

# **DOWNLOAD BEYOND OPEN SKIES A NEW REGIME FOR INTERNATIONAL AVIATION AVIATION LAW AND POLICY SERIES**

**Vera McCormick**

## **Beyond Open Skies A New Regime For International Aviation Aviation Law And Policy Series Introduction**

### **Beyond Open Skies**

'Beyond Open Skies' offers a systematic comparative analysis of the legal and policy dimensions of airline deregulation by federal fiat in the United States and by supranational collaboration in the European Union. The book draws upon a variety of sources, including very recent developments in U.S. and EC international aviation law, policy, and diplomacy, to propose a genuine multilateral air transport system. It examines the potential of the 'open skies' initiative, in the aftermath of the new U.S./EC air transport agreement, to inspire a genuine globalization of the world's air transport industry in such crucial aspects as the following: cabotage; ownership and citizenship requirements; route selection; airline identity; capacity; pricing regimes; competition and public aid; regulatory harmonization; labor laws; provisions for charter and/or cargo transportation; fair operation of and access to computer reservations systems; authorization of code-sharing arrangements; alliances and antitrust immunity; and dispute resolution.

### **The Principles and Practice of International Aviation Law**

This book provides an introduction to, and demystification of, the private and public dimensions of international aviation law. The air transport industry is not governed by a discrete area of the law but rather by a series of disparate transnational regulatory instruments. By combining classical doctrinal analysis with insights from newer disciplines such as international relations and economics, the book maps international aviation law's complex terrain for new and veteran observers alike.

### **International and EU Aviation Law**

This book offers an extraordinary wealth of information, from the ground up, of the law governing and regulating air transport today, with a strong emphasis on international aviation. A team of distinguished authors in the field of aviation law provide a cogent synthesis from which sound legal opinions and strategies of legal action may be confidently built. Among the many topics here in depth are the following: definition and classification of airspace; distinction between civil and state aircraft; air navigation and air traffic control services; airport charges and overflight charges; structure of ICAO; standard-setting functions and audit functions of ICAO; functions of the International Air Transport Association (IATA); policy and effects of deregulation and liberalization of air transport policy; the International Registry for Aircraft Equipment; air carrier liability regimes and claims procedure; measures to combat aviation terrorism, air piracy and sabotage; and the Open Skies Agreements. This publication cites significant legislation and court rulings, including from the United States and the European Union, where far-reaching measures on market access, competition and passenger rights have set trends for other regions of the world. The special case of Latin America has a chapter to itself. At a time when commercial aircraft have been used as lethal weapons for the

first time, aviation law finds itself in the front line of responsibility for maintaining global aviation security.

## **Behind and Beyond the Chicago Convention**

**Behind and Beyond the Chicago Convention The Evolution of Aerial Sovereignty** Edited by Pablo Mendes de Leon & Niall Buissing The Convention on International Civil Aviation which was concluded in Chicago on 7 December 1944, commonly referred to as the Chicago Convention, is one of the most ratified multilateral agreements currently in force, with 193 States parties. In this deeply informative book celebrating its 75th birthday, thirty-three of the most distinguished authors in aviation law offer perspectives on the quality of the Convention's achievements, which principally address the promotion of safety and security. Emphasising the Convention's flexibility in the accommodation of social and technological changes, the authors investigate such topics and issues as the following: environmental protection measures such as abatement of noise and reduction of the damaging effects of gaseous emissions; effect of new methods of communication such as Global Navigation Satellite Systems (GNSS); distinction between civil and State aircraft; economic regulation as established under air services agreements between States; cybersecurity measures; compensation for damages; liberalisation of air services; role of regional aviation organisations, in particular, that of the European Union; position of airlines, airports, and providers of air navigation services; and territorial jurisdiction with respect to areas lacking a universally accepted sovereign status. Annexes include the original texts of the Paris Convention 1919 and the Chicago Convention 1944. With its incisive perceptions put forward by distinguished aviation lawyers – including an exploration of the absolute character of sovereignty – this book is without peer in its analysis of how the Chicago Convention affects the regulation of international civil aviation and the operation of air services. Its multifaceted approach towards the current state of affairs from a legal and policy perspective will be welcomed by practitioners and law firms in the field and civil aviation authorities, as well as by academics and business persons with a stake in aviation.

