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## Foreword

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CONTEMPORARY ISSUES AND  
FUTURE CHALLENGES IN  
AIR AND SPACE LAW

CELEBRATING 25 YEARS OF IIASL  
*LIBER AMICORUM*

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# TABLE OF CONTENTS

Foreword .....	i
Preface .....	v
IIASL - Past, Present and Future .....	vii
From the Editor-in-Chief .....	xi

## PART I

1 The European Court and EU Regulation 261/2004 <i>By John Balfour</i> .....	3
2 Slot Allocation in the EU: The Best Way to Limit Airport Congestion? <i>By Michiel van der Zee</i> .....	9
3 The Legal Status of Aircraft Engines <i>By Berend Crans</i> .....	15
4 The English Blue Sky Case - International Aviation Finance Law Issues <i>By Patrick Honnebier</i> .....	21
5 Model Law on National Space Legislation <i>By Stephan Hobe</i> .....	29
6 The Painful Journey to the Land of Functional Airspace Blocks <i>By Francis Schubert</i> .....	33
Regulatory Market Entry Barriers for Satellite Operators <i>By Rafael Roelandt</i> .....	39
8 Single European Sky <i>By Jeroen Fukken</i> .....	45

## PART II

1 How Far Can We See?: Foreseeability, the Aviation Industry, and Future Terrorist Attacks <i>By Jane J. Hong</i> .....	53
2 Legal Framework for Security Onboard Aircraft, the Authority of the Commander of an Aircraft, with Particular Focus on the Regulations in Switzerland <i>By Albert Kost</i> .....	69
3 Contractual and Property Rights in Leased Aircraft Engines <i>By Donal Patrick Hanley</i> .....	83

4	On the Proposed New Rules for Tarmac Delays for International Flights in the US <i>By Kevin Comer</i> .....	91
5	Alternative Dispute Resolution for Aviation (ADR Aviation) <i>By Niels van Antwerpen</i> .....	107
6	The Applicable Personal Law to General European Undertakings and its Relevance, under EC Regulation 1008/2008, for Communitarian Carriers <i>By Francisco Alves Dias</i> .....	127
7	Open Skies v. Closed Skies: Some Specifics of the Present-day International Air Transportation Policy of the Russian Federation <i>By Alexander A. Batalov</i> .....	143
8	Merger reviews 'United': The evolution of European Commission merger assessments, 2008-2011 <i>By Christopher Schmidt</i> .....	167
9	Reframing Aviation Climate Politics and Policies <i>By Andreas Hardeman</i> .....	181
10	Aviation Emissions Reductions of Greenhouse Gases: Legal Duality <i>By Romeo Kadir</i> .....	205
11	Galileo: A Touchstone for the Application of EU Competition and Public Procurement Law to EU-ESA Joint Programmes <i>By Mildred Trögeler</i> .....	223
12	Cross-Waivers of Liability in Agreements to Explore Outer Space: What They Are and How They Work <i>By Steve Mirmina</i> .....	239
13	The Draft Protocol on Matters Relating to Space Assets: New Developments and Perspectives for Success <i>By Fabio Tronchetti and Cem Karako</i> .....	251
14	A Comparative Legal Analysis of US and EU Data Access Policies for Earth Remote Sensing <i>By Sara M. Langston</i> .....	271
15	Adjacent Satellite Signal Interference: Legal Appreciation <i>By Tridev Budia</i> .....	299
16	Transparency and Confidence-Building Measures for Space Security <i>By Yuri Takaya-Umehara</i> .....	313
	Humanitarian Intervention for Natural Disaster Victims: A Potential Model? <i>By Atsuyo Ito</i> .....	323
18	Development of National Space Law and Related Institutions in Luxembourg <i>By Romina Leiboff</i> .....	337
19	The View from the Oriels of the Stars: The Legal Obligation to Mitigate and Remediate Space Debris in Earth Orbit <i>By Gérardine Goh Escolar</i> .....	351
	About the Contributors .....	395

# Foreword

Barbara Tuchman, author of the military history book *The Guns of August*, argued that the 20th century actually started in the year 1914 – the moment the son of the Austrian emperor was shot in Sarajevo. This event signalled the starting point or opening shot for the First World War, which dramatically changed the European landscape. After the dramatic events in New York on 11 September 2001, commentators claimed that the 21st century had commenced on that day. We cannot call this a promising start. However the years after have shown that policymakers, technical experts and lawyers have been able to cope with threats of violence against aviation security.

For us, at the International Institute of Air and Space Law, the 21st century started on 1 September 2000, the beginning of our Master of Laws (LLM) program. We welcomed 12 students to begin with. They formed a very coherent group and are still in touch with each other.

