

AVIATION LAW AND POLICY SERIES

KLUWER LAW INTERNATIONAL

Multimodal Transport Law

The Law Applicable to the Multimodal Contract
for the Carriage of Goods

MARIAN HOEKS



Wolters Kluwer
Law & Business

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Multimodal Transport Law

Aviation Law and Policy Series

Volume 6

Series Editor

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International Institute of Air and Space Law, Leiden University

The global liberalization regime of the past two decades has fundamentally affected the operation of international air transport services.

This process calls for reflection and analysis across a wide range of legal and policy areas, including but not limited to public international air law and policy, with special reference to safety, security and environmental concerns, liability, competition law regimes, company law, and the complex relationship between European Community law and public international law.

The *Aviation Law and Policy Series* critically examines developments around liberalization of air services internationally resulting in the establishment of Open Aviation Areas; institutional questions such as the external powers of the European Community and the relationship between international organizations such as ICAO and EUROCONTROL; the coming into force of unlimited liability regimes and related case law; the granting of antitrust immunity to international airline alliances; and cooperation between competition authorities. Attention will also be paid to topical safety and security issues, and the growing impact of aviation in relation to the environment, dictating the design of emission trade systems. Last but not least, commercially oriented subjects such as aircraft financing and leasing will be addressed, both from the perspective of national and international legal regimes, taking into account practical cases and case law.

The objective of the *series* is to make a contribution to legal thinking on the multifaceted aspects of this important field of law. The publications are designed to document and anticipate the evolution of aviation law and policy in the twenty-first century.

The titles published in this series are listed in the back of this volume.

About the Author

Marian Hoeks was born in 1975 in Hengelo (Overijssel), The Netherlands. After obtaining her VWO diploma in 1993 she studied industrial design at the Design Academy in Eindhoven (The Netherlands). In 1998 she entered the legal arena at the University of Leiden wherefrom she graduated with a Master of Laws in 2002. During 2002 and 2003 she worked as a notary-at-law in Breda in The Netherlands but returned to the academic environment in 2004. Since 2004 she has been attached to the Department of Commercial and Company Law at the Erasmus University in Rotterdam as a teacher and researcher. She started working on this doctoral thesis under the supervision of Professor K.F. Haak in June 2005. Her research has been published in journals such as *European Transport Law*, the *Journal of International Maritime Law* and *Transportrecht*.

List of Abbreviations

JOURNALS

AA:	Ars Aequi
AC:	Law Reports, Appeal Cases
AJCL:	The American Journal of Comparative Law
AJIL:	The American Journal of International Law
All ER:	All English Law Reports
AMLR:	Antwerp Maritime Law Reports
BACC:	Bulletin des Arrêts de la Cour de Cassation
BGHZ:	Bundesgerichtshof Zeitung
CJELO:	Columbia Journal of European Law Online
DM:	Il Diritto Marittimo
EJPL:	European Journal of Private Law
ELR:	European Law Review
ERPL:	European Review of Private Law
ETL:	European Transport Law
EWCA:	England and Wales Court of Appeal
EWHC:	High Court of England and Wales
FD:	Financieel Dagblad
GWILR:	George Washington International Law Review
ICLQ:	International and Comparative Law Quarterly
IML:	International Maritime Law
I ZR:	German case law, can be found at < www.bundesgerichtshof.de >
JIML:	Journal of International Maritime Law
JMLC:	Journal of Maritime and Commercial Law
LJN:	Landelijk Jurisprudentie Nummer, can be found at < www.rechtspraak.nl >

List of Abbreviations

Lloyd's Rep.:	Lloyd's Law Reports
LQR :	Law Quarterly Review
McGill L.J.:	McGill Law Journal
MLAANZ :	Maritime Law Association of Australia and New Zealand
MLR :	Michigan Law Review
MPM:	Maritime Policy & Management
MqJBL:	Macquarie Journal of Business Law
MRI:	Maritime Risk International
NJ:	Nederlandse Jurisprudentie
NJB:	Nederlands Juristenblad
NJW(-RR):	Neue Juristische Wochenschrift (-Rechtsprechungs-Report Zivilrecht)
NTHR:	Nederlands Tijdschrift voor Handelsrecht
RCDIP:	Revue Critique de Droit International Privé
RDILC:	Revue de Droit International et de Législation Comparée
RDU:	Revue de Droit Uniforme
RIW:	Recht der Internationalen Wirtschaft
S.Ct.:	West's Supreme Court Reporter
S&TLI:	Shipping & Transport Lawyer International
TBHR:	Tijdschrift voor Belgisch Handelsrecht
T&D:	Transportation & Distribution
Term Rep. :	Durnford & East's Term Reports
TLR:	Tulane Law Review
TranspR:	Transportrecht
TRR:	Transportation Research Record
TVR:	Tijdschrift Vervoer & Recht
ULR:	Uniform Law Review
URLR:	University of Richmond Law Review
VUWLR:	Victoria University of Wellington Law Review
WLR:	The Weekly Law Reports
WMU JMA:	WMU Journal of Maritime Affairs
WUGSLR:	Washington University Global Studies Law Review
WPNR:	Weekblad voor Privaatrecht, Notariaat en Registratie
ZLW:	Zeitschrift für Luft- und Weltraumrecht
ZVR:	Zeitschrift für vergleichende Rechtswissenschaft

