



**INSTITUTE AND CENTRE OF
AIR & SPACE LAW**

ANNUAL REPORT

2004-2005

Prepared by

Professor Dr. Paul Stephen Dempsey

Director

July 15, 2005

I. DESCRIPTION OF UNIT

Recognizing the critical role that legal education would play in facilitating integration of legal standards globally, in 1951, McGill University established the Institute of Air & Space Law (IASL) to provide graduate legal education for students from around the world. In the ensuing half century, IASL has educated some 900 students from 120 countries. Today, our graduates hold some of the highest positions in international organizations, governmental air transport ministries, airlines, and law firms around the world.

The IASL has become a global leader in education, public service, research, and scholarship in the dynamic fields of aviation and space law. Our faculty is comprised of some of the leading air and space lawyers, scholars, and educators from Europe, Asia, and North America. Our educational programme is taught by some of the most and prominent experts in the field of air and space law. Our library possesses the most comprehensive and unique collection of air and space law documents, books, periodicals and theses in the world.

The Institute of Air & Space Law provides the core degree-granting educational program. The Center for Research on Air & Space Law (CRASL) produces research, publishes books and periodicals, and produces workshops, seminars and conferences in Canada and abroad.

Our objectives are to:

- *Educate the next generation of air and space lawyers to serve the needs of the air and space community worldwide.* Our educational emphasis is graduate in character and international in scope. Since promulgation of the Warsaw Convention of 1929, the Chicago Convention of 1944, and the Outer Space Treaty of 1967, a guiding principle of both private and public international air and space law has been to create a standard, universal, and ubiquitous legal regime. By sending our graduates far and wide with a solid educational background, McGill has facilitated that important objective of worldwide harmonization of law.

- ***Offer our students the best graduate education in air and space law available anywhere in the world.*** Though we have been teaching air and space law at McGill University for more than half a century, we constantly strive to improve our educational programme. This we seek to achieve by offering an interdisciplinary curriculum relevant to the needs of our students. Rigorous classroom instruction is coupled with a research and writing requirement, which enables our students to wade deeply into complex issues of air law and space law. Being located at McGill University in Montreal offers the benefit of being in a law faculty adept at comparative law in a bilingual civil law province in a common law country. The world's principal intergovernmental aviation agency and international airline trade association, the national space agency, a major airline and several aerospace manufacturers are headquartered in Montreal, facilitating the presence of experienced practitioners in our classrooms. Our courses are taught by some of the world's most accomplished lawyers in their respective fields.
- ***Publish interdisciplinary research valuable to governmental and multinational institutions, the airline and aerospace industries, and the legal profession.*** Since 1976, our Center for Research in Air & Space Law has published the *Annals of Air & Space Law*, and books, reports and studies, and our faculty publishes widely in other legal periodicals as well. Our faculty also assists international organizations and governmental institutions in their efforts to advance air and space law and policy.
- ***Serve the professional educational needs of the aviation and space law bar.*** Our conferences and seminars are attended by hundreds of legal practitioners, government officials, industry leaders and professors from around the world. Over the years, the Institute has been visited by delegates and academics from many nations seeking cutting edge information on unfolding developments in air and space law.
- ***Create a thriving intellectual environment and professional global network for our faculty, our students, our graduates, and experts in the field.*** We bring together some of the world's premiere experts in air and space law under one roof for

research, informal discussions, class lectures, seminars and conferences. Working with other national and international organizations enables the Institute to enjoy some of the most provocative and stimulating intellectual interactions on academic as well as practical industry issues and new legal and policy challenges raised by privatization, deregulation, globalization and terrorism.

II. PAST YEAR'S ACTIVITIES

TEACHING AND LEARNING

Our incoming class for 2004-05 consisted of students from the Canada, Germany, South Korea, Sri Lanka, Switzerland, and the United States.

