“ICAO’s new Frontier”, is a paper being written by P. Paul Fitzgerald, current Doctoral Candidate and Teaching Fellow at McGill’s Institute of Air & Space Law.

The paper notes in the nearly 70 years since ICAO was created, the definition of aircraft has included both the flying boat and the Concorde and questions whether the technology gap between the Concorde and the flying boat is really is greater than that between the Concorde and Spaceship Two. It then considers whether in the event that technology similar to Spaceship Two is used for inter-continental transportation, the legal features of such a trip would have more in common with commercial aviation than with a lunar voyage. It will also consider liability, Air Traffic Control and ICAO’s expertise and mandate in aviation safety to support ICAO as regulator of sub-orbital flights.

It will show how existing Space treaties never contemplated sub-orbital flight, and use the distinction between sub-orbital and inter-planetary travel as the border between the authority of ICAO and COPUOS.

The paper will also question whether it is not time for countries with large territories such as Canada, to propose that ICAO finally assume jurisdiction over this natural expansion of commercial aviation.