The program has undergone quite substantial changes. Aviation and space law have evolved quite dramatically. To begin with, the Montreal Convention of 1999 on air carrier liability came into being. Security measures were taken following “9/11”. In 2002, the European Court of Justice gave its decisions on the Open Skies agreements between EU states and the US. In 2004, the EU published its regulation on passenger protection which became known by its number “261”. The European Court gave a few controversial decisions on the interpretation of this regulation. The European Aviation Safety Agency (EASA) where a few of our alumni are working was born. New economies are participating more actively in aviation and space activities, and in the legal regimes governing these activities. Middle Eastern carriers are new players in the global aviation landscape. Competition law is increasingly a matter of interest under more liberal, Open Skies agreements and inter-airline alliances. The EU concluded plurilateral trade oriented agreements with the US and Canada and promotes trade in air services internationally while its Emissions Trading Scheme raises questions pertaining to international law including international air law. Food for aviation lawyers!

In the field of space activities as well, some major transformations have occurred. Although the initial productive phase of UNCOPUOS has slowed down considerably, several important resolutions and guidelines have been adopted. These concern for instance the concept of the launching state, registration practice, or the mitigation of the increasing problem of space debris. Space agencies have agreed to work together on a voluntary basis to

provide remote sensing data free of charge to countries struck by disasters. This emerging 'soft law' approach is also reflected in the proposal of the EU to adopt a Code of Conduct for space activities. This Code also addresses the increasing security concerns of space activity and the need for transparency and confidence building measures in this field. Lastly, the emergence of national space legislation to implement obligations stemming from the UN Space Treaties must be mentioned, which is necessitated by the increasing involvement of private actors as opposed to the uniquely state-oriented activities of the first fifty years of the space age. Soon, private human access to space will become reality, the legal regulation of which continues to create a lot of food for thought for space lawyers.

Obviously this is a non-exhaustive list. Many other events are worth mentioning, and you will find many of them addressed in this book. The above overview is designed to mark the rapid development of aviation and space activities and the legal framework governing them.

We have tried to keep pace with the realities surrounding us. 'We' means, during the first seven years, Professor Peter Haanappel, Dr Frans von der Dunk and Pablo Mendes de Leon. Paula van der Wulp – who is a gentle and vital pillar of support for our work – joined us 01-11-2001. All of you know her, or should know her. Tania Masson-Zwaan came back to the institute to replace Frans von der Dunk, who was appointed as a Professor of Space law at the University of Nebraska. I took over the chair of air and space law in 2008, while Professor Haanappel continues to teach in the LLM program and supervises PhD theses. Our current LLM coordinator is Wouter Oude Alink who aptly deals with an ever-increasing number of LLM applicants and students.

We are greatly helped by dedicated guest lecturers who bring in their professional expertise and provide LLM participants with useful insights, information and relations. We wish that we could name a few of them – and their names come immediately to mind – but we do not want to establish a list of preferred lecturers. However, we want to make one exception for George Tompkins who has assisted us loyally from the very beginning. He generously shares his long and impressive experience in private air law with every new class, and continues to do so after their graduation. All guest lecturers are inspiring teachers and have a great value for all of us, both professionally and personally. Some of them are alumni, preserving their relationship with their *alma mater*, which is very precious for us.

The discussions and atmosphere in class and outside classrooms changed in a very inspiring and stimulating sense by the introduction of the blended learning version of the LLM program in 2006. The blended learning participants introduce professional expertise and stimulate lively discussions. They open doors for all us as they bring in their elaborate networks in all parts of the world.

The International Institute of Air and Space Law also celebrated its 25th anniversary in 2010 and 2011. The first international air law moot court marked the starting point of that celebration. It was jointly organised by the Sarin Memorial Foundation, set up by the grandfather of one of our *alumnus*, Nitin Sarin, and IIASL. A second version took place in 2011 in Dubai. Our gratitude goes to our faithful and capable *alumnus* Nawinne who masterly supervised the event. Tanja Masson-Zwaan organised a successful space law symposium in September 2010 in Leiden on the Regulation of Sub-Orbital Flights in the European Context. The 25th anniversary celebrations will be concluded in October 2011 with the presentation of a book on the Single European Sky to EU Commissioner and Vice President of the EU Commission Mr. Siim Kallas by Mr. Daniel Calleja, former Director of air transport at the European Commission and Pablo Mendes de Leon as editors-in-chief of this book.

Air transport and space activities are by their very nature global activities. People who engage with them seem to have something in common. They are interested in cultures, policies and laws of other states and other regions in the world. They are fascinated by the interaction between law, policies and economic realities. And they are prepared to cross boundaries, in more than one sense.

That is perhaps what unites us most and will link us together forever. This book symbolises that joint effort. It is believed that this is the first time that such a book was made by the *alumni* in recognition of the efforts made by its *alma mater*. IIASL is extremely grateful to all those who have made a contribution to it, and especially to the *alumnus and alumnae* of IIASL who took the effort and acted as the Editor-in-Chief, Mr. Sagar S. P. Singamsetty. IIASL is proud that Sagar initiated the production of these articles to create a very valuable publication on international air and space law.

We look forward to continue to join forces in the next decade, and the decades after that!

*Pablo Mendes de Leon*  
*Director of IIASL*

*Tanja Masson-Zwaan*  
*Deputy Director of IIASL*