

## **ANNUAL REPORT OF THE MCGILL INSTITUTE OF AIR AND SPACE LAW 2017-18**

October 2018

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The Institute of Air and Space Law (IASL) is pleased to present its Annual Report to the Faculty of Law for the academic year 2017-18. The Institute and the Centre for Research in Air and Space Law, the research arm of the Institute, report a busy, productive, and visible year in which the IASL has confirmed its standing as the world's premier centre for advanced research and education in air and space law, and has positioned itself to flourish as it approaches its 70th anniversary year in 2020-21.

The Institute, in collaboration with Lysanne Larose and Karell Michaud, has been upgrading and expanding its web and social media presence in the past year. Interested Faculty are welcome to peruse the website, in particular, for further background on (and often photos and video content relating to) some of the activities discussed in this Report.

As always, the IASL is grateful to all of its staff and students for their loyalty, cooperation, and constant support, but most especially to our Senior Administrator, Ms. Maria D'Amico, who is the Institute's very heart.

From a wide range of events, activities, programmes, and publications, we have selected the following points of note:

### **1. NEW IASL DIRECTOR BEGINS TERM**

- 1.1** As of 1 August 2017, Professor Brian F. Havel became the 13<sup>th</sup> successive Director of the Institute. For the new Director, a major highlight of his first year was the invitation from the governing Council of the Montreal-based International Civil Aviation Organization (ICAO) to serve as the facilitator of its fifth annual off-site policy retreat held in June 2018 at the Estérel Resort in Quebec. The theme of the 2018 retreat, "The Future of Aviation," allowed the Council to reflect on ICAO's mandate as a global regulator in an era of new transportation technologies and the emergence of space as a venue for travel and tourism. The invitation to facilitate the discussion over three days allowed the Director to renew his contacts with many of the Organization's senior officials, including its IASL-educated President, Dr. Bernard Aliu.

## **2. INSTITUTE’S GRADUATE STUDENT PROFILE AND EDUCATIONAL PROGRAMME**

- 2.1** As well as continuing LLM and DCL students, the Institute welcomed a cohort of 23 new students in its LLM, DCL, Certificate in Air and Space Law, postdoctoral, and Graduate Research Trainee programs in 2017-18. The 17 new LLM and Certificate students represented 13 countries, including Canada, the Dominican Republic, Finland, France, the Republic of Georgia, Germany, Greece, India, Morocco, Poland, Taiwan, the United Arab Emirates, and the United States. Our DCL and postdoctoral cohort added new students from China, Italy, and Luxembourg. From this promising 2017 base, the IASL recently announced that its even larger 2018-19 entering class, which includes students from nearly 20 countries, is the most cosmopolitan and diverse in its history.
- 2.2** The Institute maintained a full teaching programme in the 2017-18 academic year. On offer to students of the IASL and other students at the Faculty were required courses *Private International Air Law*, *Public International Air Law*, and *Space Law: General Principles*. Electives included *Airline Business and Law*, *Government Regulation of Air Transport*, *Government Regulation of Space Activities*, *Comparative Air Law*, and a new course in *Aircraft Finance Law* (see below). As well as the Institute’s Fall 2017 “gateway” course in Public International Air Law, in the Winter Semester 2018 Professor Havel taught a “complementary” course in International Trade Law in the BCL/LLB curriculum that attracted over 80 students including a core group of IASL master’s students. The course included a visit in March from a senior NAFTA negotiator to report on the progress of negotiations then taking place in Montreal. Professor Havel’s trade law course enabled him to introduce the IASL to a wider spectrum of McGill law students, several of whom participated in IASL activities including the intramural moot court competition (see below) and the Institute’s research projects.
- 2.3** McGill Faculty of Law members joined Institute faculty in supervising a large number of master’s degree research projects and theses. Although space law topics have predominated in recent years, topics were divided more equally this year between the two Institute disciplines of air and space law. A full list of completed research will be provided as a later appendix to this Report.

