



The American Bar Association Forum on Air & Space Law

2008 Annual Meeting & Conference

AIR & SPACE LAW:

A GLOBAL PERSPECTIVE



THE FORUM ON
AIR & SPACE LAW



September 18-19, 2008

Co-sponsored by



MCGILL UNIVERSITY
INSTITUTE OF AIR AND SPACE LAW

Marriott Chateau Champlain Hotel
Montreal, Canada

Fall in Montreal



DEAR COLLEAGUES

The ABA's Forum on Air & Space Law invites you to attend its 2008 Annual Meeting and Conference, which will be held in the historic city of Montreal, Canada, on September 18-19, 2008. Montreal is home of the International Civil Aviation Organization. We are pleased to announce that this event will be held in partnership with McGill University's Institute of Air & Space Law.

The setting and timing could not be better for this international gathering of aviation and space lawyers, academics, executives, policy makers and other professionals. We will examine the forces that shape the aviation and space industries in the world of today – and tomorrow – and the legal superstructure in which those forces operate.

This splendid event is titled, *Air & Space Law: A Global Perspective*. True to its name, this two-day meeting and conference will feature keynote speakers, moderators and panelists who are worldwide leaders in their areas of expertise. Among other timely and cogent topics, the panels of experts will focus on ATC privatization, airport issues, environmental law, passenger rights, safety, privacy and data security – worldwide. A competition law panel will consider antitrust issues in the context of mergers and acquisitions (a subject likely to remain center stage throughout 2008 and beyond), as well as current developments in the areas of predation and concerted practices. A Space Law panel will take us on a journey beyond the current, hot issues of earth-bound aviation to the new frontiers of the extraterrestrial practice of law.

In addition to a first-rate curriculum and beautiful setting (the Marriot Chateau Champlain), this two-day conference will offer unrivalled opportunities to network with aviation and space lawyers and officials at the top of their professions. One such special opportunity will be a reception on September 18, 2008, at the impressive Delegates' Lounge of the International Civil Aviation Organization.

Please mark your calendars and plan to meet with us in Montreal on September 18-19, 2008.

Sincerely,

David A. Schwarte
PROGRAM CO-CHAIR

Sabre Holdings Corporation
Dallas, TX

Dr. Paul Dempsey
PROGRAM CO-CHAIR

McGill University Institute of Air & Space Law
Montreal, Canada

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Program Schedule

Thursday, September 18, 2008

8:15 a.m. - 8:30 a.m. COMMENCEMENT AND INTRODUCTORY REMARKS

8:30 a.m. - 9:00 a.m. KEYNOTE SPEAKER

Roberto Kobeh Gonzales

President of the Council of the International Civil Aviation Organization.

9:00 a.m. - 10:15 a.m. LESSONS LEARNED FROM COMMERCIALIZING OR PRIVATIZING AIR NAVIGATION SYSTEMS

- Governance and financial corporate models.
- Legal issues arising during transfer.
- Relationship with stakeholders during and after transfer.
- Delegation and overlap of responsibilities.
- Government obligations under international agreements.
- Political and commercial factors in the debate in the United States.

Moderator: **William F. Clark**
Clark & Company

Panelists: **Hon. James H. Burnley IV**
Partner, Venable LLP

John W. Crichton
President & CEO, NavCanada

Owen Dell
Manager, International Operations, Cathay Pacific Airways

Glen McDougall
Author, ATC Commercialization Policy: Has it Been Effective?

Hon. Andrew B. Steinberg
Partner, Jones Day

10:15 a.m. - 10:30 a.m. COFFEE BREAK

10:30 a.m. - 11:45 a.m. EMERGING AIRPORT ISSUES

Emerging issues in congestion management, rates/charges, and PFCs, including:

- Implications for airports, airlines, and passengers.
- The role and possible constructs of congestion pricing.
- Caps, slots, auctions and secondary markets.
- Near-term alternatives.

Moderator: **Hon. Kenneth Mead**
Special Counsel, Baker Botts LLP

Panelists: **Roy Goldberg**
Partner, Sheppard Mullin Richter & Hampton LLP

Hon. D.J. Gribbin
General Counsel, US Department of Transportation

Monica Hargrove Kemp
General Counsel, Airports Council International, NA

J. Scott McClain
Assistant General Counsel, Delta Air Lines, Inc.

12:00 p.m. - 1:20 p.m. LUNCHEON

Keynote Speaker: **Robert Sturgell**
*Acting Administrator,
Federal Aviation Administration*

1:30 p.m. - 2:45 p.m. CURRENT ENVIRONMENTAL LAW ISSUES, CLIMATE CHANGE, AND PROPOSED SOLUTIONS

- The latest proposals by, and responses to, European Parliament and Council efforts to include aviation in an emissions trading scheme.
- Responding to increasing criticisms of aviation for its environmental impact, particularly for the contribution that aircraft emissions may have to climate change.
- The proposed solutions to address climate change, such as capping emissions, trading emission credits and a carbon tax, taking into account implications of international law.

