s practice. The Norwegian law governing foreign workers expects that if a Norwegian company hires employees to work on Norwegian aircraft in Norway, then they will be working in Norway. The plane is registered in Norway, and a legal dispute over the aircraft in another land would recognize a Norwegian flagged aircraft as under the jurisdiction of the Norwegian government. However, that is not how NAS sees the issue.

For NAS, an aircraft is in a manner a territorial-less place-it is not set into a particular state or area, it is its own area, and as such subject to its own definition of place. As a spokesperson for NAS stated in 2013, their crews are not in Thailand, USA or in Norway-they are in the air (Zondag and Svaar, 2013). As such, NAS might argue that the aircraft should not be subject to any particular regulation that applies to solid ground because their workplace, the aircraft, is not embedded-there is no space that actually holds the aircraft. As such, the airline believes that aircrews should not be limited by a nationality clause and be paid and wage that should be decided by company, and most likely the market.

If an NAS does not see its aircrews as being in a country, but in the air, it brings up real questions of space in the airline industry. While an airline might be registered in a country, what control does a state have over the immediate practices on that aircraft? What is the physical relationship between the state and the workplace? The workplace



is no longer embedded in the state. This idea, though, of a space-less workplace independent of sovereignty and geography is constructed and artificial. It is that way because NAS does its best to create that space, and national authorities choose to permit that behavior. Under the Chicago Convention, the airspace over a country is as sovereign as the land beneath it, and the flag of registration has real consequences for the potential behavior of the aircraft (International Civil Aviation Organization, 2006). However, by creating scenarios where NAS can establish a subsidiary in Ireland in order to hire crews that could not be hired in Norway, and then gaining permission from the Norwegian Aviation Authority to lease those planes back from those subsidiaries, creates a logical loophole that lets NAS behave as if there are no boundaries in the air, and they are operating independently of the political geography beneath them. Aircrews are only space-less if the state permits them to be so. This lack of social and labor regulation provides the opportunity for social dumping, and airlines need only to take advantage of these favorable regulatory environments.

### 5.2.2 Fragmentation

NAS has attempted to fragment its aircrew corps in order to protect NAS from labor liability and in order to reduce the cost of its aircrew. In order to do this, NAS has used the very same subsidiary and temporary employment strategies that it used in its relocation and substitution practices. This has been a practice that Norwegian has used throughout the development of its European bases, but the system culminated in the cabin crew negotiations of 2014. The first goal of the cabin crew unions were to return to the common employment agreements they had before they were separated into two different subsidiaries.

Fragmentation has helped NAS protect itself from labor actions by its aircrews. The ability to hire its aircrews through separate child companies allows NAS to continue operating even if its aircrews are striking. This is most evident in the pilots strike. Even though 650 Scandinavian pilots were striking, there were still flights to and from Scandinavia. Since the pilots were not employed directly by NAS, NAS was free to wet lease crewed aircraft from other airlines in order to fly the intra-European routes that were affected by the Strike. From Parat's perspective, this was clearly a case of strike breaking (Ytterstad and Mogen, 2015). Legally, NAS was protected by the fact that it

was not the direct employer of the pilots on strike, and as such they could hire in pilots and planes to replace those operated by NAN that had been sat on the ground.

Subsidiaries have not only prevented aircrews from working in solidarity, they have also reduced the company's liability. Instead, it employs its crew through subsidiaries based in the countries in which it has bases. For example, pilots hired in Norway are hired through Norwegian Air Norway, and pilots hired in Spain are employed through Norwegian Air Resources Spain (Hustadnes, 2015, Solheim, 2015).

The fragmentary effects of subsidiaries are further exacerbated by NAS's use of employment agencies. These firms make the cost of employment even lower. This is because it removes NAS from primary responsibility for any of the hired-in employee's wage-in-kind rights and privileges. This releases NAS from a large range of long-term costs and liabilities such as pensions but also protection against impulsive lay offs and many other forms of job insecurity. NAS uses employment agencies in every country in which it operates aircrew bases.

While these strategies reduce costs, it is not to assume the aircrew corps' wages and work conditions are poor. This depends on the context of the worker and their location. For instance, atypical employment has been demonstrated to have a negative effect on the income and benefits of European pilots (Yves Jorens et al., 2015). However, the same might not be able to be said for Thai employees. Thai wages should not be compared just to a Norwegian wage, but to a Thai wage. According to a Thai cabin crew in NAS, NAS pays more than competitor airlines (Svaar and Zondag, 2013). However, from a Norwegian perspective, it is clear that this is an attempt to circumnavigate the labor laws of NAS's home state, Norway.