CONVENTIONS AND PROTOCOLS

CMNI:	The Budapest Convention on the Contract for the Carriage of Goods by Inland Waterway of 22 June 2001
CMR:	Convention on the Contract for the International Carriage of Goods by Road, done at Geneva 19 May 1956

COTIF-CIM:	The Convention concerning International Carriage by Rail (COTIF) of 9 May 1980 as amended by the Protocol of Modification of 3 June 1999 (Vilnius) – Appendix B (CIM)
HP:	1955 Hague Protocol; Protocol to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, done at The Hague on 28 September 1955
HR:	The Hague Rules; The Brussels Convention for the Unification of Certain Rules of Law relating to Bills of Lading of 25 August 1924
HVR:	The Hague-Visby Rules; the Hague Rules as Amended by the Brussels Protocol of 23 February 1968
MC:	Montreal Convention; Convention for the Unification of Certain Rules for International Carriage by Air, signed at Montreal on 28 May 1999
MP4:	Montreal Protocol No. 4 of 1998; Montreal Protocol No. 4 to Amend the Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929, as amended by the Protocol done at The Hague on 28 September 1955
MTC:	Multimodal Transport Convention; United Nations Convention on the Multimodal Transportation of Goods, concluded on 24 May 1980
RR:	The Rotterdam Rules; United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, signed at Rotterdam on 23 September 2009
VC:	Vienna Convention on the Law of Treaties, done at Vienna on 23 May 1969
WC:	The Convention for the Unification of Certain Rules Relating to International Carriage by Air, signed at Warsaw on 12 October 1929

OTHER

AG:	Advocate General (provides the Hoge Raad with preliminary legal opinions)
AGBG:	Gesetz zur Regelung des Rechts der Allgemeinen Geschäftsbedingungen
BGB:	Bürgerliches Gesetzbuch (German Civil Code)
BGH:	Bundesgerichtshof (German Supreme Court)
BW:	Burgerlijk Wetboek (Dutch Civil Code)
EGBGB:	Einführungsgesetz zum Bürgerlichen Gesetzbuch
EGHGB:	Einführungsgesetz zum Handelsgesetzbuch

List of Abbreviations

EU:	European Union
GG:	Grundgesetz (German Constitution)
HGB:	Handelsgesetzbuch (German Commercial Code)
Hof:	Hof (Dutch Court of Appeal)
HR:	Hoge Raad (Dutch Supreme Court)
J:	Justice
LG:	Landesgericht (German District Court)
LJ:	Lord Justice
OLG:	Oberlandesgericht (German Court of Appeal)
Rb:	Rechtbank (Dutch District Court)
TEU:	Twenty feet Equivalent Unit (a 20 feet container equals 1 TEU))
TRG:	Transportreformgesetz

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6.4	1.4.3

Vienna Convention on the Law of Treaties 1969

26	9.2.1
30	5.1.1/9/9.2.2/ 9.2.4/9.3
30(1)	9.2.2
30(2)	9.2.2
30(3)	9.2.2
30(4)	5.1.1/6/9.2.2/9.4
30(4)(b)	9.2.2/9.2.3.2/9.2.4
31	3.6/3.6.1/3.6.2
31(1)	3.6/3.6.1
31(2)	3.6.1
31(3)	3.6.1
31(3)(b)	3.6
31(4)	3.6.1
32	3.6/3.6.1/3.6.2
33	3.6.2
33(1)	3.6.2
33(2)	3.6.2
33(3)	3.6.2
33(4)	3.6.2/4.1.2.2
40	9.2.1/9.2.2
41	9.2.1/9.2.2/9.2.3
41(1)(b)	9.2.1
53	9.2.1/9.2.2
59	9.2.1/9.2.2
64	9.2.1/9.2.2

Visby Protocol 1968

6	9.2.3.2
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List of Legislation

Warsaw Convention 1929

		18(2)	5.2.1.2/5.3.2
1	5.1.1.1/5.2/5.2.1.3/5.3	18(3)	5.1.1.1/9.1.1
1(1)	5.2.1/5.2.1.4	18(4)	5.3.2
1(2)	5.2.1/5.2.1.2/5.2.1.2.1/ 5.2.1.2.2/5.5.1	19	10.1.3
1(3)	5.2.1.2.2	24	10.1.3
2	5.2	26	5.5.1
5	5.5.2	28	10.1.2
8	5.5.2	29	5.5.1/10/10.1.2
9	5.5.2	29(1)	10
17	10.1.3	30	5.2.1.2.2
18	5.1.1.1/5.2/5.3/6.2.2.1/ 9.1.2/10.1.1/10.1.3/ 11.4.2	31	2.3.2.1.3/4.1.1.2.1/ 5.1.1.1/5.2/5.3/5.3.1/ 5.4/5.5/10.1.2
18(1)	4.1.1.2.2	32	4.1.1.2.1/5.5.1
		35	5.5.1

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