In the fall semester, our students had the opportunity to take Comparative Air Law from Adjunct Prof. Dr. Ludwig Weber, Space Law and Institutions from Prof. Ram Jakhu, Private International Air Law, and Public International Air Law from Professors Michael Milde and Paul S. Dempsey.

In the spring semester, students had the opportunity to take courses in Air and Space Law Applications and Government Regulation of Space Activities from Prof. Jakhu, Government Regulation of Air Transport from Professors Paul S. Dempsey and Richard Janda, and Airline Business and Law from Prof. Paul S. Dempsey.

Several guest lectures were also delivered by Adjunct Professors Peter Nesgos, Donald Bunker, Francis Schubert, Peter Van Fenema, Andrew Harakas, John Saba, and former colleague Peter Haanappel.

RESEARCH

The Center for Research in Air and Space Law (CRASL) received a one year SSHRC grant of \$162,500 on the subject of International Aviation Policy for Canada; another SSHRC grant of \$10,000 on Militarization of Space; an Arsenault Family Foundation grant of US\$50,000 for Militarization of Space; a Secure World Foundation grant of US\$46,000 for an e-Parliament Space Policy Options study; a \$10,000 grant from the

Canadian government, Department of Foreign Affairs and International Trade for a Space Security Index project, and another \$2500 for a workshop on Militarization of Space; and a \$10,000 grant for a workshop on Canadian International Aviation Policy from the Conference Board of Canada. Most recently, the Board of Governors of the Donner Canadian Foundation announced that this summer it will be awarding the Institute \$32,515 for a project entitled "ATC Commercialization Policy", which will provide a comparative analysis of the privatization of air navigation service providers in 10 nations.

The CRASL has published the *Annals of Air & Space Law* since 1976. Though it had been late in meeting its publication objectives for several years, with the publication of volume XXIX of the *Annals of Air & Space Law*, it has resumed timeliness of publication. Though historically, the *Annals* had a publication objective of December of the year appearing on the spine of the book, the new objective is to have the *Annals* published 11 months earlier, in January of the date on the spine. That will be accomplished with the accelerated publication of Volume XXX of the *Annals* in 2005.

Publications of the faculty are set forth in Appendix II below.

ACADEMIC STAFF

DEMPSEY, Paul Stephen, Professor and Director
MILDE, Michael, Professor
VLASIC, Ivan, Professor Emeritus
JAKHU, Ram, Associate Professor
JANDA, Richard, Associate Professor

Part-time and auxiliary staff

Sessional Lecturers

BUNKER, Donald, Adjunct Professor
HARAKAS, Andrew, Adjunct Professor
LESSARD, Stéphane, Adjunct Professor
MARGO, Rod D., Adjunct Professor
NESGOS, Peter, Adjunct Professor
SABA, John, Adjunct Professor

SCHUBERT, Francis, Adjunct Professor
VAN FENEMA, H. Peter, Adjunct Professor
VAN HASSELT, Ludolf, Adjunct Professor
WEBER, Ludwig, Adjunct Professor

N.B.: The IASL is relying to a large degree on the services of Adjunct Professors and visiting lecturers not only to make up for the lack of permanent staff resources, but to keep the students exposed to up-to-date contact with prominent practicing experts.

INVOLVEMENT IN THE COMMUNITY

The IASL has been active in the Montreal community, and the international community. Over the last year, IASL co-sponsored seminars, conferences and workshops with the following organizations:

- Concordia University;
- The International Civil Aviation Organization;
- The International Air Transport Association;
- Airports Council International;
- Leuven University (Belgium);
- Leiden University (The Netherlands);
- The Conference Board of Canada;
- Non-Proliferation, Arms Control and Disarmament Division of Foreign Affairs Canada; and
- Social Sciences and Humanities Research Council of Canada

The Institute of Air & Space Law, in conjunction with the Center for Research in Air & Space Law, organized and co-sponsored the following workshops, seminars and conferences during 2004-05:

- **Workshop on Militarization of Space** – September 23-24, 2004 (sponsored by SSHRC and Foreign Affairs Canada), held at the Faculty of Law of McGill University with over 40 attendees;
- **Worldwide Conference on Current Challenges in International Aviation** – Sept. 25-26, 2004 (co-sponsored by the International Civil Aviation Organization), held at the Delta Centre-Ville Hotel in Montreal with more than 350 attendees from more than 70 nations;
- **Workshop on Space Security Index** – Feb. 25 – 26, 2005 (sponsored by the Arsenault Family Foundation and the Secure World Foundation, Foreign Affairs

- Canada and SSHRC), held at the Faculty of Law of McGill University, with approximately 50 participants;
- **Workshop in International Aviation Policy for Canada** – May 13-14, 2005 (sponsored by SSHRC and the Conference Board of Canada), held at the Faculty of Law of McGill University with approximately 100 participants;
 - **Conference on the Airline Industry's Financial Crisis**, Brussels, Belgium – May 19-20, 2005 (co-sponsored by the University of Leuven Institute for International Law, and the University of Leiden Institute for Air & Space Law);
 - **IASL European Alumni(ae) Conference June 11-12, 2004**, Zurich, Switzerland – comprised of approximately 30 European graduates of the Institute of Air & Space Law; this was the *Ninth Bi-ennial Meeting of the IASL European Alumni(ae) Association*. The next meeting is planned for Bucharest, Romania, in 2006.
 - **McGill Air and Space Society** - Since its inauguration on Dec. 17, 2003, with ICAO Council President Dr. Assad Kotaite giving the keynote luncheon address, we have held several other successful luncheon events this past year:
 - **Luncheon address Friday, 18 June 2004**
Sandy London of Canadian Airports Council, spoke on "Canada's Airports: What Lies Ahead";
 - **Luncheon address Friday, April 1, 2005**
James P. Kreindler spoke on "The Evolution of Air Disaster Litigation - From Warsaw to Montreal"
 - **Luncheon address Friday, 17 June 2005**
Clifford Mackay spoke on "Canada's Air Industry: How Can We Improve Our Competitiveness?"

Distinguished Guest Lecturer Series

On 4 October 2004, Mr. Bruno Legendre from the Canadian Space Agency and Canadian representative at the Legal Sub-Committee of the COPUOS, delivered a lecture to our students, as did Stefan Eriksson (Swedish aviation trial lawyer) on November 16, and Lucy Stojak on 22 November. On 14 January 2005, we welcomed Mr. Robert Gordon, Vice President – Space & Defense of Boeing Capital Corp and Adjunct Professor Peter N. Nesgos from the Law Office of Milbank Tweed Hadley & McCloy in New York to

deliver a talk on “Financing of Space Projects”. Richard A. Wynne, Director, Business Strategy of Boeing Commercial Airplanes also delivered a talk to our students on 6 April 2005 on “Aircraft Subsidies and the World Trade Organization”.

Communications and Marketing

The IASL distributed several communications to our graduates via e-mail as regular correspondence designed to keep our graduates informed of, and engaged in, our activities. The Institute is currently working on updating and expanding its web site. In 2005, IASL also published and distributed a color brochure summarizing the Institute’s activities and opportunities for prospective students.

Invited Talks and Papers:

Professor Paul Dempsey:

- “Carrier Liability under the Montreal Convention of 1999”, Feb. 7, 2005, IATA Legal Symposium, Santiago, Chile.
- “The Effects of Deregulation and Liberalization on Air Carrier Profitability”, May 19, 2005, University of Leuven Institute for International Law Conference on the Airline Industry’s Financial Crisis, Brussels, Belgium.
- “Airline Alliances and Competition Law,” October 5, 2004, Arab Air Carriers Organization 37th Annual Meeting, Amman, Jordan;
- “Are International Aviation Alliances Anticompetitive?”, Sept. 24, 2004, Worldwide Conference on Current Challenges in International Aviation, Montreal, Canada;
- “Liberalization and Open Skies in International Aviation,” Air Currents Conference, Ottawa, Canada.
- “The Canadian Airline Conundrum,” May 12, 2005, Canadian Air Carriers Association, Ottawa, Canada.
- “International Aviation Law”, May 27-31, 2005, Singapore Aviation Academy, Singapore.