## **National Interest and International Aviation**

Many of the problems and opportunities facing society today are determined by issues of mobility. Access to people, products, information and resources has emerged as a priority in the foreign policies of most states. Inevitably, considerations of national interest have played a central role in the structure and operations of the international aviation system. Meanwhile, air transport has been a catalyst for the phenomenon of globalization. This first in-depth exploration of the vital relationship between aviation policy and national interest in today's global economy focuses on those areas of concern where the international community has common ground or where conflicts of interest are most likely to arise. Revealing deeply informed perspectives gained from decades of distinguished public service in many areas of aviation policy, Erwin von den Steinen reviews the rules that govern the conduct of commercial air services between nations and considers the prospects of aviation in the 21st Century. He explains how timely understanding of national interest can provide a context for global and local policy to connect, and why the international aviation system is vital for the peaceful and sustainable development of modern states and societies. With such insights and powerful, practical recommendations, von den Steinens analysis will be of enormous value to those concerned with air transport, from technical research and design to the highest levels of government, as well as to lawyers and academics in international law and relations. and\u0093a tour of the major issues in international aviation law and policy under the guidance of an authentic homme engageand Ultimately, this book is the work of someone who deeply appreciates the aviation industry both at its technical level, that of its often-frustrating machinations of law and policy, and also at the emotional level of a special business that exemplifies freedom and imagination like few others do.and\u0094 Brian F. Havel and\u0093The Introduction has one of the best free flowing leads to a book detailing the politics of aviation and diplomacy I have come acrossand . I commend this book to lawyers, diplomats and students of aero-politics and lawand . I would prescribe this book to my graduate students as compulsory reading for their course in Aero-political and legal Environment.and\u0094 Dr Ruwantissa Abeyratne

## **Law and Policy of Substantial Ownership and Effective Control of Airlines**

The principle of airline substantial ownership and effective control is one of the biggest impediments to the air transport industry growth. Legitimately included in the bilateral agreements since 1946 for national security reasons, States have maintained the principle over the years and used it as a protectionist tool, as well as a bargaining chip. Today, considering that liberalization and globalization concepts are already well-established in the biggest industrial sectors, and a large number of cross-border investments occurs in most of the service sectors through mergers and acquisitions, the time is ripe to remove national restrictions on foreign investments from the airline industry. This comprehensive book identifies those factors that still justify the imposition of national ownership restrictions on airlines and examines the prospects for change in the current policies and regulatory regimes that support them. The readership includes specialists in government departments of transportation, civil aviation authorities and agencies, international organizations, airline executives concerned with general management, economic, legal and public affairs, aviation lawyers, airline pilot associations, law schools concerned with international aviation law.

## **European Aviation Law**

Once a byword for the economic power of national government - with competition strictly regulated - European commercial aviation has now virtually become a market without state-imposed anticompetitive restrictions. Although intended to enhance competition, this situation has in fact driven airlines to form massive global alliances cartels that offer ever-shrinking benefits to the consumer. In this extraordinarily thorough, blow-by-blow analysis of how this happened ? or was allowed to happen ? one of the world?s most eminent aviation law authorities explores the subject with a lucid insight fully informed by historical breadth and a keen appreciation of current pressures. Commercial aviation emerges as the crucible par excellence of the convergence of prevailing global ideology, economics, and international law. Among the numerous interrelated topics investigated in depth by Professor Dempsey, the following may be mentioned: the principal actors, including scores of airlines, the European Union, and a number of air transport associations; the labyrinth of bilateral air transport agreements; the relevance of the Treaty of Rome?s competition rules and the EU merger regulations to air transport; the important Court of Justice cases that circumscribed the zone of application in which the competition rules can regulate air transport: *French Seamen?s Case*, *Transport Policy Decision*, *Olympic Airway*, *Nouvelles Fronti?res*, *Ahmed Saeed*, and the 2002 `Open Skies? Decision; the 1991 U.S.-EC agreement regarding the application of competition laws; the sequence of EU aviation regulatory `packages?; regulation of non-economic issues (air traffic congestion, noise limitations, air carrier liability, civil aviation accident/incident investigations, denied boarding compensation); the effect of the U.S. government?s increasing invocation of antitrust immunity; computer reservation systems (especially code-sharing procedures); jointly-owned web sites for ticket sales and other e-commerce joint ventures; frequent flyer program alliances; and the emergence of global megacarriers. The author?s presentation emphasizes the regulatory constructs that currently affect the European air transport market: pricing and tariffs, pooling of revenue, market access (licensing, capacity limits, traffic rights, slot allocation), ground handlings, cargo services, state aid, and the power of the EU to act on the commercial aviation world stage for Member States. Each of these areas of analysis begins with an overview of the general regulatory environment for that area followed by a detailed chronological delineation of relevant packages, proposals, resolutions, and regulations. Because of the enormous role played by international air transport with respect to gross national product, employment, and energy consumption, European Aviation Law is of great importance not only to European lawyers but to officials, policymakers, practitioners, and academics in a number of relevant fields worldwide.