## **3. NEW COURSE IN AIRCRAFT FINANCE LAW AND OTHER SPECIALIZED OFFERINGS**

- 3.1** Dr. Donal P. Hanley, among the world’s top aircraft corporate finance lawyers, launched a new one-credit elective course in *Aircraft Finance Law* that attracted 25 students, including a number of auditing graduate students and even some IASL alumni. The new course was a pedagogical success and is being renewed for the 2018-19 academic year as a two-credit elective taught in two week-long modules. For many years our lectures in aircraft finance law were taught with great

enthusiasm and panache by the late Dr. Donald H. Bunker, who held a DCL from the Institute and who championed aircraft finance law as a key part of our air law curriculum. During the year, specialized lectures were offered by a series of guest lecturers including by Dr. Francis Schubert of the Swiss Civil Aviation Authority (on the governance of air navigation), Air Transat Senior Director of Government and Industry Affairs (and IASL graduate) George Petsikas (on Canadian airline competition), and Rob Britton (former American Airlines senior executive) on the evolution of airline alliances as well as career opportunities in the global airline industry. The Institute also now partners with the International Aviation Club of Montreal in hosting regular guest speakers. Student attendance at these lunch events is partly funded by contributions from our alumni through the IASLA.

#### **4. CENTRE FOR RESEARCH IN AIR AND SPACE LAW UPDATES**

- 4.1** On the recommendation of the Director and with the Dean's consent, Mr. David Kuan-Wei Chen, who has been a continuing IASL sessional lecturer, was appointed Executive Director of the Center for Research in Air and Space Law. Also with decanal approval, the Director named Mr. Bruno Savoie BCL LLB as Editor of the Institute's flagship journal, the *Annals of Air and Space Law*, the world's only bilingual journal in the domain.
- 4.2** Volume XLI of the *Annals* was published in May 2018 and Volume XLII will be launched on 30 November 2018. The Director also announced that the *Annals* will move to a biannual publication schedule, with two further volumes scheduled to appear in 2019. Beginning with the November 2018 volume, each edition will be published with a new hardback red cover that will reflect its McGill provenance.

#### **5. PUBLICATIONS OF THE CENTRE FOR RESEARCH IN AIR AND SPACE LAW**

- 5.1** In 2017, the Centre published the second edition of *Public International Air Law*, authored by former IASL Director Paul S. Dempsey. The second edition of this comprehensive treatise on public international air law is a much sought-after reference work for law students, practising lawyers, government officials and policymakers, as well as commercial stakeholders such as airlines, airports, and aircraft and airline insurers. As a service to our colleagues at ICAO, the Institute is providing complimentary copies of the book to the members of the ICAO Council.
- 5.2** In June 2017, the Centre released a major global interdisciplinary study examining the drivers of space activities, regulations, and standards. *Global Space Governance: An International Study*, published under the Springer imprint, was coordinated through the Centre and edited by Professor Ram Jakhu and renowned former NASA lead scientist Dr. Joseph Pelton. Findings from the study have been presented at various international fora, including at the United Nations Office for

Outer Space Affairs (UNOOSA) and also to diplomats and other influential stakeholders in the international space law and policy community.

- 5.3 Further, in 2018, *Sustainable Development, International Aviation, and Treaty Implementation*, the long-awaited collection of essays co-edited by former IASL Director Professor Armand de Mestral, IASL Adjunct Professor Dr. Paul Fitzgerald, and former Executive Director of the Centre for Research in Air and Space Law, Dr. Tanveer Ahmad, was published by Cambridge University Press. The book places aviation in the much broader context of its future sustainability using a wide range of legal and policy considerations. Some draft chapters of the book were released by the Institute to the delegates formulating ICAO's new aircraft emissions control programme at the 39<sup>th</sup> ICAO Assembly in 2016.
- 5.4 The Centre also contracted with HeinOnline to make its publications available through that company's fully searchable online portal. HeinOnline undertook an extensive publicity campaign to alert potential authors, readers, and users of its online content to its new arrangements with the Institute. This digitalisation effort will make the wealth of the Centre's research work and publications more widely available and accessible to students, researchers, and professionals worldwide.