### 5.2.3 The Negative Effects

In order to show that NAS's labor practices are in fact social dumping, Bernaciak (2012) also requires that the negative effects of the potential social dumping practices can be identified. This section will address the consequences of NAS's social dumping on the social sphere by looking at the effect social dumping has on a worker's future work prospects after their position has been relocated and the effect that social dumping has on worker's ability to organize and represent themselves. The discussion will then also discuss the reflexive nature of social dumping, and how the very threat of social dumping can, and has, encouraged states to permit social dumping.

Relocation can have a significant affect on a worker's future work prospects. As the OECD shows, workers that have suffered job losses due to the relocation of work abroad struggle with finding work of the same reward as that which they have lost. In a study of workers in the US, the OECD (2005) found that 25% of American workers displaced by relocation have had to accept wage cuts as high as 30% (OECD, 2005, Galgóczi et al., 2006). Regardless of whether or not these international practices makes a firm stronger to the eventual benefit of shareowners and employees, it is clear that individuals who lose their jobs to fragmentation and atypical employment conducted through offshoring are statistically worse off. This issue of finding new work could be especially relevant for aircrews, particularly pilots, as their work experience and training can be difficult to transfer to another occupation. In addition, this affects not just aircrews, but the communities and states that must support, and be supported, by this inferior income.

In addition to the problems of moving into a new occupation, pilots who do have the opportunity to fly now face increasingly insecure work. By using employment agencies and other atypical labor strategies, aircrews face the uncertainty of short-term contracts, lesser pay and benefits, and uncertain hours (Yves Jorens et al., 2015). These sorts of issues again do not just affect the workers themselves; the insecurity they face is directly manifested in both the worker's families and their communities at the local scale (Smith, 2008).

These atypical employment practices have also decreased the worker's ability to organize and to be able to create relationships with their direct employer. As demonstrated above, the use of subsidiaries creates a complex system of ownership that distances aircrews from their direct employers, reducing the ability of aircrews to deal directly with NAS. From this perspective, NAS's ability to downscale its relation with its workforce, or at least its ability to rise to a higher scale than its workforce, is a clear social negative.

Social dumping has also been used as a coercive tool to reduce or retard the social policy of states, by either selling itself as a strategy of success or as a veiled threat. While the final consequences of these social policy strategies might never be fully discovered, it is clear that these social policies have negative effects on at least the short and medium term. It produces, then, a self-fulfilling cycle where social dumping leads to further social dumping. Liberalization has given an incredible amount of power to those

who control capital to influence the support and spending that governments give to workers and their families, through both lobbying and their ability to weaken the tax base of a state if they chose to leave (Standing, 1999, Standing, 1997, George and Taylor-Gooby, 1996, Leonard, 2005).

For instance, NAS has been able to use the international scale in order to promote the logic of the international economy and the logic of searching for labor cost efficiency wherever it can be found. As Kjos has illustrated in many of his interviews, NAS cannot compete as an international airline if it is forced to maintain Scandinavian labor practices—they are simply too expensive. Norwegian has also been able to use this threat of either bankruptcy or capital flight to manipulate the European scale to its advantage. Not only has NAS been able to use the ECAA to move jobs and aircraft to other bases in Europe, Airlines have been some of the main supporters and beneficiaries of the expansion of state economic boundaries to the regional, European scale. This expansion, though, was not the product of airline agency. It is important to remember that the European Union, as well as the other states that have signed the ECAA, that have created this expansion of the economic boundaries. By doing so, these states have explicitly supported the liberal economic goals of the European community, and have utilized the regional scale in order to create a space where the transfer of work and capital was not a social injustice, but economic sense. Kjos has also tried to encourage the international perspective in state level policy, showing both NAS's perspective on the international economy as well as his opinion on how he thinks states should act. Kjos supports the transition of the European economy to an economy that supports its comparative advantages, particularly in tourism. "If I were a politician," says Kjos, "I wouldn't give a shit about the airline side...[Europe has] exported all [its] industry to the Far East. At least we have a very good museum to show them, they will have to come spend money in our museums" (The Guardian and Topham, 2014). The status quo in civil aviation, then, is a threat to the comparative advantage of the European economy, and the labor strategies NAS pursues are in some manner a benefit to the European economy. Here, social dumping becomes both a strategy of success as well as a veiled threat to states.