## **Cross-border Provision of Air Navigation Services with Specific Reference to Europe**

The tremendous flow of air traffic traversing the airspace of the European Union demands extraordinary vigilance on the part of air navigation service providers. Although the first requirement of air navigation services is obviously the enhancement of safety, providers must also attend to the efficiency and optimisation of airspace capacity and the minimisation of air traffic delays. As technological and operational

improvements proceed in these areas, jurisdictional issues of responsibility and liability--particularly in cases of mid-air collisions--become ever sharper and more in need of precise definition. This detailed and insightful exposition focuses on these issues from three overlapping perspectives: the international and European legal framework dealing with air navigation services, the question of state responsibility, and the question of liability for damage inflicted by air navigation service providers. The author's in-depth analysis includes examination of many elements, among them the following: \* the interrelated roles of the International Civil Aviation Organization (ICAO), the European Civil Aviation Conference (ECAC), the European Organisation for the Safety of Air Navigation (EUROCONTROL), the European Community's European Aviation Safety Agency (EASA), and other international bodies; \* the Single European Sky initiative, its establishment of Functional Airspace Blocks (FUAs), and its ongoing research program (SESAR); \* establishment of transparent lines of state responsibility in the context of cross-border provision of air navigation services; and prospects for the imposition of a transparent liability regime on corporatized air navigation service providers. In conclusion, the author enumerates the essential elements required for cross-border provision of air navigation services and offers well-thought-out final recommendations and conclusions on the most preferable way to pursue such cross-border provision within and outside the European Community. A model agreement for the delegation of air navigation service provision appears as an appendix. All professionals concerned with air navigation, in Europe and elsewhere, will appreciate the depth of knowledge and commitment apparent in this book. The deeply informed insights manifest in its pages will be of enormous value to aviation agency officials and air law practitioners everywhere.

## **Economic and Environmental Regulation of International Aviation**

The core structure of the regulatory regime for international civil aviation (the 'Chicago System') is inter-national. The features of the Chicago System were designed in an era when the world's airlines were State-owned, and the most pressing international concerns were for navigation and safety regulation. Economic liberalization and intense globalization since the Second World War have impacted on the industry; today, it is global. This book observes the developing governance of global aviation, taking into account the concepts of sovereignty, jurisdiction and territoriality, and the proliferation of actors and participants as partners in a global public policy network, to posit that an upgraded system of global governance for civil aviation helps to explain the emerging complex landscape for global governance of civil aviation. As evidence of the emerging, complex matrix of governance of global aviation, this book identifies and reviews a selection of contemporary, transnational economic and environmental challenges facing the globalized aviation sector, e.g. fair competition safeguards, consumer protection, noise pollution and greenhouse gas emissions, and the respective 'legal' and policy actions taken at national level (United Arab Emirates, Qatar and People's Republic of China), regional level (the European Union) and international level (UN Framework Convention on Climate Change and International Civil Aviation Organization). The book concludes that economic and environmental regulation of international aviation, designed for an inter-national world of yesterday, evolves into global governance of aviation, which is more suited for today's global world. This book will be of particular interest to scholars and practitioners of aviation law, competition law and environmental law, as well as in the areas of transnational law, global governance and international relations.

## **Principles and Practices in Air Transport Regulation**

This comprehensive book is an advanced course in international public air law and policy written by one of the world's experts in the field. Professor Wassenbergh offers cogent suggestions for the future of international air law and analyzes the latest political and legal developments that are affecting the industry, such as international negotiations on the exchange of route and air traffic rights between countries and groups of countries, the recent liberalization of air transport in Europe, the U.S.'s \"open skies\" policy, and the increase in inter-carrier cooperation as privatization has intensified. This legal guide is invaluable to everyone involved in the development of the international aviation industry.

## **Elgar Concise Encyclopedia of Aviation Law**

The Elgar Concise Encyclopedia of Aviation Law provides a comprehensive overview of the evolution of the dynamic field of aviation law. Curated by two internationally recognized scholars in the field, entries are written by a wealth of specialist academics, legal experts, practitioners, and representatives of global institutions.

## **Routledge Handbook of Public Aviation Law**

The Routledge Handbook of Public Aviation Law is the first book to incorporate a comprehensive analysis of Public Aviation Law – principally international, but also domestic law in a comparative context – in a single volume. International Law is pervasive in Aviation Law, and is incorporated into a number of major multilateral treaties (e.g., the Chicago Convention of 1944, for Public International Air Law). This is supplemented by various Annexes (promulgated by the International Civil Aviation Organization) and Conventions and Protocols (promulgated by States in diplomatic conferences). States then implement these international obligations in domestic laws that create aviation regulatory administrations that, in turn, promulgate regulations. Bringing together leading scholars in the field, this prestigious reference work provides a comprehensive and comparative overview of Public Aviation Law. It surveys the state of the discipline including contemporary and emerging areas of law, regulation, and public policy in air transportation. Each chapter begins with an overview of the international law applicable to the subject matter, followed, where appropriate, by a comparative examination of domestic statutes, regulations, and jurisprudence. The objective of the book is to identify and summarize existing areas within the context of international research, and to identify and highlight emerging areas. Both practical and theoretical in scope, the Routledge Handbook of Public Aviation Law will be of great relevance to scholars, researchers, lawyers, and policy makers with an interest in aviation law.