## **6. OUTREACH ACTIVITIES OF THE CENTRE FOR RESEARCH IN AIR AND SPACE LAW**

- 6.1 In addition to its busy publications agenda, the Institute's Centre for Research in Air and Space Law was visible in a number of international conference and symposium settings.
- 6.2 The Working Group meeting of the Space Security Index (SSI) was organised in Montreal, and is an annual event that is now in its 15th year. The Centre's long-standing involvement in the SSI provides graduate students with the opportunity to take part in the drafting of influential publications cataloguing developments and trends in the space domain.
- 6.3 The Fifth Manfred Lachs International Conference on Global Space Governance and the UN 2030 Agenda for Sustainable Development was organised by the Centre in May 2017 in collaboration with the International Association for the Advancement of Space Safety, the United Nations Office for Outer Space Affairs (UNOOSA), the Canadian Space Agency, the Secure World Foundation, and ROOM, The Space Journal.
- 6.4 The 10<sup>th</sup> 2017 McGill Aviation Liability, Insurance and Finance Conference was held in Montreal in June. Over 150 delegates met in Montreal to consider key issues of private international air law. The eleventh rendition of this highly successful gathering of leading aviation liability, insurance, and finance experts jointly organised with the Pan European Organisation of Personal Injury Lawyers (PEOPIL) will be taking place in Dublin, Ireland, in October 2018,. The Dublin conference has been supported by a record number of sponsors, including a major

gift from the Clifford Law Offices law firm in Chicago, Illinois, one of the top three aviation liability defense firms in the United States.

- 6.5 The Centre was proud to co-sponsor the fourth Asia-Pacific Space Cooperation Organization (APSCO) Space Law & Policy Forum, held in Harbin, China, in July 2017. The Forum serves as a high-level platform for discussions and exchange with the aim of promoting space law and policy among APSCO Member States.
- 6.6 The Centre also co-hosted, in September 2017, the annual meeting of the American Bar Association's Forum on Air and Space Law. In his first public event as Director of the Institute, Professor Brian F. Havel delivered the keynote address, *How Brexit Can Change the Governance of Global Civil Aviation*, to the Forum's nearly 200 delegates at the Omni Hotel in Montreal. Professor Havel has adapted and extended his address for publication in the forthcoming volume of the *Annals of Air and Space Law*.
- 6.7 In June 2018, the Institute of Air and Space Law was among the select academic institutions worldwide invited to present at UNISPACE+50, the high-level meeting organised to mark the fiftieth anniversary of the first United Nations Conference on the Peaceful Uses of Outer Space (UNISPACE). The occasion to take part in UNISPACE+50, held in Austria, Vienna, demonstrates the continuing mission of the Institute and Centre to provide first-class graduate level education, and to spearhead innovative dialogue and research with global partners.

## **7. THE MILAMOS PROJECT (SPECIAL REPORT)**

- 7.1 2017-18 was a milestone year for the project to draft the McGill Manual on International Law Applicable to Military Uses of Outer Space (MILAMOS). Launched in May 2016, the Project has matured rapidly and is entering a new phase of consolidation of efforts and expansion of partnerships.
- 7.2 Intense rule-drafting and consensus-forming and government engagement workshops have been held in various parts of the world, allowing the MILAMOS Project to mature to Phase II, which saw intensified engagement with new global partners and the recruitment of new experts. New partners, including institutions and expertise from Russia (St Petersburg State University; INTERSPUTNIK), China (Beijing Institute of Technology; Xi'an Jiaotong University) and other non-Western States and stakeholders (e.g. Institute of Defence Studies and Analysis), have joined the Project. This global engagement campaign will ensure that the McGill Manual accurately captures the nuances and perspectives of different States and stakeholders, and is reflective of the wide spectrum of interests and concerns relating to the military uses of outer space.