Professor Richard Janda:

- “Toward A ‘Single Sky’: The Canada-US Bilateral Aviation Relationship” (with Shy Kurtz and David Dubrovsky) Testimony, Standing Committee on Transportation, May 9, 2005.
- “NAFTA and Financial Services: What difference does it make?” Universidad Panamericana Symposium on Services in NAFTA: a decade later, Guadalajara, Mexico, November 11, 2004.
- “Hommage d’un juriste au philosophe Jacques Derrida” Faculty of Law seminar, McGill University, November 3, 2004.
- “Why Does Form Matter? The Hybrid Governance Structure of Makivik Corporation” Conference on Aboriginality and Governance, Montreal, October 22, 2004.
- “A Theory of Public Goods” FQRSC Seminaire, Université de Montréal, October 4, 2004.
- “Four Intemperate Questions about Aviation Security” IASL 50th Anniversary Conference, Montreal September 25, 2004.
- “The Return of the State” Governance and the Social Conference, University of Alberta, June 13, 2004.
- “Pathologies of Pluralism” Law Commission of Canada Legal Dimensions Conference, University of Manitoba, Winnipeg June 2, 2004.

Professor Michael Milde:

- Paper: Aviation Safety and Security – Legal management - First International Conference on Air Transport Industries Management. Kish Island, Islamic republic of Iran, 24-27 November 2004 (paper presented without personal participation)
- Paper: Liability under Montreal Convention of 1999 and the EU Regulations – seminar of the Czech Airlines, Prague, 15-16 February 2005
- Multiple Papers: Legal developments and trends in international aviation, International (one-man and 136 participants) seminar May-June 2005, Prague

organized by Czech Ministries of Transport and External Affairs (some papers distributed in hard copies, full material on CD-ROM)

Professor Ram Jakhu:

- “Important Issues of International Space Law Relevant to South Korea” on 9 May 2005 at the Foreign Authority Forum of the Faculty of Law, Seoul National University, Seoul, South Korea.
- “Policy and Legal Aspects of the Space Launching Sites on Korea”, at the International Symposium on Space Launch Infrastructure, May 6-7, 2005, Goheung County, Jeonnam, South Korea.
- “Regulatory aspects of planetary environment protection”, 23 March 2005, Astrobiology class, Electron Microscopy Centre, McGill University.
- “Threat to Telecommunications Satellites During an Armed Conflict in Space” at the Workshop on “Rules of Space,” organized by American Academy of Arts and Sciences on 4 March 2005 in Cambridge, Massachusetts, USA.
- “Space Law Principles and Practice: Militarization of Outer Space and Implications for Global Security”, at the Rotary Club of Kolkata, India, on 17 December 2004.
- “Twenty Years of the Moon Agreement: Space Law Challenges for Returning to the Moon”, at the United Nations/Brazil Workshop on Space Law entitled “Disseminating and developing international and national space law: the Latin America and Caribbean perspective” hosted by the Government of Brazil, held in Rio de Janeiro, from 22 to 25 November 2004.
- “The Future of Air & Space Transportation: How will sub-orbital transport evolve in terms of technology, economics and law?” at the Worldwide Conference on Current Challenges in International Aviation organized by McGill University Institute of Air & Space Law in Montreal on September 24-26, 2004.
- Lectures on the “Law of Satellite Communications” at the Graduate Program, the School of Law, the University of the Witwaterstrand, Johannesburg, South Africa, between 22 August- 02 September 2004.
- “Legal Issues Relating To Global Public Interest in Outer Space” at the Workshop on Remote Sensing and Rules for Space, organized by the Center for International and Security Studies at Maryland, School of Public Affairs, University of Maryland, USA, on 19 – 20 July 2004.