## **The Multi-level Governance of Space Mining**

Aerospace Law and Policy Series, Volume 24 Space mining holds the potential to revolutionize the space sector, but whether this revolution will be for good or for worse depends on how it will be governed. Under the right framework, space resource activities can enable a new era of prosperous and sustainable space exploration. But with the wrong rules (or lack thereof), they have the potential to destabilize the peaceful and cooperative uses of space. This book provides an in-depth analysis of how the systemic nature of international law, existing provisions of international space law and a growing number of national legislations are shaping the multi-level governance of space mining, including an unprecedented assessment of possible adjudication and enforcement options. The author investigates the multi-level framework of space law provision by provision, foregrounding relevant implications for the governance of space mining. Questions addressed include the following: Which national and international provisions govern the conduct of space resource activities? Are these provisions sufficient, and can they be enforced? How can we evolve the existing framework to govern large-scale, long-term space resource activities? What practical lessons can be learnt from comparable regulatory regimes governing the sea, telecommunications and Antarctica? The author moves from general to particular, beginning with the status of international law as a legal order and ending with the specific options available for enforcing norms applicable to space mining. The book concludes by evaluating the tenure of the current governance system and proposing three pragmatic correctives to stabilize it in the short, medium, and long term. Professionals and academics involved or interested in space mining will find this book indispensable. It will provide them with a full and clear picture of the regulatory status quo, as well as with expert advice on how to navigate the complex dynamics of contemporary policymaking efforts in this area. Space mining operators can further use this book to understand the implications of domestic and international provisions applicable to their activities. Finally, regulators and policymakers can leverage the analysis conducted in this book to identify the key aspects to be addressed for the safe, sustainable, rational and peaceful conduct of space resource activities in accordance with international law and as the province of all humankind.

## **International Air Carrier Liability**

International Air Carrier Liability brings together essential treaties and airline-to-airline agreements on air carrier liability, safety and security, and supplements these with expert commentary and analysis. The examination considers the general regulatory framework of international civil aviation (including the Chicago Convention and related documents) and how the liability regime fits within that framework. The book is divided into three parts: dealing in turn with liability, safety and security, and civil aviation regulation. Part I, for example, provides comment and analysis of the international air-carrier liability regime, how the main liability conventions operate, and the application of these conventions to international carriage by air (passengers, baggage and cargo). Given its subject matter and the universal state party participation in these conventions, this book has truly global application. David Hodgkinson and Rebecca Johnston aim to provide a reference aid for legal practitioners (at law firms, airlines, manufacturers, aviation-related corporations and government departments and agencies), as well as academics, students (undergraduate and post graduate) and government officials regarding treaties, domestic laws and documents concerned with these vital legal issues.

## **Introduction to Air Law**

The world of aviation has moved on rapidly since the appearance of the ninth edition of this pre-eminent resource five years ago. Those developments pertain to market access and market behaviour by air carriers, including competition, new perceptions of safety and security, among others, in relation to transparency of accident investigation and cybersecurity, case law in the area of airline liability, with new cases from the United States, product liability and insurance, the United Kingdom, and elsewhere, the growing importance of environmental concerns, the rights and obligations of passengers, also in the context of ‘unruly’ passengers, and innovative methods for financing aircraft. Special attention has been paid in this edition to regional integration movements, especially in Europe, affecting the mentioned subjects. The book’s extensive references to other sources in the field have been expanded and updated by the author and experts in specialised areas. The present edition addresses the following topics: the regulatory framework governing the operation of air services, including the principle of sovereignty in national airspace; the distinction between State and civil aircraft; dispute settlement in international civil aviation; economic regulation of international air transport services, including the establishment of air services agreements; inter-airline cooperation in the context of competition law regimes; liability of the various service providers, in particular airlines, and related insurance coverage; the promotion of safety standards; criminal acts affecting the safety of aviation; the role of international and regional organisations with particular reference to that of the European Union; liability of the aircraft manufacturer for equipment; and financial and security interests in mobile equipment. The many practitioners, officials, business people, and academics with a professional interest in aviation law will appreciate this new edition as one of the fundamental works in the field, and newcomers will discover an incomparable resource. This eleventh edition is ready to be of unmatched service to any practising member of the air law community anywhere in the world.

## **Progressive Commercialization of Airline Governance Culture**

Progressive Commercialization of Airline Governance Culture analyzes the transition of the airline sector from the not-for-profit nation-bound public utility model towards a profit-oriented globalized industry. It illustrates how legal, political, historical and cultural factors have shaped the corporate governance in the airline sector, and describes how these factors influence economic decisions and performance. The unique feature of the book is that the subject is consequentially discussed from the perspective of airline governance culture. This approach links the examination of legal and policy factors which influence airline activities together with a discussion of economic issues, all within one clear, coherent and comprehensive framework.

## **Air Law and Policy**

"Air Law and Policy" addresses cutting-edge issues in aviation through the interpretation of provisions of

the Convention on International Civil Aviation signed at Chicago on 7 December 1944. Among the issues legally analysed are sovereignty in air space, the distinct status and functions of civil and state aircraft, competition in air transport and current trends in facilitation and security. It also examines the various nuances of language used in the Chicago Convention while addressing key issues that spring up with the application of the convention. The status of the International Civil Aviation Organization, the relevance to the organization's work of crises such as SARS, avian flu and third-party war risk insurance as well as issues with regard to the liberalization of air transport and E-ticketing are some subjects discussed. There is also a discussion on the proposed open skies dialogue between Europe and the United States and competition in air transport. Finally certain fields of space law as they impact air law and policy, such as space tourism, suborbital flights and the provision of air navigation services through satellite networks are discussed.

