The Double Standard at Work:
EUROPEAN CORPORATE INVESTMENT AND WORKERS' RIGHTS IN THE AMERICAN SOUTH

Multinational corporations based in Europe have accelerated their foreign direct investment in the Southern states of the United States in the past quarter-century. Some companies honor workers' freedom of association, respect workers' organizing rights and engage in good-faith collective bargaining when workers choose trade union representation. Other firms have interfered with freedom of association, launched aggressive campaigns against employees' organizing attempts and failed to bargain in good faith when workers choose union representation.

In a report soon to be released by the AFL-CIO, international labor law expert Lance Compa examines European companies' choices on workers' rights with documented case studies in several American Southern states. In their home countries, European companies investing in the American South generally respect workers' organizing and bargaining rights. They commit themselves to International Labor Organization core labor standards, Organization for Economic Co-operation and Development Guidelines, UN Guiding Principles, the UN Global Compact, and other international norms on freedom of association and collective bargaining. But they do not always live up to these global standards in their Southern U.S. operations.

Drawn from the forthcoming report, the case documented below of Germany's LSG Sky Chefs provides an example of a company that has followed a lower standard in its operations in the southern states of Texas and Florida where the region's legacy of racial injustice and social inequality open the door to a low-road way of doing business. In this context, companies have a choice and can do better to respect the human rights of their workers. As LSG Sky Chefs' parent company, Lufthansa has the ability and the responsibility to remedy the failure to respect workers' rights that the case study demonstrates. As a signatory to the UN Global Compact, Lufthansa long ago affirmed this commitment.

LSG SKY CHEFS IN DALLAS AND MIAMI

LSG Sky Chefs, the Lufthansa Group and Commitments to Labor Rights

LSG Sky Chefs is one of the world's largest airline catering companies, providing everything from lounge offerings and premium onboard dining to full-tray menus, meals and snacks. The company was earlier a joint enterprise of American Airlines' Sky Chefs and Lufthansa's LSG. The German company acquired the entire business in 2001, creating LSG Sky Chefs, now headquartered near Frankfurt.[115]

Since the 2001 consolidation, LSG Sky Chefs has continued its global expansion with more joint ventures and partnerships throughout Asia and Africa. Today, LSG Sky Chefs employs more than 34,000 workers and provides more than 700 million meals a year at 205 airports in 59 countries. Its annual revenues are more than $3 billion Euros.[116]

LSG Sky Chefs is a subsidiary of the Lufthansa Group, the largest airline in Germany and in Europe. Lufthansa and American Airlines remain two of the company's main catering customers, along with 30 other global, regional and national airlines.[117] In the United States, LSG Sky Chefs is American Airlines' preferred catering partner, supplying AA's flights in dozens of airports, including seven of its biggest hubs. The company also is proud to provide food service to the International Space Station.[118]

As a Lufthansa subsidiary, LSG Sky Chefs is integrated into Lufthansa's corporate responsibility program and Code of Conduct. Lufthansa (and thus LSG Sky Chefs) joined the UN Global Compact in 2002. This means it took on the Global Compact's obligation to comply with ILO core labor standards on freedom of association and collective bargaining. In its latest Sustainability Report, Lufthansa states:

> The Lufthansa Group is a member of the UN Global Compact, Transparency International, the German Network for Business Ethics and of institutions that support individual aspects of human

Local 23 airline catering workers and activists protest at American Airlines headquarters in Dallas. Credit: UNITE HERE

> rights. In this way, the Group explicitly acknowledges its adherence to the respective standards and, implicitly, its respect for human rights….As a signatory to the UN Global Compact, Lufthansa has documented its support for freedom of association and the right to collective bargaining for all of its employees worldwide. Employees in any country where Lufthansa companies are active are free to lawfully organize themselves and become involved in defining their working conditions.[119]

In its Code of Conduct, the Lufthansa Group declares:

> In all our actions, we ensure that we act in accordance with human rights, the principles of the UN Global Compact, and recognized international labor and social standards….We adhere to the right of free assembly, freedom of association, and collective bargaining, as well as the relevant regulations to ensure fair working conditions.[120]

LSG Sky Chefs in the United States—and Bargaining Under the RLA

LSG Sky Chefs employs more than 10,000 workers in airports in 36 cities around the United States, making it the largest airline catering company in the country. Major centers include international airports in Chicago, Dallas, Los Angeles, Miami, New York, San Francisco, Seattle and Washington, D.C. U.S. operations account for 40% of LSG Sky Chefs' business worldwide.