- “Implementing Global Public Interest in Information Society” at the International Seminar: The Information Society, Human Dignity and Human Rights, held at McGill University, Montreal, on 17th and 18th June 2004.

ADDITIONAL INFORMATION ATTACHED

Appendix I: Honours, Awards and Prizes

Appendix II: Publications

Appendix III: Consulting Activities

APPENDIX I – HONORS AWARDS AND PRIZES

The following Prizes and Scholarships were awarded:

NICOLAS MATEESCO MATTE PRIZE	<i>Mark Edward PETERSON (USA)</i>
JOSE BOGOLASKY MEMORIAL PRIZE IN PUBLIC INTERNATIONAL AIR LAW	<i>Dean Reinhardt (USA)</i>
THE SETSUKO USHIODA-AOKI PRIZE	<i>Mark Edward PETERSON (USA)</i>

APPENDIX II – PUBLICATIONS FOR THE 2004 CALENDAR YEAR

- P.S. Dempsey, *European Aviation Law* (The Hague, The Netherlands, 2004).
- P.S. Dempsey, and L. Gesell, *Air Commerce & the Law* (Chandler, AZ, Coast-Aire, 2004).
- L. Gesell and P.S. Dempsey, *Air Transportation: Foundations for the 21st Century* (Chandler, AZ, Coast-Aire, 2004)
- P.S. Dempsey, *Transit Law* (Washington, DC, Transportation Research Board, 2004)
- P.S. Dempsey, *Space Law* (five volumes) (Dobbs Ferry, NY, Oceana Publications, 2004)
- P.S. Dempsey, "Carrier Liability for Loss & Damage of International Air Freight: Plaintiffs' and Defendants' Elements of Proof", (2004) *XXIX Annals of Air & Space Law* 91-145.
- P.S. Dempsey, "Flights of Fancy and Fights of Fury: Arbitration and Adjudication of Commercial and Political Disputes in International Aviation", (2004) *32 Georgia Journal of International & Comparative Law* 231-305.
- P.S. Dempsey, "Compliance & Enforcement in International Law: Achieving Global Uniformity in Aviation Security", (2004) *30 North Carolina Journal of International Law and Commercial Regulation* 1-74
- P.S. Dempsey, "Air Cargo Liability and Baggage Liability and the Tower of Babel", (2004) *36 George Washington International Law Review* 239-308.
- R. Jakhu, "Challenges in Regulating Satellite Telecommunications in the Early 21st Century", *XXVIII Annals of Air and Space Law*, 2004, pp. 281 et seq.
- R. Janda, *Communications Law in Canada* Toronto: Butterworth's, 2000, update of chapter 15 (with Sunny Handa, David Johnston, and Charles Morgan)
- R. Janda, "Disciplining Subsidies within an EU-US Open Aviation Area", (2004) *5 J. of World Inv. & Trade* 647-682.
- M. Milde, *Aviation Safety and Security - Legal Management*, *Annals of Air and Space Law*, Vol XXIX (2004), pp. 4-18

- M. Milde, Chicago Convention at Sixty - Stagnation or Renaissance?, Association Suisse de Droit Aérien et Spatial BULLETIN, 1/2004, Nr. 136, pp.9-35
- M. Milde, Chicago Convention at Sixty - Stagnation or Renaissance?, Annals of Air and Space Law, Vol. XXIX, pp. 443-471

APPENDIX III – CONSULTING ACTIVITIES

June 1, 2004 – May 31, 2005

Name of Faculty Member	Number of days			Total
	Private Sector Consulting	Public Sector Consulting	Other (please explain)	
Paul Dempsey	0	15		15
Ram Jakhu		20		20
R. Janda	N/a in relation to air law			0
Michael Milde	2			2