## **International commercial aviation : from foreign policy to trade in services**

This book addresses emerging legal and economic issues in competition and investment in air transport, against the backdrop of the role governments and airlines should play in avoiding protectionism and encouraging innovation and creativity. It evaluates current trends in air transport and the direction the industry is taking in the twenty first century. There are discussions on key aspects of air transport, such as safety assurance and environmental protection, as they are impacted by competition. The rapid evolution of aerospace transport and its effect on competition in air transport is also examined. A recurring theme of the book is the influence of creative destruction and disruptive innovation on air transport. This is addressed through an in-depth study of the contentious areas of law relating to the abuse of dominant positions and state aid, as reflected in the ongoing claim by the three largest US carriers against Gulf carriers such as Emirates Airlines, Etihad and Qatar Airways. The US carriers claim that Emirates and Etihad – which operate air services into the United States by virtue of an open-skies agreement between the US and The United Arab Emirates - are using generous subsidies given to them by their governments to illegally capture the “legitimate” market belonging to the US carriers. These issues are clarified in the book using analyses of competition law and investment law as they apply to air transport, free-trade-agreement analogies and an open-skies case study.

## **Competition and Investment in Air Transport**

Harmonising Regulatory and Antitrust Regimes for International Air Transport addresses the timely and problematic issue of lack of uniformity in legal standards for international civil aviation. The book focuses on discrepancies within the regulatory and antitrust framework, comprehensively reveals the major legal limitations and conflicts, and presents possible solutions thereto. It discusses possible strategies for multilateralisation and defragmentation of air law, and for international harmonisation of airline economic regulation with fair competition standards. This discussion extends to competition between air transport law and other legal regimes as well as to specific regulatory problems related to air transport. The unique feature of the book is that it reconciles distinct perspectives on these issues presented by renowned aviation and aerospace experts who represent the world's key air transport markets and air law academic centres. By providing unbiased solutions that could serve as a base for future international arrangements, this book will be invaluable for aviation professionals, as well as students and scholars with an interest in air law, economic regulation, antitrust studies, international relations, transportation policy and airline management.

## **Harmonising Regulatory and Antitrust Regimes for International Air Transport**

La Comisión de Derecho Internacional (CDI) es un organismo creado por la Asamblea General de las Naciones Unidas en 1947 con el objetivo de codificar y promocionar el Derecho internacional. Su trabajo ha sido fundamental en la adopción de diversos tratados u otros instrumentos internacionales, como la Convención de Viena sobre el Derecho de los Tratados o la Corte Penal Internacional, sobre la que emitió una primera propuesta ya en 1949. Los informes anuales de la Comisión de Derecho Internacional están disponibles desde 1978. La Comisión de Derecho Internacional y su obra Disponible en Volúmenes I y II.

## **Anuario de la Comisión de Derecho Internacional 2015, Vol. II Parte 1**

Aerospace Law and Policy Series, Volume 11 In recent years, few industries have grown so prodigiously as that of unmanned aircraft systems (UAS) and, as a result, developments in national, regional, and international law and policy are being initiated and implemented. This new edition of the definitive survey and guide, first published in 2016, reflects the expansion of this sector and the importance placed on it by a diverse range of stakeholders, as well as the enlarged regulatory and policy landscape. In addition to updating many of the original chapters, the second edition covers new topics and moves away from a purely introductory book to a more detailed and critical compendium. Authorship has also been extended beyond the original scope of contributors, which originally centred around those affiliated with Leiden University's Institute of Air and Space Law, and now includes additional experts from all around the world, each of whom explores both already existing rules and proposals coming from national, regional and international levels. As well as broadened discussions on such fundamental legal issues as insurance, financing, liability, accidents investigation, privacy, cyber security, stakeholder organisations and industry standards, the second edition takes into account major recent developments in such areas as the following: applicability and relevance of international regulatory instruments; coming into force of the European Union UAS-related laws; evolution of different States' national law; public safety (e.g., design, production, operation and maintenance); development of unmanned traffic management systems; commercial operations, including urban air mobility (e.g., flying taxis, cargo delivery, high-altitude activities); and developments in defence and security (e.g., dual-use, counter-UAS industry to combat illegal use). As in the first edition, a representative cross section of national laws is included, covering twenty-one different jurisdictions. This fully updated edition not only synthesises and clarifies the complex body of international, regional and national UAS-related law, but also provides expert insight into trends and areas of concern for numerous stakeholders. Without a doubt, it will be of immeasurable value to lawyers, relevant governmental and non-governmental agencies, aviation law scholars, and strategic planners in the wider aviation and transport industries.