Moderator: **Renee Martin-Nagle**
General Counsel, Airbus Americas Inc.

Panelists: **Dr. Ruwantissa R.I. Abeyaratne**
*Coordinator, Air Transport Programmes,
International Civil Aviation Organization*

Thomas N. Bolling
*Managing Attorney, Regulatory Affairs,
Continental Airlines, Inc.*

Uwe M. Erling
Partner, Noerr Stiefenhofer Lutz

Martine De Serres
*Counsel, Regulatory and International
Affairs, Air Canada*

Nancy N. Young
*Vice President Environmental Affairs,
Air Transport Association.*

2:45 p.m. - 4:00 p.m. AN IN-DEPTH REVIEW OF RECENT PASSENGER RIGHTS INITIATIVES: A STEP IN THE RIGHT DIRECTION, OR REGULATION GONE AMOK

- Consumer rights legislation over airline delays: needed and workable?
- Should regulators take into account the requirements imposed upon providers of competing modes of transportation when setting air carrier rules?
- DOT's new rules concerning disabled passengers and denied boarding, as well as broader passenger rights initiatives.
- The scope of federal preemption of state-imposed passenger care requirements.
- The challenge of meeting conflicting requirements of passenger care.

Moderator: **Anita M. Mosner**
Partner, Holland & Knight, LLP

Panelists: **Howard Kass**
Associate General Counsel, USAirways
Samuel Podberesky
*Assistant General Counsel, Aviation
Enforcement & Proceedings, US Department
of Transportation*

Louise-Helene Senecal
*Assistant General Counsel - Litigation,
Air Canada*

Robert S. Span
Partner, Paul Hastings Janofsky & Walker LLP

4:00 p.m. - 4:15 p.m. REFRESHMENT BREAK

4:15 p.m. - 5:30 p.m. CHARTING THE FUTURE OF PRIVATE HUMAN SPACEFLIGHT: SPACE LAW CONSIDERATIONS AND CHALLENGES

- International Traffic in Arms Regulations (ITAR) as a barrier to future Development.
- Third-party liability considerations for launch operators and the issue of informed consent.
- The application of State v. Federal Law.
- Relevant environmental law issues.

Moderator: **Patti Grace Smith**
Aerospace Consultant

Panelists: **Professor Ram S. Jakhu**
Associate Professor, McGill University Institute of Air & Space Law
Jeff Krukin
Consultant, State of North Carolina
Pamela Meredith
Co-Chair of the Space Law Practice Group, Zuckert, Scoutt & Rasenberger, LLP
Laura Montgomery
Senior Counsel, Office of Chief Counsel, Federal Aviation Administration
Franceska O. Schroeder
Principal, Fish & Richardson P.C.

6:30 p.m. - 8:30 p.m.
RECEPTION, WITH SPECIAL RECOGNITION FOR YOUNG LAWYERS - ICAO Delegates' Lounge

Friday, September 19, 2008

8:00 a.m. - 8:30 a.m.

Keynote Speaker: **Edward Stimpson**
Former U.S. Ambassador to ICAO

8:30 a.m. - 9:45 a.m.
VIEWS FROM THE ICAO COUNCIL

Contemporary air safety, security, and environmental issues faced by the International Civil Aviation Organization

Moderator: **Prof. Dr. Paul Dempsey**
Director, McGill University of Air & Space Law

Panelists: **Hon. Dr. O. B. Aliu**
Representative of Nigeria on the Council of ICAO
Hon. Donald Bliss
Representative of the United States on the Council of ICAO
Hon. Michael Rossell
Representative of the United Kingdom on the Council of ICAO
Hon. Nasim Zaidi
Representative of India on the Council of ICAO

9:45 a.m. - 11:00 a.m.
SAFETY MONITORING & ENFORCEMENT INTERNATIONALLY, REGIONALLY & NATIONALLY

- Do we need a doctor or a policeman?
- The legal, regulatory, and practical challenges to aviation safety auditing, monitoring, voluntary disclosure, enforcement and management systems.
- ICAO and individual State efforts to support the effective development of regional safety oversight mechanisms.
- Judicial and quasi-judicial enforcement systems contributions to aviation safety.
- "Blacklisting" vs. ICAO's "whitelisting" contributions to aviation safety.