#### 5.2.4 Social Dumping on the Regional Scale

Based on the analysis above, it is clear that NAS practices social dumping, both within and outside of Europe. As mentioned, the international social dumping is well established. What remains is to understand how social dumping can occur in Europe despite the presence of the European Common Aviation Area and other common markets. The answer relies on changing the unit of social dumping. In the case of NAS, the unit of social dumping in Europe is not the state, but rather the region. In this case, it is the particular relationship between Scandinavia and the European Union, and how NAS has been able to leverage the uneven scalar relationship between the trans-regional labor market, the delicate and complex relationship between the regional EU and the states of Scandinavia, and organized labor that still remains fast at the nation-state scale.

The regional scale has confused and interrupted the understanding of social dumping in the EU or the ECAA. On the one hand, the practice of creating a temporary, nationally divided workforce throughout Europe is just fragmentation or relocation; it is not social dumping. It is clear that the same practices that NAS has attempted through NAI it has also attempted to do in Europe. However, this charge has not been made against Norwegian, or in general against other companies that move capital and work throughout Europe. The idea of social dumping is premised on the movement of capital and work from one state to another. Social dumping, then, is a phenomenon that typically exists on the global scale. It requires a scale with discrete units, such as state or regions. In relation to the global scale, the EU region then becomes a discrete unit like a state. The region, then, lies in an uneven sandwiched position between the state and the international, where it can resemble both the state and the global depending upon the particular relationship and case in question.

The idea of the state as the unit of social dumping relationships is challenged here by the role that the EU has played in the movement of work and capital in the case study presented here. While the EU is not a state, the EU has adopted or shares some of the sovereignty and many of the practices and qualities of a state from its member states. As such, while it is another scale that lies between the EU's member states and the global, the EU behaves much like a state at the global scale. As the level of policy making and the boundaries between economic spaces grow, the boundary for social

dumping in civil aviation for EU member states is moved up to the regional scale. Social dumping does not occur in the ECAA, it can only occur between the ECAA and national states.

The struggle here is that this relationship is only in practice, not in formal terms. The member states of the ECAA are still responsible for implementing their own policy, and can choose not to participate if they do not wish to, but in practice they have joined a new economic space. An ECAA member state's aviation economy is no longer limited by state's borders, but by the region's borders. As these borders have changed, so have the borders between the interior and exterior, insider and outsider.

However, the issue of the regional scale is further complicated in Europe, which is in itself comprised of other regions. While all of the European states are part of the same scale, the regional scale also now has a significant role to play in social dumping. While Norway, Sweden and Denmark are part of the ECAA, NAS's Scandinavian aircrews have established particular wages, benefits, and labor practices that have established them as a regional scale actor. For the aircrews, the borders are not found at the edge of the ECAA, they are found at the edge of Scandinavia. As such, NAS is practicing social dumping in relation to Scandinavia in order to move capital and work to cheaper regions within Europe.

Moving capital and jobs from one more expensive European state to a cheaper state is no longer seen as social dumping; it is now simply effective business practices and efforts towards upward convergence in the community's economy. However, when all of NAS's behavior is taken together into a broad picture of the development of the aircrew corps in NAS, it is clear that NAS is attempting to move from more expensive and protected Scandinavian workers to cheaper and less protected workers in other European countries, all of whom are EU members. The particular practice of social dumping that is identified in NAS's practices could be drawn in to a larger conclusion. The flight of capital and labor from one European region to spaces outside of the region-whether another region or state-should be considered a form of social dumping. While the European aviation market has been combined together through the ECAA, it does not mean that all of the European labor markets have been harmonized, or that all labor agreements practices that were constructed earlier in time were void now that an airline has changed its business practices.

