AIR LAW, REGULATION AND COMPLIANCE MANAGEMENT

COURSE DESIGNED FOR
ISTANBUL TECHNICAL UNIVERSITY AND THE TURKISH AVIATION ACADEMY
BY McGill University Institute of Air and Space Law

CONTRACT LAW

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Contract law

- Main types of airline contracts
  - Contract of carriage – pax & cargo
  - Distribution agreements and CRS
  - Aircraft purchase and lease
  - Interline
  - Cooperation, alliances, code-share, JV
  - Maintenance
  - Ground handling
- Structure, drafting, allocation of risk
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- Contract of carriage – pax & cargo

1. Carriage of passengers
   - IATA Conditions of contract – pax, Reso.724
     e-ticket and hardcopy format – in force
   - IATA Conditions of carriage – pax, RP 1724
     (rescinded 2013) - still widely used as
     Carrier’s Conditions of Carriage incorporated into Contract
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Contract of carriage – Passenger

- IATA Conditions of contract – pax, Reso.724
- e-ticket and hardcopy format – in force
  - Notice of Liability Limitations – Montreal and Warsaw, incl. EU 889/2002 and time limits for action
  - Notice of contract terms incorporated by reference
    - Contract of carriage subject to notices and terms
    - Different terms in successive carriage
    - Conditions, regulations and tariffs incorporated by reference
    - Description of Conditions
    - How to obtain more information
    - Carrier as agent
    - Notices on Denied Boarding, Baggage, Check-in times and Dangerous Goods
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Contract of carriage – cargo

- IATA AWB Conditions of Contract – Reso 600b
  - Notice on face of AWB: Goods in good order, carriage by other means, intermediate stopping places, limit. of liability
  - Conditions on reverse side of AWB
    - Definitions, Warsaw & Montreal Conventions applicable, carriage subject to laws, regulations and carrier’s conditions of carriage
    - Carrier’s limit of liability if Montreal Convention does not apply: 19 SDR per kg
    - Shipper guarantees payment of all charges
    - Shipper may declare value
    - Rules on Foreign air transportation under U.S. Transportation Code
    - “Reasonable despatch” rule. Carrier may substitute carrier, aircraft or modes of transport w/o notice and may select alternative routing
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Distribution agreements

- Traditional Sales Agency Distribution: IATA Reso 800 – Passenger Sales Agency Rules
- Revised Rules: IATA Reso 818g – Passenger Sales Agency Rules (applicable to 50,000+ Agents)
- Billing and Settlement Plans – IATA Reso 850
- Global Distribution Systems (GDS)
- IATA’s New Distribution Capability (NDC) – STD’s IATA Reso 878
- IATA’s Study into Future Distribution (2013)
1. Aircraft Purchase Agreement

- Term sheets / letters of intent (binding/non-binding)
- Deposit / Escrow deposit
- New aircraft purchase: Manufacturer’s contract draft
  - Object(s) of sale, delivery, title and risk of loss
  - Price, taxes and customs duties, payment
  - Excusable delay
  - Changes to detail specifications
  - FAA/EASA/Governm. Requirements
  - Buyer furnished equipment
  - Demonstration and test flights
  - Assignment, resale or lease
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Aircraft Purchase and Lease Agreements

1. Aircraft Purchase Agreement, cont’d:
   - Termination for insolvency
   - Inspections, plant representative
   - Product assurance, customer support
   - Spare parts
   - Notices and requests, miscellaneous

Key issues:
- Warranties and exclusions
- Enforceability, assignability
- Excusable delay
- Manufacturer support and guarantees
- Delivery, certification, registration, governing law
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Aircraft Purchase and Lease Agreements

2. Aircraft Lease

- Operating lease vs Finance lease
- Typical lease agreement
  - Object of lease and conditions
  - Term; representations and warranties of Lessee
  - Delivery and acceptance; damage prior to delivery
  - Rental payments; insurance
  - Loss, damage and requisition
  - Maintenance and repair
  - Operation and use
  - Taxes and costs
  - Events of default
2. Aircraft Lease

- Typical lease agreement, cont’d
  - Re-Delivery
  - Exclusion and Indemnity
  - Notices; Governing law, jurisdiction and service of process
  - Assignment; miscellaneous

- Key issues
  - Quiet enjoyment
  - Termination payments
  - Maintenance reserves; unrecorded liens
  - Lessor’s liability to third parties; taxation indemnities
  - Return conditions
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Interline Agreements

• IATA Multilateral Interline Traffic Agreement – MITA Passenger / Cargo (ca. 750 carriers, incl. domestic)
• MITA one way Passenger
• IATA Intermodal Interline Traffic Agreement – Passenger
• MITA principles:
  • Mutual acceptance of reservations, ticketing, pax/cargo handling, credit, proration, claims handling
  • Settlement through IATA Clearing House
  • MITA has antitrust immunity US / EU
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Alliances, Codeshare, JV

- **Airline Alliances**: Comprehensive cooperation on commercial matters, standards of service, marketing and branding, quality control, scheduling and planning matters.

- **Codesharing**: Agreement on joint use of codes, CRS display improvement, check-in, reservations/ticketing, in-flight product coordination to achieve “seamless service”.

- **Joint Ventures**: Cooperation to jointly organize and run a particular project or enterprise. Ex.: SITA, ULDs etc.
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Maintenance Contracts

- Services provided (Aircraft / Engines; scheduled / unscheduled maintenance)
- Title to components (installed, replaced)
- Warranty (limited)
- Insurance (all risks insurance required at expense of client)
- Liabilities and Indemnities (damage to property of client due to negligence)
- Suspension and termination
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- Maintenance contracts, cont’d
  - Lien (over the aircraft / engine & any other aircraft / engine of client in its possession)
  - Parking and storage (even if lien is exercised)
  - Taxes, duties and levies outside (procure exemption from foreign taxes or reimburse)
  - Notices (in writing)
  - Miscellaneous provisions (no assignment)
  - Interpretation
  - Applicable law and jurisdiction
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Ground Handling Agreements

• Ground handling:
  All services to meet the aircraft, process its loads (pax, baggage & cargo and mail) and prepare aircraft for departure

• IATA Standard Ground Handling Agreement (2013)
• International Airline Technical Pool Agreement (IATP)
• Document Service Agreement
• Catering Agreement
Ground handling contracts

- IATA Standard Ground Handling Agreement
  - AHM 801
    - Main Agreement
      - Provision of services
      - Fair practices
      - Subcontracting
      - Standard of work
      - Remuneration
      - Liability and indemnity
      - Arbitration
      - Duration, modification and termination
Thank you

QUESTIONS ?