Moderator: **Dr. John Saba**
Adjunct Professor, McGill University Institute of Air & Space Law

Panelists: **Barry Brown**
Vice President, Safety and Security, Southwest Airlines, Inc.
Margaret Gilligan
Deputy Associate Administrator for Aviation Safety, Federal Aviation Administration
Nancy Graham
Director, Air Navigation Bureau, International Civil Aviation Organization
Frank Manuhutu
Chief Legal Adviser, European Aviation Safety Agency
Dan Mooney
Vice President for Regulatory Affairs, Commercial Aviation Services Boeing Corporation
Faye Smith
Chair, Transportation Appeal Tribunal of Canada

11:00 a.m. - 11:15 a.m.
COFFEE BREAK

11:15 a.m. - 12:45 p.m.
GLOBAL ANTITRUST AND COMPETITION LAW

- Airline mergers and acquisitions: on again, off again?
- Examining the case for global consolidation.
- Ensuring competition amidst consolidation and congestion management.
- The challenges of multi-jurisdictional antitrust investigations.
- The future of predation claims and unfair competition claims.

Moderator: **Kenneth P. Quinn**
Partner, Pillsbury

Panelists: **The Hon. Tyler D. Duvall**
Acting Under Secretary for Policy, U.S. Department of Transportation
Roger W. Fones
Partner, Morrison & Foerster
Paul R. Lovejoy
Senior Vice President, General Counsel & Corporate Secretary, UAL Corporation and United Airlines, Inc.
D Martin Low
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John M. Nannes
Partner, Skadden, Arps, Slate, Meagher & Flom

1:00 p.m. - 2:15 p.m.
LUNCHEON and short business meeting of the Forum to elect members of the Governing Committee

Keynote Speaker: **Jeffrey N. Shane**
Partner, Hogan & Hartson, LLP

2:30 p.m. - 3:45 p.m.
SECURITY AND DATA PRIVACY GOING FORWARD

- Aviation Security Infrastructure Fee (ASIF) Litigation Update - what are the costs tomorrow?
- Secure Flight/APIs - where are we?
- TSA Checkpoint Identification - Is a national identity card coming?

Moderator: **David J. A. Hayes III**
Vice President & General Counsel, Trans States Airlines, Inc.

Panelists: **James Hnat**
Executive Vice President, Corporate Affairs & General Counsel, JetBlue Airways
Francine Kerner
Chief Counsel, Transportation Security Administration
Marshall S. Sinick
Partner, Squire Sanders & Dempsey
Christopher Wolf
Partner, Proskauer Rose LLP

3:45 p.m. - 4:45 p.m.
ETHICAL ISSUES FACING GENERAL COUNSEL GLOBALLY

- Do's and don'ts every General Counsel must know.
- Complexities and ethical risks associated with handling matters that cut across multiple jurisdictions.
- Special considerations for General Counsels who rely on outside counsel hired by insurers.

Moderator: **David A. Berg**
Vice President & General Counsel, Air Transport Association of America, Inc.

Panelists: **Henning zur Hausen**
Vice President and General Counsel, Lufthansa Cargo AG
William H. Levit, Jr.
Partner, Godfrey & Kahn
Rod Margo
Partner, Condon & Forsyth
Catherine A. Pawluch
Partner, Gowling Lafleur Henderson LLP

4:45 p.m. - 5:00 p.m.
CLOSING REMARKS

5:15 p.m. - 7:15 p.m.
CLOSING RECEPTION

Conference Information

1. LOCATION INFORMATION:

The conference will be held at the Marriott Chateau Champlain, 1 Place du Canada, Montreal, Quebec, CANADA. Phone: 514-878-9000 Fax: 514-878-6761

2. HOTEL RESERVATIONS:

To make your hotel reservations, please contact the Marriott Chateau Champlain at 800-200-5909. ABA room rate is \$239++ (CAN). We have reserved a block of room and the reservation deadline is August 28, 2008. After this date or the room block has sold out, the ABA cannot guarantee rooms or availability and the hotel will assign rooms on a space available basis. All changes to and cancellations of hotel reservations must be made 48 hours in advance of the arrival to avoid a one-night cancellation charge. Rooms shall be available for check-in no later than 4:00 p.m. with a checkout time of Noon. Please refer to the ABA Forum on Air and Space Law Fall Meeting, when making reservations.

3. AIR TRAVEL:

The ABA offers a discounted travel program through the ABA online travel agency, Orbitz for Business or you may contact the airlines directly. To access ABA online travel, go to www.abanet.org, "Member Tools", and at ABA Online travel you will have automatic access to meeting airfare discounts, web fares and web book only. The ABA's toll free number for Orbitz for Business is 877-222-4185. The Marriott Chateau Champlain is 60 minutes from Montreal Trudeau International Airport.