- 7.3** MILAMOS Workshops have already been held in Adelaide, Australia (February 2017), New Delhi, India (June 2017), Colorado Springs, United States (October 2017), and most recently this past summer at our home campus in Montreal (July 2017). Future workshops are scheduled to take place in China (October 2018) and Germany (February 2019). To date, the MILAMOS Project has garnered extensive [international attention and media coverage](#). Once completed in 2019, this unique and innovative project will have a profound influence on the prospects for and sustainability of humankind’s ventures in outer space.

## **8. CO-CURRICULAR ACTIVITIES AND PROGRAMMES**

- 8.1** The Institute established a new intramural “Air Law Speed Moot Court Competition” that is open to all McGill law students (<https://www.mcgill.ca/iasl/#airlawmoot>). A “speed” moot dispenses with extensive written memorials and focuses instead on the oral argument phase, requiring teams only to prepare a “skeleton” outline of their argument that is shared with the judges and opposing teams. The inaugural competition took place in March 2018 and was won by a team of undergraduate McGill law students, Andrew Rentoul and Eric Abrams, with IASL master’s student Elene Tchezhia as the best individual oralist of the competition. Professors Brian F. Havel, Ram Jakhu, and Ludwig Weber served as the judges for the hotly-contested Grand Final. The competition was followed by a gala party and prize-giving at the Museum James Simon Musée, the home and studio of noted Quebec portrait artist James Simon that is located across the street from the Institute’s 3690 Peel building. The merits of the new competition have now attracted a major sponsor, Qatar Airways, which will support its second iteration in Winter Term 2019. The planning for the future of this competition, especially now that it has secured formal external sponsorship, envisages expanding eligibility to students from all Canadian law schools, and eventually all law schools in North America.
- 8.2** IASL students also carried off the Best Brief Award at the annual Manfred Lachs Space Law Moot Court Competition in Washington, D.C., where the North American regional rounds took place in March. The IASL team comprised David Fox (United States), Victoria Frost (Finland), and Valérie Bastien-Dupuis (Canada), with DCL student Aram Kerkonian as coach.
- 8.3** The Institute established a new “Colloquium in Air and Space Law” series that brings thought leaders in the air and space law fields to the McGill campus to meet and interact with our IASL students. In the inaugural year of this initiative, the roster of Colloquium leaders included Mr. John R. Byerly, former chief of international air services negotiations for the United States, who offered students an insider’s view of global aerodiplomacy; Mr. Chris Lyle, former Deputy Director of ICAO’s Air Transport Bureau, who spoke about Brexit; Mr. Jeffrey N. Shane, General Counsel of the International Air Transport Association (IATA) and former

U.S. Undersecretary for Policy in the U.S. Department of Transportation, who discussed IATA's current litigation docket as well as the development of the U.S. open skies policy for international air services; and Mr. Michael Gill, who directs IATA's environmental policy work and gave students a policy advocate's perspective into ICAO's new aviation emissions control scheme, CORSIA. The 2018-19 Colloquium series will be headlined by Dr. Fang Liu, ICAO's first female (and first Chinese) Secretary-General.

## **9. LAUNCH OF THE IASL INTERNSHIP PROGRAMME**

- 9.1** In a joint initiative with the Institute's alumni association, the Institute of Air and Space Law Association (IASLA), the Institute has created a formal Internship Programme that offers our students both paid and unpaid work opportunities at several leading Montreal-based aviation organizations, including the International Civil Aviation Organization (ICAO), the International Air Transport Association (IATA), Airports Council International (ACI), and Air Canada. The programme continues to expand, with new internships under negotiation with the International Federation of Air Pilots' Associations (IFALPA), Bombardier, Etihad Airways, Qatar Airways, and others.
- 9.2** This programme is a long-term commitment to expanding and enhancing the student learning experience at the Institute. At the urging of our corporate supporters, the Institute is seeking formal for-credit recognition for students who participate in the programme. We are currently compiling a full list of available internship opportunities and of the students who have been competitively selected for each internship.

