

# City University of Hong Kong

## Information on a Course offered by School of Law with effect from Semester B in 2012/ 2013

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### Part I

**Course Title:** Air & Space Law

**Course Code:** LW4646

**Course Duration:** 1 semester

**Credit Units:** 3

**Level:** B4

**Medium of Instruction:** English

**Prerequisites:** LW2603A Law of Torts I, LW2603B Law of Torts II

**Precursors:** *(Course Code and Title)* Nil

**Equivalent Courses:** *(Course Code and Title)* Nil

**Exclusive Courses:** *(Course Code and Title)* Nil

### Part II

#### Course Aims

This subject introduces students to the basics of two developing bodies of law, aviation law and the *lex specialis* or special law of outer space. In the area of aviation law students will study the liabilities of air carriers to passengers and related issues such as accidents, DVT, air rage and security issues. In particular the course aims to:

- develop an understanding of the relevance of the law studied to everyday life (e.g., telephone and video communications, aviation security);
- increase students' awareness of the impact of aviation law both internationally and domestically in the year's since the terrorist attacks of September 11, 2001;
- develop in students an ability to analyse factual scenarios and to determine the potential liabilities involved in order to advise clients and argue cases;
- encourage the continuing developments in students of a critical approach to their study of the two legal regimes involved in the subject;

- provide opportunities for students to develop their research skills through the study of issues such as deep vein thrombosis litigation, air rage liabilities, security issues, launching state liabilities and other discreet topics; and,
- Promote an attitude of critical and reflective learning of air and space law.

### Course Intended Learning Outcomes (CILOs)

*Upon successful completion of this course, students should be able to:*

No.	CILOs	Weighting (if applicable)	Number(s) of PILOs contributed to
1.	Analyse a factual scenario involving an aviation or aerospace accident and state the legal liabilities involved, including providing advice to clients.		3, 5
2.	Demonstrate an understanding of the major conventions, laws, legal rules and sources of information for the aviation sector within Hong Kong and China and internationally.		1, 4, 5
3.	Effectively research and provide advice on aviation, aerospace or space law issues.		3, 5, 6
4.	Describe the role played by international cooperation in the creation of air transport systems, including: <ul style="list-style-type: none"> <li>• the legal status and role of the International Civil Aviation Organization (ICAO);</li> <li>• the development of responses to the terrorist attacks of September 11, 2001; and,</li> <li>• the role of UNCOPUOS.</li> </ul>		1, 4, 5
5.	Evaluate the key concepts of the <i>lex specialis</i> of outer space which is comprised of agreements and treaties and principles of public international law. Compare air law and space law and assess their interaction.		1 - 6
6.	Assess the shortcomings of existing international arrangements and evaluate proposals for change.		1, 4, 5, 6

### Teaching and Learning Activities (TLAs)

*(Indicative of likely activities and tasks designed to facilitate students' achievement of the CILOs. Final details will be provided to students in their first week of attendance in this course)*

CILO No.	TLAs	Hours/week (if applicable)
CILO 1	Apply convention provisions to assess (i) if a compensable accident occurred and (2) to determine liabilities associated with a problem scenario	3
CILO 2	Identify the convention based rules that establish responsibility, liability and compensation in the event of accidents, incidents and collisions.	3
CILO 3	Students will develop a capacity to conduct research of relevant databases of organisations including online legal databases which they will apply to demonstrate their understanding of the interaction between treaty law, international law and the domestic jurisdiction.	3
CILO 4	The instructor will introduce the key institutions of air and space law, and students will identify and discuss their critical role in laying down standards that are adopted at national level.	3

CILO 5	Students will be introduced to the key issues associated with the delimitation of outer space in order to assess potential conflicts that can occur between states such as the use of flags of convenience (eg, the sea launch concept). At the same time they will be guided to explore the continued relevance of key principles from public international law to both bodies of law.	3
CILO 6	Students will compare and contrast in order to critique the liability regime for passengers and people and property on the ground, review new proposals, assess the effectiveness of measures taken and devise new proposals for legislative and regulatory reform	1

### Assessment Tasks/Activities

(Indicative of likely activities and tasks designed to assess how well the students achieve the CILOs. Final details will be provided to students in their first week of attendance in this course)

CILO No.	Type of Assessment Tasks/Activities	Weighting (if applicable)	Remarks(exam duration , etc)
CILO 1,2	<i>Exam questions – hypothetical scenarios Students apply tests and criteria to calculate the liabilities of passengers and air carriersto provide effective solutions.</i>	50%	2 hours
CILO 5	<i>Problem based topic (take-home) Students analyse a complex scenario to explain and calculate the liabilities involved in a space based scenario.</i>	20%	1,500 words
CILO 3-6	<i>Essay topic Traditional essay topics allow students to examine and critique a body of law, compare and contrast commentators and develop a coherent interpretation and analysis of the question asked.</i>	30%	2,000 words

**Grading of Student Achievement:** Standard (A+, A, A-...F). Grading is based on student performance in assessment tasks / activities.

### Part III

#### Keyword Syllabus

Air Law and Space Law; Sources of law; peaceful use of outer space; launching of space objects; space debris and environmental issues; liability arising out of space objects; space tourism; delimitation between air space and outer space; Chicago Convention; International Civil Aviation Organisation, air carriers' liability to passengers, air rage, aviation security; damage to property and third parties on the ground.

#### Detailed Syllabus

In order to understand the *lex specialis* of space it is necessary to understand how space law draws key principles from international law. Therefore it is necessary to initially teach into the sources of law for international law. In particular students need to be introduced to the role of customary international law, the use of the International Law Commission's (ILC's) *Draft Articles on the Responsibility of States for Internationally Wrongful Acts* and the interpretive role of the *Statute of the International Court of Justice* and the *Vienna Convention on the Law of Treaties*. Once this study is complete students are introduced to the instruments (conventions and agreements) that comprise the *lex specialis* of outer space. Having completed study of this body of law the focus shifts to Aviation Law where students are firstly introduced to the Chicago Convention and its pivotal role in creating uniform rules which states import into their local legal regimes. The course then focuses on the liability of air carriers to passengers for aviation accidents before examining briefly their liability also for damage to third parties and property on the ground. The course concludes with an examination of air rage and aviation security issues.

- Introduction to sources of international law that form the underpinnings of space law, including the Vienna Convention on the Law of Treaties, the Statute of the International court of Justice, the ILC Articles on State Responsibility and customary international law definitions and principles.
- The Instruments of the *lex specialis* of outer space, including the Outer Space Treaty, the Liability Convention, the Return of Astronauts Agreement, the Registration Convention and the Moon Agreement.
- the regulatory framework of international civil aviation and its application in Hong Kong, including the establishment and role of the International Civil Aviation Organization
- air carriers' liability for passengers, baggage and cargo including instances of air rage and DVT litigation including the rich jurisprudence associated with air carriers' liability
- aviation security (incl. airport security, unlawful interference, terrorism and recent Australian, United States and European initiatives)
- air carrier liability for surface damage (damage to property and third parties on the ground)
- intercarrier agreements such as the Montreal Intercarrier Agreement and the IATA Intercarrier Agreements
- the development of the Montreal Convention (1999).

### **Recommended Reading**

#### **Text(s)**

I.H.Ph. Diederiks-Verschoor, *An Introduction to Air Law*, (Kluwer Law International, 8<sup>th</sup> ed, 2006)

I.H.Ph. Diederiks-Verschoor, *An Introduction to Space Law*, (Kluwer Law International, 8<sup>th</sup> ed, 2008)

**Online Resources: Cases and Conventions to be placed on the website.**