Most of the workers are minorities and immigrants who labor in difficult conditions, preparing and packing meals in hot kitchens and storing them in cold rooms; handling heavy weights with the large volume of food and drinks, and delivering them to planes on airport tarmacs. Despite record profits in the U.S. aviation industry and record profits for Sky Chefs' parent company, Lufthansa, LSG Sky Chefs has failed to provide the economic increases necessary to end poverty for its employees, nor has it provided affordable health care for its employees.[121]

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LSG Sky Chefs and its employees are covered by the Railway Labor Act, a specialized labor law regulating industrial relations in the railroad and airline sectors. Congress adopted the RLA in 1926, almost a decade before the National Labor Relations Act, which governs labor relations in the rest of private industry.

As seen in other case studies in this report, the NLRA envisions single "bargaining units" at different facilities of the same company. Under the NLRA's enterprise-based system, different unions often represent workers at different company locations. Each union bargains for its own collective agreement with the employer at that particular location.

In contrast, the RLA establishes nationwide bargaining units within each company in the railroad and airline sectors. A single trade union represents all workers employed by the company in the United States. Under the RLA system, LSG Sky Chefs employees are represented by UNITE HERE, the principal American union in the hotel, restaurant and food services sector. The union and the company bargain for a national collective agreement on terms and conditions covering all employees. Then local wage bargaining takes place within the framework of the national agreement.

Distinct from most other case studies in this report, LSG Sky Chefs workers organized their union decades ago, when the company was owned by American Airlines. In the 1990s, UNITE HERE became the union at the joint American-Lufthansa business, and is now the union for Lufthansa's wholly owned and managed LSG Sky Chefs.

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Lufthansa and LSG Sky Chefs accept workers' choice of the UNITE HERE union and its representational role. Unlike other cases, this report does not recount "union-busting" by the company, such as efforts to undermine and destroy the union, or to refuse to bargain in good faith. Indeed, LSG Sky Chefs and UNITE HERE have reached successive collective bargaining agreements for many years.

Reaching agreements does not mean that LSG Sky Chefs and UNITE HERE enjoy a healthy collective bargaining relationship. A fundamental flaw in the Railway Labor Act blocks it: the RLA significantly limits workers' right to strike.

The National Labor Relations Act guarantees the right to strike for a new collective agreement. But the Railway Labor Act forces workers and their union into a labyrinth of mandatory mediation overseen by the National Mediation Board, the government agency that administers the RLA. Unions cannot exercise the right to strike without the NMB's "release," as the law requires. There is no set time limit for the mediation process, and often it takes years. Then, even if release is granted, the president can declare a national emergency and force workers back to their jobs while a board appointed by the president investigates the dispute and reports to the president.

National Bargaining—But Taking Advantage of Conditions in the U.S. South

LSG Sky Chefs and UNITE HERE bargain for a national collective agreement on most terms and conditions of employment. Wages at each location are set at each kitchen facility through local bargaining.

Conditions in the Southern states where LSG Sky Chefs operates give rise to significant disparities in wages. Average pay for the 3,500 workers in Southern state airports is $12 per hour, with starting pay as low as $8.40/hour. In locations outside the South, wages for 7,100 LSG Sky Chefs workers average almost $15 per hour.

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Minimum wages are as low as $8.40/hour in American Airlines' Charlotte, North Carolina, hub, $8.80 in Orlando, Florida, and even in Dallas—American Airlines' headquarters city—wages are as low as $9.85/hour.

These low wages, not surprisingly, lead to high turnover, about 47% annually. But there are many workers who have remained in these jobs for decades, reflecting the fact that airline catering jobs were not always so bad, before the U.S.-based airlines used their power to drive wages down for their suppliers.

The low average wage of $12.48/hour in Dallas is despite the fact that workers there average eight years on the job. Even in Charlotte and Orlando, where workers have spent an average of more than five years, average wages barely top $10.

In fact, for workers who have spent decades at the company, the situation is even more bleak. Again, picking American Airlines' most profitable hub, Dallas, the average wage for the 140 workers who have worked there for more than 20 years is only $14.82/hour.

One key factor in the North-South wage disparity for LSG Sky Chefs employees is the difference in regulatory regimes. Regional and municipal authorities in many Northern cities have adopted "living wage" policies for airport employees. UNITE HERE and other trade unions have mobilized support for such measures, finding allies among social justice advocates in their communities and among elected officials responsive to workers' concerns.

Living wage regulations have a public policy purpose. Decent jobs for airport workers reduce staff turnover and improve workers' sense of well-being and being respected for their work. The result is higher levels of service for travelers and enhanced reputations for airports, which are important economic hubs for the cities and regions they serve. Lower turnover at airports also enhances security, and higher wages make it less likely that workers and their families will have to rely on public benefits.

In several Northern airports where LSG Sky Chefs operates, public authorities have adopted living wage measures. For example:

- At the end of 2018, the Port Authority of New York and New Jersey adopted a minimum wage policy that will bring the wages for airport workers at JFK, Newark and LaGuardia airports to $19/hour over the next four years.
- Los Angeles has set a minimum wage for airport workers of $15.25/hour as of July 2019, not including an additional $5/hour for health benefits.
- As of July 1, 2018, the minimum wage for airline catering workers in San Francisco is $17.50, with annual increases in future years based on the cost-of-living index.