The issue for labor in Europe, though, is not just a question of state regulation; it also depends to a large degree on the effectiveness of organized labor. This, in turn, depends on the primary scale of organized labor, and whether or not it lies in an uneven relationship with the labor market and in the case of Europe, with the state. As demonstrated in the previous chapters, labor is not cohesively organized within Europe. The labor landscape at the state, regional and international levels presents a complex and convoluted landscape of uncoordinated organizations that at best do not cooperate, and at worst compete against each other. Regardless of the number of organizations that are present, and the scales on which they reside, it is clear that there is no clear cohesive representation of pilots at the regional scale to act as a negotiation counterpart to airlines at the regional scale, which in the case of the aviation industry is the scale of the industry, the labor market, and the state, but not labor. While aircrews do get some support from the state at the EU level in terms of regulation, they have not had the prerogative to negotiate at the regional level. This is both a function of a mismatch between state and regional regulation, but also part of the intention of the industry that has, as demonstrated, worked to create a fragmented workforce.

### 5.3 Scalar Analysis

A scalar analysis of social dumping reveals a wide range of interactions that create a complex web of influence and social results. To be able to determine the exact degree of importance of each interaction, and to untangle the web of relations that has created the status quo of social dumping today is a task that this thesis cannot solve, if it is even possible. Instead, this paper will identify each of the individual trends and phenomena that have been discovered in this scalar analysis of social dumping. Social dumping has not had the same impact, or been present in, the global scale in its entirety. As such, different regions or states have been impacted by, and have impacted, scale to different degrees and with different results. This analysis will attempt a scalar analysis of social dumping in civil aviation using three different scales: The nation-state scale, the regional scale, and the global scale. It will focus especially on the relationships between the EU, the US and Norway.

The section begins with an analysis of scalar strategies in social dumping, looking at how NAS' labor strategies resulted in an up-scaling of their business practices and the down-scaling of labor's and the state's scales in relationship to the airline. The

section then looks at the scalar model of social dumping presented in the Theoretical Framework, and examines how the difference in the manner that the US has been able to address social dumping from that of Norway and the EU. Finally, the section will show how social dumping can be used as a scalar strategy to define the scale of labor relations, and scale is important to NAS for the continued practice of social dumping.

The section begins with an analysis of fragmentation as a scalar tool used to both up- and down-scale labor relations and how different scales have permitted the successful use of social dumping. Third, it will investigate how social dumping affects the scalar hierarchy. Fourth, it will show how the NAS case shows the importance of setting the scale of a labor dispute.

This scalar analysis of social dumping intends to investigate all of the different manners in which scale, social dumping, and the actors in social dumping, all interact and engage in co-constitution. The purpose of this analysis is to understand the effect of social dumping on the production and reproduction of scale, the effect of scale on the practice of social dumping, and a deeper understand of social dumping as a scalar tool and strategy. In addition, it discusses how the case study presents another example of the importance of an agent's ability to set the scale of a labor dispute to their advantage.

### 5.3.1 Scalar Strategies in Social Dumping

Neither fragmentation nor relocation alone is evidence of social dumping. However, a combination of fragmentation and relocation has created a labor strategy that purposefully circumvents Norwegian and possibly European law and moves capital and labor abroad at the expense of the social sphere in both Scandinavia and the rest of Europe. The combination has created a practice that has fragmented the European workforce and relocated work and capital abroad in the pursuit of cost efficiencies.

#### *Relocation as Up-scaling of capital*

NAS is attempting to up-scale its capital away from Norway and Scandinavia through relocation and substitution. NAS is originally a Norwegian and Scandinavian airline, and its aircrews were all employed through NAS directly. In fact, when Norwegian attempted to build its first aircrew base outside of Scandinavia in Poland, the aircrews were employed through NAS as well. However, since the development of the new aircrew bases both within Europe as well as the US and Asia, aircrews are not hired directly through NAS today. As discussed above, this is a particular phenomenon



of down-scaling for the NAS aircrew corps when it is seen from the perspective of the entire corps of employees.

For NAS, then, its labor strategy has also been an attempt to upscale its capital and labor market to a higher scale. For as the demand for more aircrew has grown in the airline, NAS has increased the number of bases it holds outside of Scandinavia, thus increasing the number of non-Scandinavian based employees operating aircraft as one group of employees increased and the Scandinavian proportion has not grown at the same rate. As such, the Scandinavian proportion of the NAS aircrew corps has decreased over time. This type of relocation practice is substitution, and is a clear method to replace more expensive workers through the employment of other less expensive workers. NAS has been able to go abroad to find cheaper workers that are made even cheaper through practices of fragmentation, and hire them instead of hiring more Scandinavian-based employees. This further reinforces the fragmentation, which at the same internationalizes the firm and raises it from the nation-state scale.