## **10. ACHIEVEMENTS AND SUCCESSES OF IASL ALUMNI**

- 10.1** Several IASL alumni have been appointed in the past year to prominent positions in the legal profession, in industry, and at academic and (inter-)governmental institutions. Notably, Dr. Jiefang Huang (LLM, 1985) was appointed as the new Director of Legal Affairs and the External Relations Bureau of ICAO. Recent graduates Ms. Michelle Hanlon (LLM, 2017) and Mr. Charles Stottler (LLM, 2016) were appointed as Associate Directors of the Master of Laws program in Air and Space Law at the University of Mississippi. Mr. Branislav Turcina (LLM, 2016) joined the European Commission's Directorate General for Mobility and Transport as a Trainee in Aviation and International Transport Affairs. Ms. Jamil Castillo has been hired by Bryce Space and Technology, a consulting firm in Washington D.C. Ms. Dhananga Pathirana (LLM, 2016) became the Group Legal Affairs Manager at Sri Lankan Airlines. The professional careers and achievements of these IASL

graduates are a testament to the quality of education they received at the Institute, and the various opportunities that await our graduates upon taking their degrees.

- 10.2** In addition, DCL graduate Dr. Timiebi Aganaba-Jeanty (DCL, 2017) was appointed to an assistant professorship at the University of Arizona College of Law and also recognised with the prestigious Young Space Leaders 2017 Award from the International Astronautic Federation. Current DCL candidate Mr. Ermanno Napolitano was the only McGill student selected by the Canadian Space Agency under its Student Participation Initiative to attend the International Astronautical Congress in Adelaide, Australia. A full list of recent student and graduate successes is under preparation and will be added to this Report.

## **11. THE INSTITUTE'S SOCIAL CALENDAR**

- 11.1** As usual, the social dimension of the Institute's annual roster of activities was fully engaged. Major highlights included a welcome reception for incoming students in September, a Holiday Reception co-hosted with the IASL alumni association in early December, and the Annual Graduation Dinner in March. The keynote speaker at the Graduation Dinner was Ms. Lauren Small, IASL graduate and newly-appointed Director of *Voies Navigable au Québec*. Professor Havel delivered extended remarks at each event, which were all well-attended by graduates, alumni, friends and supporters of the Institute, with the Holiday Reception attracting a record 80 guests at the McGill Faculty Club. A similar programme is already under way for 2018-19. All McGill law faculty are cordially invited to attend IASL events and functions, and the Institute will make a special effort in the coming year to ensure that its activities events are fully publicized on Babillard and in other fora.

## **12. FUNDRAISING INITIATIVES**

- 12.1** The new Director has made fundraising a major component of his leadership mission. With the collaboration of Faculty and University development officials, the Institute reached out this past year to a number of potential individual and corporate supporters. The Director has met with several interested Institute graduates who are willing to serve as the nucleus for a new IASL External Advisory Board. He is also working with University development officers to establish an endowment for the Institute that will flow from funding already donated to the Institute's space law and policy programmes by the Arsenault Foundation
- 12.2** A number of positive donor activities can already be reported.
- In 2017-18 the FedEx Corporation funded the first year of a research fellowship programme for up to three Institute students; the fellowship has recently been renewed for 2018-19.



- A major proposal is now before Air Canada for a planned series of expert roundtables on current air law issues, and (as noted above) Qatar Airways has committed to support the Institute’s intramural air law moot court competition as well as other future projects.
- The Erin JC Arsenault Trust Fund (extended till 2020) has provided substantial financial support to the IASL for its activities related to “Space Security through the Rule of Law and Sustainable Space Development”. In 2017-18, benefactors Cynda and Marcel Arsenault allowed the transfer of an additional substantial sum from the Institute for the Study of International Development to the IASL. It was also agreed that this amount would be endowed for establishing the Erin JC Arsenault Fund for Space Law to support space law-related academic and outreach activities of the Institute and Centre, including fellowships for post-doctoral and graduate students specialising in space law.

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Dear Colleagues, thank you for reading this Annual Report and for your continued interest in and support of the Institute of Air and Space Law. Please direct any comments or inquiries to the Director of the IASL, Professor Brian F. Havel, at [brian.havel@mcgill.ca](mailto:brian.havel@mcgill.ca).

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