

# Aviation Security Law

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# Preface

Aviation is an important global business and a significant driver of the global economy. It is vital, therefore, that stringent measures are taken to counter acts of unlawful interference with civil aviation. The *Convention on International Civil Aviation* signed at Chicago on 7 December 1944, states in its *Preamble* that whereas the development of civil aviation may help preserve friendship and understanding among the people of the world, yet, its abuse could become a threat to general security.

The genealogy of the term “Terrorism” lies in Latin terminology meaning “to cause to tremble” (*terrere*). Since the catastrophic events of 11 September 2001, we have seen stringent legal measures taken by the United States to attack terrorism, not just curb it. The famous phrase “war on terror” denotes pre-emptive and preventive strikes carried out through applicable provisions of legitimately adopted provisions of legislation. The earliest example is the *Air Transportation Safety and System Stabilization Act* (ATSAA) enacted by President Bush less than two months after the 9/11 attacks. Then, two months after the attacks, in November 2001, Congress passed the *Aviation and Transportation Security Act* (ATSA) with a view to improving security and closing the security loopholes which existed on that fateful day in September 2001. The legislation paved the way for a huge federal body called the Transportation Security Administration (TSA) which was established within the Department of Transportation. The Homeland Security Act of 2002 which followed effected a significant reorganization of the Federal Government.

All this goes to show that the law plays a significant role in ensuring aviation security. This book addresses new and emerging threats to civil aviation; evaluates security tools now in use such as the Public Key Directory, Advance Passenger Information, Passenger Name Record and Machine Readable travel documents in the context of their legal and regulatory background; and discusses applicable security treaties while providing an insight into the process of the security audits conducted by the International Civil Aviation Organization (ICAO).

The book also examines issues of legal responsibility of States and individuals for terrorist acts of third parties against civil aviation and discusses from a legal perspective the latest liability Conventions adopted at ICAO. The Conclusion of the book provides an insight into the application of legal principles through risk management. Since the writing of this book, the author published three feature articles entitled, The NW Flight 253 and the Global Framework of Aviation Security (*Air and Space Law*, Volume 35 Issue 2 April 2010 167–182); The Use of Full Body Scanners and Their Legal Implications; and The Use of Forged Passports for Acts of Criminality (both of which could be accessed through the web page of the Journal of Transportation Security (Springer)). These three articles form a useful adjunct to this book.

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