### **The Law of Unmanned Aircraft Systems**

This book, the first to cover the SES in depth, presents unparalleled insight into a versatile and complex undertaking which will determine the future of air traffic management in Europe. Its chapters analyse the progress as well as the shortcomings and setbacks encountered in the implementation of the SES policy objectives. With forward-looking contributions from over forty well-known experts working in virtually every arena of aviation, from airports and airlines to regulatory agencies and air law practice and scholarship, the book thoroughly explains what has been achieved so far, not only in theory but in fact.

### **Achieving the Single European Sky**

The International Law Commission was established in 1947 with a view to carrying out the responsibility of the General Assembly, under article 13(1)(a) of the Charter of the United Nations, to 'initiate studies and make recommendations for the purpose of ... encouraging the progressive development of international law and its codification.' Since its first session in 1949, the Commission has considered a wide-range of topics of international law and made a number of proposals for its codification and progressive development, some of which have served as the basis for the subsequent adoption of major multilateral treaties. The Yearbook of the International Law Commission contains the official records of the Commission and is an indispensable tool for the preservation of the legislative history of the documents emanating from the Commission, as well as for the teaching, study, dissemination and wider appreciation of the efforts undertaken by the Commission in the progressive development of international law and its codification. Volume II (Part One) reproduces the edited versions of the official documents considered by the Commission at the respective annual session.



## **Yearbook of the International Law Commission 2015, Vol. II, Part 1**

Aviation Law and Policy Series # 19 The incursion of unmanned aircraft systems (UAS) is radically reshaping the future of international civil aviation. As the civil uses of UAS increase and the technology matures in parallel, questions around the associated legal implications remain unanswered, even in such fundamental legal regimes of international civil aviation as airspace, aircraft, international air navigation, international air transport, and safety. This book – the first to consider international law and regulations to cross-border civil flights of UAS – explores current legal and regulatory frameworks from the perspective of how they may facilitate the operations of UAS. The author, a well-known air law practitioner and diplomat, identifies the legal challenges and proposes sound, well-informed measures to tackle those challenges. The book explores comprehensively the means of incorporating UAS within the arena of air law while stimulating further research and debate on the topic. Analysis of the cross-border operations of UAS focuses on aspects relevant to their immediate future, and address such questions as the following: What processes are currently in place? What factors require attention? What aspects particularly influence the future of UAS? Is the current international legal framework adequate to ensure the operation and development of UAS while preserving high levels of safety? How will artificial intelligence impact the civil operations of UAS? The author's analyses draw on relevant initiatives in existing and proposed Standards and Recommended Practices for the operation of UAS on cross-border flights, as well as States' regulation of UAS within their national airspace. Also described are the main bilateral and multilateral air services and transport agreements with respect to their application to the operation of UAS. Given the escalating need to adopt a comprehensive international regulatory framework for the operation of UAS aimed at facilitating its safe and efficient integration – even as the technology advances and continues to outpace law while the potential for incidents involving UAS grows – this book is well timed to meet the challenge for States and International Civil Aviation Organization and airspace planners. Its innovative approaches to the management of the air traffic safety and security of UAS are sure to influence the development of regulations for civil UAS. The book will be welcomed by aviation regulators, interested international and regional organisations, research organisations, aviation lawyers, and academics in international law and air law.

### **The International Civil Operations of Unmanned Aircraft Systems under Air Law**

"Fundamentals of International Aviation Law and Policy offers students a systematic, tailored and dynamic approach to understanding the legal scenario concerning international civil aviation. The book dynamically covers the major areas of international aviation law, and provides an introduction to the multifaceted international regulation of aviation activities in the sphere of public and private law. The book is designed to provide the reader with the fundamental notions concerning international aviation law. It adopts an interactive approach, which aims at engaging the reader by way of using learning tools. The main areas of public and private aviation law are dealt with from a regulatory and practical perspective, and include detailed analyses of existing and applicable legislations, as well as landmark court cases and decisions. Each chapter is tailored to confer to readers a thorough knowledge of the international and, if any, the European applicable legislation. Delivery of these aims is attained through a dynamic and balanced use of didactic instruments and immediate information. The book is intended for a varied audience of students and professionals involved in the aviation world, without requiring the possession of specific legal knowledge or background. It also aims to constitute a useful reference material for those who are familiar with legal terminology and aviation specifics"--

### **Fundamentals of International Aviation Law and Policy**

Aerospace Law and Policy Series, Volume 23 In an increasingly competitive air transport environment, airlines are forced to adapt their business models, including employment conditions, in order to maintain and possibly enhance their presence in the market. The airline market is cyclical, and each traffic recovery is accompanied by numerous social developments; air laws and social regulations are becoming closer. This practical and thoroughly researched book brings together, for the first time, the topical legal issues relating to the employment of civil aviation personnel. Considering the latest publications, doctrinal opinions, legal

bases, and case law, the author and several distinguished contributors cover such issues and topics as the following: EU social regulations in relation to third States; civil aviation safety rules that have an impact on the working conditions of crew members; social security systems applicable to crew members; competent court and labour law applicable to crew members' employment relationships; key questions pertaining to posting crew members across borders; social issues related to the leasing of aircraft, including crew; data protection of crew members; atypical forms of employment in the aviation industry; right to strike for crew members; employment consequences of transfer of undertakings in civil aviation; and role of trade unions and collective labour agreements in air transport. The author also traces the process of liberalisation of the EU air transport market and its consequences on the operational structures of airlines and on the working conditions of crew members. For ease of reading, the annex to this book contains excerpts of the relevant legal texts. Lawyers, officials, business people, policymakers and academics with a professional interest in aviation law will find concise yet comprehensive guidance in this book that will help them to understand and address social and legal issues in the ever-changing world of aviation.