4. PASSPORT INFORMATION:

If you are visiting Canada, a valid passport is required. It is the responsibility of the visitor, before entering Canada, to ensure that he or she has the necessary documents, including those for entry into another country or re-entry into his or her own country.

5. PROGRAM REGISTRATION/DEADLINE:

To register for all programs and events described in this brochure, please submit your completed registration form and payment to the American Bar Association, Forum on Air & Space Law (USD). In order to be included in the list of program attendees, you must register by September 2, 2008. Registrations will not be processed without payment.

6. ON SITE REGISTRATION

On-site registration is available for those persons who miss the registration deadline. If you plan to register at the door, please call Dawn R. Holiday at 312-988-5660 at least 72 hours before the conference to confirm that space is still available. Failure to call in advance may preclude admission to a sold-out conference. On site registrants must pay the registration fees by check, Visa, MasterCard, or American Express. No registrations will be accepted without payment.

7. REGISTRATION FEES:

Includes admission to the two day program, continental breakfast, coffee breaks, luncheons, course materials and a cocktail reception.

8. CANCELLATION POLICY:

Registrants who are unable to attend the conference will receive a refund less a \$100 administrative fee if written cancellation is received before September 2, 2008 (5:00 pm CDT). Cancellations must be faxed to

312-988-5677. No refunds will be granted after September 2, 2008. We will allow substitutions or conference materials will be sent in lieu of a refund after the program. The ABA reserves the right to cancel any programs and assumes no responsibility for personal expenses.

9. MCLE CREDIT:

CLE accreditation has been requested for this conference from every state with mandatory continuing legal education requirements for lawyers. Please be aware that each state has its own rules and regulations, including its definition of CLE. Check with your state agency for confirmation of this program's approval. Attorneys seeking to obtain MCLE credit in Louisiana and/or Pennsylvania will be required to pay state accreditation fees directly to these states. Certificates of attendance will be available at the conclusion of the conference. For information on the requested number of credit hours, please contact Dawn R. Holiday at 312-988 5660.

10. MEMBERSHIP:

To encourage registrants to join the ABA Forum on Air and Space Law, the reduced member's tuition rate will be extended to registrants who join the Forum when they register for the conference. Forum membership dues are \$40 for attorneys/associates and \$5 for law students. Membership in the ABA and in any one of its many sections or divisions is a prerequisite to Forum membership.

11. COURSE MATERIALS:

Will be provided on CD-ROM. (Macintosh and Windows Compatible Cd-Rom's will be available). A link for the materials will be available prior to the meeting. Course materials will be available for purchase 30 days after the conference. Please contact Kim Turner at 312-988-5666 or email turnerk@staff.abanet.org to place your order.

12. TAX DEDUCTION FOR EDUCATION PURPOSES:

In the United States, an income tax deduction may be allowed for education expenses undertaken to maintain or improve professional skills. This includes registration, travel, meals and lodging, subject to applicable limitations (see Treas. Reg.1.162-5: Coughlin v. Commissioner, 203 F.2d 307 (2d Cir.1953)).

13. AMERICANS WITH DISABILITIES ACT:

If special arrangements are required for disabled individuals to attend this program, please contact Dawn R. Holiday in writing by September 9, 2005 at the American Bar Association, 321 N. Clark St, Chicago, IL 60654 or Fax: 312-988-5677.

14. DRESS:

Business attire.

15. FOR THE LATEST PROGRAM INFORMATION:

Please visit the Forum on Air and Space Law at www.abanet.org/forums/airspace

16. QUESTIONS:

If you have questions or require additional conference information, please call Dawn R. Holiday at 312-988- 5660 or E mail: holidayd@staff.abanet.org.

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BY FAX:

Fax completed registration form with credit card payment only to: 312-988-5677



BY MAIL:

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321 N. Clark, St. MS 18.2
Chicago, IL 60654



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Are you licensed to practice in New York? Yes No (please circle)

Are you a first-time attendee? Yes No

Program and Forum Membership Fees

Early Bird Discount if received before September 2, 2008

(All registration fees are in USD)

- \$525 Forum/EALA Member
 - \$575 ABA Member (Non Forum Member)
 - \$650 General Attendee
 - \$300 Government/Academic (please identify school or branch of government)
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- \$275 Governing/Program Committee Members
 - \$200 Program Speaker
 - \$125 Law Student (please identify school)

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- ___ I will attend the Friday Luncheon
- ___ I will attend the Friday Reception

Received on or after September 2, 2008

(All registration fees are in USD)

- \$625 Forum/EALA Member
 - \$675 ABA Member (Non Forum Member)
 - \$750 General Attendee
 - \$400 Government/Academic (please identify school or branch of government)
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- \$375 Governing and Program Committee Members
 - \$225 Program Speaker
 - \$225 Law Student (please identify school)

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