This issue was part of the root of the 2015 pilot's strike. Scandinavian pilots were, and still are, concerned that they are being marginalized in the airline. While the airline has grown, the opportunities for Scandinavian aircrews have not. This was most likely one of the main reasons that the agreement that ended the pilot's strike included a clause that promised to Scandinavian pilots that only Scandinavian cockpit crew would fly Scandinavian routes. Clearly the unions feel that the threat to the future of Scandinavian aircrews is significant.

#### *Fragmentation as Down-scaling*

While NAS has been up-scaled due to its business practices, the very same strategies that have resulted in the up-scaling of the business have down-scaled labor's relationship to their airline. As NAS has grown, it has created bases in other countries to provide employees and bases from which aircraft can be kept and maintained. However, it has not created a unified, international workforce employed by a single company. As such, it has created an aircrew corps that, while they all perform the same work on the same aircraft, is a fragmented workforce. The purpose of this has been to weaken and divide the employees by isolating them from the parent company.

Aircrews today are not hired by the parent company, but rather by state level subsidiaries. Where once its employees were part of an international work force hired directly by the parent company, NAS has done its best to downscale the scale at which

their employees are organized and hired. NAS has also tried to further the separation between its aircrews and the parent company through the use of employment agencies. Not only are aircrews only temporarily working in NAS, they are also working at a cheaper cost to NAS. By combining the effects of subsidiaries and labor agencies, NAS has worked to reduce the scale of Scandinavian labor, and prevent all of its labor from up-scaling to the same scale as the airline. This, as demonstrated in both the Context and Case Study chapters, can (and has) reduced the influence of labor over both NAS and the aviation industry.

A clear manifestation of the result of the fragmented labor force is the organization Norwegian Pilot Group (NPG). NPG is a “bargaining unit” of Norwegian pilots in five different countries with the intention of creating harmonized collective labor agreements for all of the European pilots that fly for NAS. NPG, however, is not a union—it is only the product of a “Trans-National Agreement” between different Pilots unions that represent NAS pilots throughout Europe (Norwegian Pilot Group, 2015). As such, they do not have the legal privileges or influence of a union, they can only try to coordinate and cooperate in the effort to create collective representation. However, as its website states, it is not it is not a negotiating partner. NAS has been able to relegate its labor counterparts to the nation-state scale despite the fact that Norwegian operates on the global scale (Norwegian Pilot Group, 2015).

### 5.3.2 Scalar Model of Social Dumping

The NAS case demonstrates the accuracy of the scalar model of social dumping presented in the theoretical framework. Social dumping occurs when the scale of the labor market lies in an uneven relationship with both the scale of the state and the scale of organized labor. The first section will demonstrate the significance of an uneven relationship between then scale of the labor market and the scale of the state in facilitating the practice of social dumping. The first state to be considered is the US, which has been able to maintain regulation control over the scale of its aviation industry and labor market. In this circumstance, organized labor, the state, and the labor market all reside on the same scale, and all actors are able to coordinate against the practice of social dumping in civil aviation in the United States.

In the US, scale has made the practice of social dumping more difficult for American airlines. Due to the strength of national unions and the importance of the domestic market to American airlines, the state boundary has only become further

reinforced over time and not weakened. This is especially notable with the American government's emphasis on bilateral Air Trade Agreements. While the US is willing to liberalize its air traffic with another state, it is not willing to create a common market with another state. That would expose both its labor market and its airlines to external competition that neither would be interested in confronting in the American domestic market.

Despite NAI's appeal to the international economy in its desire to use flexible and cheap global labor practices, American airlines, unions and politicians have been able to work against it based on the concept of protecting the American economy. In this particular question of liberalization, protection is seen as better for the economy than new jobs and expected economic growth. In using the state to protect the domestic market, American airlines and unions have also weakened the influence of the global scale and the logic of the international economy. It is an interesting paradox, and underlines the difficulty of the term 'social dumping'. While on one hand strengthening the nation-state scale reduces the instances of social dumping by protecting state economies from capital and work flight, they are also reinforcing the concept of social dumping. Without the clear distinction in economic spaces that states in the global scale provide, then there is no clear definition of social dumping - it again becomes a question of social policy. The same has not happened in Europe, and this is due to the rise of the EU and the regional scale in Europe.

