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Legal issues associated with private human flight, including space and ground facilities, traffic management and spaceports (4)

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REGULATORY REGIME FOR TOMORROW'S SUBORBITAL SPACE FLIGHTS: POINT-TO-POINT  
INTERNATIONAL FLIGHTS

**Abstract**

Regulations on commercial human space flights are evolving capriciously in certain jurisdiction, despite some efforts of international discussions. The keenest regulators, the United States and the European Union, have been almost divided the discussion in two halves in terms of distinction of commercial human space flights. The US regulates them as an exterior category from the aircraft; whereas the EU, on the other hand, addresses to regulate them under the aviation regulations. However, both of them are positioning their regulatory subjects under the national air space which means that international flights are not considered at this time. Nevertheless, the commercial human space flight industry is the industry to assume the next generation of global logistics.

Guided by the belief that the role of regulation can contain the promotion of industries, this paper will try to illustrate a possible harmonized rules for future point-to-point international commercial space flights by stating the governmental requirements for allowing private sectors to enter into business in this area of operations. By doing so, this paper will also try to highlight for regulators the need of harmonizing domestic regulation with existing international regulations as well as regulations of air law and space law. This paper will firstly determine the untenable dimensions to regulate within national air space of international point-to-point flights, including the traffic control over or within the international air space and mutual certification of spacecraft and crew. Satisfactory justification for the necessity of harmonization of these areas will be accompanied with the identification of problematic areas. It will then discuss the necessary steps to implement these harmonized regulations into an effective legal regime. A possible solution is to include the rules of international traffic control and mutual certifications of spacecraft into the Annexes of the Chicago Convention of 1944. However, this concept is today far from the consensus of the international community. Thus, this paper will propose possible bilateral agreements as an interim solution until international consensus can be garnered.