## **Labour Relations in Aviation**

The international community has succeeded in developing rules to limit greenhouse gas emissions in the atmosphere from international civil aviation. This book examines the development of international law and policy in an area that has remained largely outside the general framework of international environmental law.

## **Sustainable Development, International Aviation, and Treaty Implementation**

The 1999 Montreal Convention is the most recent in-force treaty to regulate several important aspects of international air carrier liability in a uniform manner. This book examines in detail to what extent the 1999 Montreal Convention's aim of uniformity has been achieved. To this end, it scrutinizes the exact scope of this aim and analyses the factors that may have prevented it from being fully achieved. It studies the wording of the treaty and its predecessors, their travaux préparatoires, the judicial decisions of numerous civil and common law jurisdictions, as well as various other interpretative tools. Among many others, themes addressed in this study include: exclusivity; the autonomy of terms used; translation issues; accident; bodily injury; damage; delay; consumer rights; the 1969 Vienna Convention on the Law of Treaties; hermeneutics; the Warsaw System; regional air law (including EU Regulation 261/2004); and algorithms. The study also suggests ways to reduce the fragmentation of the 1999 Montreal Convention with a series of directly applicable recommendations, and an analysis of what Artificial Intelligence could mean for the future. This book, which is intended to be practical, is aimed at all lawyers well-versed in aviation law as well as aviation enthusiasts. They will find it a useful tool for interpreting the 1999 Montreal Convention in a manner consistent with its ambition, as well as recent case law from all continents on hot topics.

## **Uniformity and Fragmentation of the 1999 Montreal Convention on International Air Carrier Liability**

"This book investigates dispute resolution mechanisms in international civil aviation, with a primary focus on the functions of the International Civil Aviation Organization (ICAO) Council. The Convention on International Civil Aviation (Chicago Convention) has laid the foundation for dispute resolution mechanisms in international civil aviation, which led to the creation of ICAO. However, economic regulations have been left out from the Chicago Convention. Over the years there has been a proliferation of bilateral air services agreements (ASAs) and the multiplication of multilateral treaties. With the advancement of the aviation technology, this book considers whether dispute resolution mechanisms should be modernised, and if so, what form such modernisation might take. The book is divided into five chapters. Chapter I provides an introduction and defines the scope of the research. Chapter II is an empirical chapter, which traces the evolution of dispute resolution clauses under both multilateral air law treaties and bilateral ASAs with the most updated data collected to date. Chapter III analyses how disputes brought to the fora designated under the treaties in Chapter II are resolved in practice. The fourth chapter builds on the empirical evidence

provided in Chapters II and III to critically assesses the political and legal means that are involved in the settlement of international aviation disputes. The final chapter proposes reforms on the basis of the lessons learnt in the previous chapters and introduces proposals for amending rules of procedures in ICAO as well as establishing a new arbitral institution\)--

## **The Resolution of Inter-State Disputes in Civil Aviation**

This book embarks on a contemporary analysis of the interaction of economics and law relating to air transport, delving into the major issues that plague the industry. It shows how some of the thorny and frustrating issues could be approached sensibly. Among the issues discussed are the anomaly of exponential growth of air transport which makes airline profitability continue to be poor; the legislative impediments in most countries that preclude direct foreign investment in the industry; the confounding and muddled mess behind the economics of aircraft engine emissions; and the inexplicable reality that, although civil aviation is primarily meant to meet the needs of the people of the world, State regulators have upended the equation and given priority to national interests over the interests of the passenger. The book will be of interest to economists and lawyers alike who deal with air transport issues, and also to academics and students in the area of transportation as well as regulators and airlines.

## **Aeronomics and Law**

Subsequent practice by states is crucial to the interpretation of treaties. This book examines its potential to serve as a substitute for formal treaty amendments. It combines both practical and theoretical contributions on the subject and includes the reports of the International Law Commission's 'Treaties over Time' programme.