In Europe there is a regional labor market, a nation-state scale caught between the regional and nation-state scales, and weak organized labor within the nation state. On the one hand, social dumping is prevented due to the partially even scalar relationship between the state and the labor market. The civil aviation labor market in Europe is, currently, at the regional scale. This allows an even scalar relationship between the EU and the labor market, but it does not entirely satisfy the state. Norway sits in an awkward position where on the one hand it is on the same scale, though on the other it is not, and it gains little from standing outside.

The difference here between the US and Europe's relation to social dumping is two fold. First, while there is strong liberalization in the US-EU open skies agreement, there is no common market like in the ECAA. As such, policy and regulation has not been reset to new boundaries that encompass the US and Europe; the regulatory boundaries remain the same. As such, the two economies remain distinct and social policy remains

at the state and not a North Atlantic regional scale. Secondly, Norwegian is not attempting to just use temporary workers on its flights to the US, it is attempting to use Asian crew to fly between Europe and the US. As such, there is no social dumping hidden in systematized practices of fragmentation such as there are in the European, at least in respect to the nation-state scale. This is a clear crossing of the boundary between effective business and social dumping.

### 5.3.3 Social Dumping as Scalar Strategy

As such, social dumping is not only a concept that describes labor practices, it can also be used as a scalar strategy to define the level of labor relations. When NAS wishes to use social dumping, that means that it is hoping to up-scale its practices in order to avoid the conflicts and contrasts of the economy and politics of the lower scale. When American unions choose to deny NAI access to the American market based on the threat of social dumping, it is using social dumping to reinforce the domestic scale at the expense of the global. Either example is a clear case of an agent trying to set the scale of a conflict to its own advantage.

It is clear, then, that setting the scale of labor relations is important to the success of social dumping (Herod, 1997). The process is also reflexive, as it is clear that social dumping in and of itself can be used as an argument to further support social dumping. While social dumping might not be acceptable for an airline in the US, social dumping has become a more common practice in the international aviation industry. Part of that is due to the ability to reframe social dumping again as social policy through constructing common markets such as the ECAA. The analysis of social dumping is not just a question of the markets that would choose to use products or services that has been provided by social dumping, but also the policies of states that create environments suitable for social dumping in their own states. The international economy has created an increase in the opportunity to use social dumping in those countries that are willing to create environments suitable for social dumping, such as Thailand and Singapore in the case of NAI. The opportunity, as such, is greater than it has been previously. This is because of the harmonization in safety and business measures that the IATA and ICAO have brought to the international civil aviation industry. Without this harmonization, the ability to hire Thai cabin crew would be greatly reduced. However, international standardization has created the opportunity for

aircrew that is hired and trained in one country to be suitable and appropriate for another region in the world. The structural boundaries have been reduced.

The ideological and economic roles of the nation-state are now shared by the regional level and perhaps partly surrendered to the regional level. This becomes, then a question of sovereignty and political boundaries, which has create three issues. Firstly moving, jobs and capital are permitted and even encouraged. Secondly, complex organizational structures become permitted due to the harmonization of regulation and the expansion of the common market. The practice of establishing subsidiaries and hiring temporary workers is made simpler by the creation of a common European social and economic policy. Third, the complexity of the international labor market leaves labor in a weak position. While there are European level representatives for labor such as the ETF and the ECA, labor in Europe is heavily dependent on international solidarity and cooperation to be able to have a significant effect on the behavior of employers.

In the US, though, NAS's opponents have had greater success defining the conflict over NAI than NAS. While NAS has been able to appeal to the international economy in its negotiations with Europe, it has had to rely on the common market established by the ECAA to make its point. However, NAS's appeal to the international scale has not succeeded in its attempts to set its labor and business negotiations at the global scale. Rather, the American unions and airlines have been able to set the scale of the debate, and in this context it is the nation-state scale. The American aviation industry has been able to deny NAS's appeal to the logic and determinism of the international economy. NAS's practices have been re-contextualized at the state level. At the nation-state scale framed by the American Unions and airlines, NAS is not a liberalizing force, it as a malignant force that is looking to harm the American aviation industry with its social dumping.