In contrast to successful living-wage gains for airport workers in other parts of the United States, every Southern state blocks such local lawmaking. These “pre-emption” laws enacted by business-dominated Southern state legislatures prohibit local governments and airport authorities from adopting living wage policies. They must conform to the state-wide minimum wage, which in most Southern states rests on the federal minimum wage of $7.25 per hour.[122]

In Florida, Miami-Dade County authorities adopted a living wage ordinance for airport workers many years ago. LSG Sky Chefs has disputed the application of the requirement and has paid less than the set wage for many years.

In January 2017, based on a review of company payroll records, the Miami-Dade Aviation Department said, “LSG Sky Chefs has been in non-compliance with the living wage since 2006.”[123] LSG Sky Chefs responded to the airport authority by saying the company had joined a lawsuit to block enforcement of the living wage law and insisting that state law “pre-empts application of the LWO to LSG…[the LWO is] an ordinance we continue to believe is pre-empted by State law.”[124]

Texas is another Southern state that blocks local initiatives to raise workers’ wages.[125] The nearly 900 LSG Sky Chefs employees at Dallas/Fort Worth International Airport average $12.48 per hour. The lowest wage is $9.85 per hour; the median is $11.35 per hour. LSG Sky Chefs workers spoke about the challenges they face, not only in terms of pay, but also the harsh working conditions under which they labor.

Leticia Gomez has worked for LSG Sky Chefs for 22 years in Dallas. Her base pay is $12.71 per hour. Based on a standard 40-hour workweek, her annual pay is $26,437. She is a single parent with three children. The official federal poverty level income for a family of four in 2019 is $25,100. That is, after 22 years with this large multinational company, Leticia Gomez’ pay is only slightly higher than a poverty-level wage. “I’m not sure I will ever be able to retire,” Gomez said. “A lot of people at Sky Chefs retire and then come back.”[126]

“I make more with overtime,” Gomez said, “but this means time away from home and time away from my teenage children.” According to Gomez, many employees work double shifts several days a week, putting in 70–80 hours a week on the job. Many others work a second job with another employer, she said. “It’s a big safety concern,” she said. “You’ve got drivers taking food to the planes and kitchen employees in hot and cold conditions, and a lot of them are tired from overwork. It can be very unsafe.”

Preston Strickland has worked for LSG Sky Chefs in Dallas for what he calls “five cold years.” He works in cold storage areas. “Even with the gloves they give me, my fingers freeze,” he said. “I pay out of my own pocket for a warmer cold suit and boots, but warmer gloves would be too bulky for the job.”

Strickland starts his work shift at 5 a.m. His salary is $11.35 per hour. Annualized for a standard 40-hour work week, this amounts to $23,608. “I work as much overtime as I can, a couple hours more each day, usually six days a week,” he said. “For three months I worked seven days a week. But I still can’t afford the health insurance and I can’t afford to contribute to the 401(k) plan,” he said.[127] On and off for the last four years, despite working full time, Preston has been homeless and living in a shelter.

Pham Lam Ngoc started working for LSG Sky Chefs 35 years ago. Now 62 years old, he works in the Equipment/Utility Department making $13.50 per hour. He works the day shift, assembling and pushing carts for loading onto trucks and onto the aircraft. “We used to have two buildings,” he said, “but now we are all crowded into one building. It’s very crowded; we worry about safety.”

Preston Strickland, LSG Sky Chefs in Dallas

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"Last year Sky Chefs changed shifts from eight hours a day to 10," Ngoc said. "I push a thousand carts a day on these 10-hour shifts. The carts are overloaded now, the work is a lot heavier and harder."

Ngoc said, "I have to pay $130 a week for health insurance for me and my wife. Then we have to pay $1,500 before the insurance starts paying. I can't afford to put money into the 401(k) plan."

The problems of poverty wages and unaffordable health coverage go hand in hand. The company health plan costs anywhere from $100 to $200/month for the employee only, or $475 to $500 for family coverage. Thus, in Dallas, only 26% of the employees buy the company's health insurance plan for themselves, and only 8% buy the insurance for their children. In Miami, only 15% of the employees buy the health insurance for themselves, and only 2% of the workers buy coverage for their children.[128]

As this report goes to press, negotiations between UNITE HERE and LSG Sky Chefs are continuing under the auspices of the National Mediation Board. Union members voted in June 2019 in favor of a strike authorization if they cannot reach an agreement with the company through mediation. But under the RLA, the specialized labor law for the railroad and airline industries, their hands are tied. They cannot exercise the right to strike without a "release" from the NMB. So far, the board has not made a determination about release.[129]