## **Treaties and Subsequent Practice**

This book indicates the shortcomings of the current international legal system and customary international norms that govern international aviation law to comply with contemporary air transport market realities. As the air transport market develops globally, the safety regime of civil aviation should also be governed and applied globally. In this book, the author departs from current international legal norms to examine the emerging legal field of global administrative law. Through that lens, the possibility of reconstructing the set of legal mechanisms that govern domestic and international administrative interaction in the global field of aviation safety is explored. This book demonstrates that a legal system is never complete but always develops in tandem with changing needs, i.e. the participation of the affected parties. Exploring the principles of GAL theory contributes to addressing the contemporary legal issues relating to state compliance with international aviation safety standards that would otherwise not be covered by customary international law. In particular, the principles of GAL theory regarding global governance and the 'public' character of global regulations, the role of individuals and states in global governance, and state sovereignty are considered valuable contributions to contemporary global aviation safety issues in practice. It is asserted in this book that proper checks and balances in global aviation safety can be improved by making these accessible to individuals by way of national courts. Finally, establishing public awareness of global aviation safety standards will eventually create greater pressure on states to implement and enforce them. This book is in an area increasing academic and research interest of practitioners of public international aviation law, global administrative law, global governance, and global aviation safety, global air transport market regulations.

## **Global Governance of Civil Aviation Safety**

Air transport in the Asia Pacific has undergone significant transformation in the last three decades. What was once a region in the shadow of larger and more prosperous continents such as North America and Europe is now at the forefront of expansion in commercial air-service networks, frequency and capacity, and the overall growth in the contribution of air transport to economies on regional and, in many cases, individual

country levels. Despite this, it represents an area that is generally under-represented in the commercial air-transport academic literature. *Air Transport in the Asia Pacific* seeks to fill this gap. Against this context, the aim of the volume is to offer a contemporary snapshot of current academic research into commercial air transport in the Asia Pacific. While one volume cannot realistically address the complete range of identifiable issues, this book provides timely, specific and research-based studies authored by leading academics and practitioners.

## **Air Transport in the Asia Pacific**

The creation by government regulation of entitlements akin to property rights is a phenomenon imposing a reconsideration of the traditional categories of public and private property. This book focuses on the European level by means of a comparative method involving private law, public law, and law and economics approaches.

## **Creating Property Rights**

This volume brings together a fascinating collection of essays on air law, approached from national, European and international perspectives. These perspectives often interact, always interestingly, but not necessarily harmoniously, a theme which forms a Leitmotiv in the writings, reports and pleadings of John Balfour, to whom the volume is dedicated. Written by a diverse group of experts in the field of air law, the collection is divided into three parts: Public Air Law, EU Air Law and Private Air Law.

## **From Lowlands to High Skies: A Multilevel Jurisdictional Approach Towards Air law**

An examination of the relationship between competition and the deregulation and liberalisation of the US and European air transport sectors reveals that the structure of the air transport sector has undergone a number of significant changes. A growing number of airlines are entering into horizontal and vertical cooperative arrangements and integration including franchising, codeshare agreements, alliances, 'virtual mergers' and in some cases, mergers with other airlines, groups of airlines or other complementary lines of business such as airports. This book considers the current legal issues affecting the air transport sector incorporating recent developments in the industry, including the end of certain exemptions from EU competition rules, the effect of the EU-US Open Skies Agreement, the accession of new EU Member States and the Lisbon Treaty. The book explores the differing European and US regulatory approaches to the changes in the industry and examines how airlines have remained economically efficient in what is perceived as a complex and confused regulatory environment. *Competition and Regulation in the Airline Industry* will be of particular interest to academics and students of competition law as well as EU law.

## **Competition and Regulation in the Airline Industry**

Cover -- Title -- Copyright -- Dedication -- Contents -- Foreword -- List of abbreviations -- 1 Introduction: From civil aviation's origins to the Paris Convention 1919 -- 2 The inter-war predatory bilateral system 1919-1939 -- 3 Wartime planning and the Chicago Conference 1939-1944 -- 4 The Chicago-Bermuda regime: Its operation and the challenge of deregulation 1945-1992 -- 5 Creating the single European aviation market -- 6 Open-skies and a fully globalized world market: Challenge and reality 1992-2016 -- 7 Conclusion: Unfinished business? -- References -- Index.

## **A History of International Civil Aviation**

Written in the context of the post-9/11 legal climate, this text introduces all the major areas of aviation, covering such topics as the international air law regime, crimes involving aircraft, international air carriage, litigation management, and governmental immunity from liability.

## **Aviation Law: Cases, Laws and Related Sources**

Fundamentals of International Aviation Law and Policy offers students a systematic, tailored and dynamic approach to understanding the legal scenario concerning international civil aviation. The book dynamically covers the major areas of international aviation law, and provides an introduction to the multifaceted international regulation of aviation activities in the sphere of public and private law. The book is designed to provide the reader with the fundamental notions concerning international aviation law. It adopts an interactive approach, which aims at engaging the reader by way of using learning tools. The main areas of public and private aviation law are dealt with from a regulatory and practical perspective, and include detailed analyses of existing and applicable legislations, as well as landmark court cases and decisions. Each chapter is tailored to confer to readers a thorough knowledge of the international and, if any, the European applicable legislation. Delivery of these aims is attained through a dynamic and balanced use of didactic instruments and immediate information. The book is intended for a varied audience of students and professionals involved in the aviation world, without requiring the possession of specific legal knowledge or background. It also aims to constitute a useful reference material for those who are familiar with legal terminology and aviation specifics.

## **Fundamentals of International Aviation Law and Policy**

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