## 5.4 Conclusion

It is clear, then, that NAS is conducting social dumping both with NAI and with NAS's operations within Europe. As demonstrated, NAS' fragmentation and relocation practices have been combined to create a strategy that moves labor abroad for the sake of saving money. These practices satisfy Bernaciak's (2012) definition of social dumping. In addition, the negative consequences of the fragmentation and relocation were demonstrated. NAS's labor strategies are to the detriment, if not both social

spheres, then at the very least to the social sphere of the workers that lost work due to relocation and substitution.

This chapter then developed a scalar analysis of social dumping. It demonstrated how fragmentation is a strategy that can act as a force that either down-scales the state and labor scales, or at the very least prohibits them from up-scaling. In contrast, relocation is an up-scaling practice, and NAS has used it as a strategy to scale up its own business practices and the scale of its labor market. The combination of these two strategies creates an industry ripe for social dumping, and creates the right circumstances to investigate the scalar framework of social dumping presented in the Theoretical Framework.

The accuracy of the scalar model of social modeling is shown in the further investigation of the unequal success NAS has had in its social dumping practices. It has had little success in the United States due to the lack of scalar disparity between the labor market, the state and organized labor. In contrast, NAS has had success in Europe due to the complex relationship between states, organized labor and the ability of NAS to frame its business practices in an international context.

The discussion of NAS's attempts at social dumping also shows the importance of being able to set the scale of labor relations. While NAS has been able to keep the scale of the labor debate in civil aviation at the international scales in Europe, it has not had the same success in the US. In the US, labor, NAS's competitors, and the state have been able to keep the scale of labor relations and the debate on social dumping at the state level, negating the uneven scalar relationship that NAS is trying to create and thereby hindering NAS's intended labor strategies. As such, scale plays an important role in the future of social dumping in the civil aviation industry.

## **6. Conclusion**

### **6.1 Summation**

This thesis has provided a theoretical investigation into the scalar nature of social dumping in civil aviation. If social dumping is understood as a strategy that lowers social standards for improved competitiveness driven by companies but involving governments, then NAS's practices of workforce relocation and fragmentation should be considered social dumping (Bernaciak, 2012). NAS uses two different labor strategies in order to perform social dumping. The first strategy is workforce relocation and substitution. Through the use of subsidiaries and employment agencies, NAS has been able to distance itself from its workforce and practice labor substitution within its workforce. Through substitution, NAS has been able to reduce the proportion of its workforce that is based in Scandinavia. This is intended to reduce costs and transfer capital to less expensive locations. Second, NAS has practiced workforce fragmentation through its labor strategies to reduce the costs of their employees and minimize the airline's labor liability. This strategies not only removes responsibility from the parent company, but also employs workers under atypical labor conditions

As such, NAS's labor strategies are social dumping. NAS has lowered the social standards of its employees through fragmentation, relocation and substitution, and has done so with the consent of both the EU and Norway, despite the fact that these labor strategies clearly circumvent Norwegian labor laws. Their intent is to improve their airline's competitiveness in the international civil aviation industry, and this has produced negative results for their employees.

The use of relocation and fragmentation can also be seen as scalar strategies. This thesis provides a scalar framework for social dumping, arguing that social dumping relies on an uneven scalar relationship between the scale of the labor market on the one hand, and the scale of the state and organized labor on the other. Both of NAS's labor strategies can be seen as scalar strategies to help reinforce the uneven scalar relationship between these scales. Through fragmentation, NAS is attempting to either maintain or down-scale the scale of organized labor and the state either cementing the

place of the state and organized labor at the nation-state scale, or attempting to down-scale the scale of organized labor from the regional to the nation-state scale. This practice is exemplified in NAS's attempts to break its Scandinavian pilots and cabin crew into discrete national units instead of allowing them to remain organized on the Scandinavian scale.

In contrast, NAS's relocation practices have been an attempt to upscale its business practices and the scale of the industry's labor market. By expanding its use of non-Scandinavian European aircrews and Thai cabin crews, NAS has been able to up-scale the labor market away from the Scandinavian or nation-state scale, thereby further weakening the influence of either the nation-state or organized labor over NAS's labor practices.

Finally, the case study here provides further evidence that controlling the scale at which a labor dispute occurs is very useful in negotiations. While NAS has been able to proceed with its labor strategy in the EU and Asia, it has been a contested practice, both in the US and in Europe. In the US, NAS's opponents have been able to keep the debate to the nation-state scale, maintaining this scale as the primary scale of the economy and politics, not a regional or global scale. As such, it has been able to maintain an even scalar relationship between the state, the labor market and organized labor, preventing the practice of social dumping. The story is different in Europe, though, as NAS has been able to control the scale of the debate on social dumping. By framing the debate over social dumping the context of the global economy and the pressures that it places on the airline's business practices, NAS has also been able to keep the uneven scalar relationships which permit social dumping by keeping the discussion focused on the global and regional scales.

The argument presented in this paper has been supported through the presentation of the international civil aviation industry today, giving a background in the regulatory practice and bodies, as well as the labor and trade organizations, that make civil aviation what it is today. The thesis delved into the case of Norwegian Air Shuttle, a low fare airline that has been under attack for hiring aircrew in Asia to operate flights in Europe and to the United States. The case study focused on the airline's history, and examines the establishment of NAS's Irish subsidiary Norwegian Air International, the 2014 cabin crew strike, and the 2015 Scandinavian pilot's strike. These three events that exemplify Norwegian's relationship to its employees, the



airline's perspective on labor in civil aviation, and its relationship to the Scandinavian model of social welfare.

## 6.2 Final Thoughts

While this thesis has attempted to be comprehensive, there are some limitations to this thesis. First of all, the focus on Norwegian Air Shuttle has given the analysis presented a particular European and North Atlantic perspective. The role of both Scandinavia and the European Union are investigated to an especially deep level. While North America is also addressed to a significant degree, a deeper investigation of social dumping could also include an analysis of Asia and Australasia.

The theoretical nature of this thesis also prohibited a deeper qualitative investigation into NAS's social dumping practices. A well-rounded qualitative investigation of social dumping should include a variety of in depth interviews with not just labor unions, but trade associations, government departments and business representatives. A deep qualitative investigation into social dumping in civil aviation should also not just focus on aircrews, but also look at the practice of social dumping in ground crews, maintenance, and reservation and customer service employees.

Many interesting issues have come out of this analysis of social dumping, and there are numerous possible topics for further study. First, it would be interesting to analyze forms of international worker recruitment that does not pursue the cheapest workers, but rather workers that fulfill a particular gender and ethnic criteria. Airlines such as Emirates and Qatar Airways have purposefully recruited European aircrews to operate their planes. Most notably, there has been lots of coverage in the media over the employment of young, unmarried females that are then relocated to the United Arab Emirates in order to work from the airlines' bases. These women reside in employee housing provided by the airline, and are expected to follow a code of behavior that, in the West, would be considered inappropriate. These workers are subject to issues that, while not necessarily directly related to wages like the case NAS, are the product of the transient nature of working on an aircraft.

Second, Ryanair would have also been a good case study. A deeper study of Ryanair would allow a more sophisticated analysis of the relationship between the nation-state scale and the regional scale. Ryanair has not yet started to fly transatlantic or to the Middle East, and as such all of their routes are subject to European law. Ryanair has been exceptional in the amount of effort it has put into testing the

boundaries of European employment law in civil aviation, doing its best to create the cheapest labor force it can. A prominent example in Norway is the case of Alessandra Cocca. She was an Italian working for Ryanair at Rygge airport in Norway under an Irish employment contract. According to Ryanair, she was employed in Ireland despite the fact that she was living and working in Norway. This allowed Ryanair not only to pay her less than if she was a Norwegian employee, but also allowed them to fire her on grounds that would not be permissible in Norway.

Third, a broad scalar analysis of social dumping should include a discussion of the local scale. It is apparent that the local scale has become increasingly important for workers as their work becomes less secure and their wages and benefits decrease. The families and the communities of these aircrews have to bear some of the uncertainty and responsibility of the employee. In addition, the community is even further alienated from the problems at hand, as the work place for the employees of the airline are not embedded in the same communities as the workers. Many of the opportunities and relationships that come from having an embedded industry are lost to those communities that have workers that work in transient transportation roles.

Finally, the scope of the investigation into social dumping could be widened to include other geographic regions. Instances of social dumping in civil aviation are also present in Asia and Australia, and it would be interesting to study the similarities and differences in the scalar effect of social dumping outside of the North Atlantic. This would also include a deeper qualitative investigation into the states on the other side of the social dumping equation, such as Thailand. For example, it would be useful to understand how Thai regulators, employers and cabin crew all see the issue of social dumping. It is important to remember that social dumping and scale are not just the products of the capital supplying countries, but the labor-supply countries as well.





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