

CURRICULUM & SYLLABI

LL.M.
(One-year Program)
Revised (2022-23)

(MARITIME LAW)

SCHOOL OF LAW



RAFFLES

UNIVERSITY

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LLM Maritime

- It is a little-known fact that a ship can be operated from one country, flagged for operational reasons to another, and then has crew from yet another nation. This makes the domain of maritime law more intricate, yet exciting to pursue as a professional.
- Topics under the maritime law are extremely varied and challenging which covers a huge range of subjects like salvage, collision liabilities, carriage of passengers, marine pollution liabilities, freezing injunctions, ship arrest, towage contracts, the limitation of liabilities, and maritime liens.
- An LLM in Maritime Law program would be ideal for students and professionals aiming to be specialists in the shipping and maritime domain.

This course would take a student through

The program would also expose students to various aspects of international maritime law and the key subjects would include:

- Admiralty Law – where the scope includes acquisitions and transfer of an interest in ships; ship mortgages; collisions; salvage; and marine pollution.
- International Law of the Sea – which explores the legal framework of a range of activities
- Marine Insurance Law – which explores circumstances in which risks to parties, cargo, and ships involved in international trade can be covered
- International Sales Law - This authoritative research review presents and discusses carefully selected scholarly articles that describe and examine the principles of international sales law, as set forth in the United Nations Convention on Contracts for the International Sale of Goods (CISG).
- Carriage of Goods by Sea – which would offer insights into maritime law and shipping contracts, charter party agreements, marine environment, marine insurance, and a gamut of other topics of relevance that would make you stand out.

Target Audience

- The program would interest anyone who has a passion for shipping and the diverse legalities that ships need to comply with not just limited nationally but on an international level.
- The course is also aimed to attract those who are already working in the industry but strive to get on to a very exciting and challenging role.

LL.M - Maritime Law – unlimited career prospects

- Tremendous scope to work for an established law firm that serves big clients
- Increasing demand for maritime lawyers for trading companies, shipping companies, agencies, insurance companies, etc.
- Increasing business in India of the overseas shipping companies demands dedicated professionals with knowledge of maritime law
- Increasing work in the maritime space because of reasons like ship arrest, cargo claims, and P and I related work which provides excellent opportunities
- High rating of Indian lawyers in the global maritime sector
- Growing opportunities to work overseas with P & I clubs and shipping companies
- A large number of Indian companies setting up overseas companies for chartering and shipping and this would provide great scope to service them or be employed with them

Courses to be offered (these are electives)

1. Admiralty law(MTL101)
2. Law of Salvage(MTL102)
3. International Commercial Arbitration(MTL103)
4. Maritime Administrative Law (Merchant Shipping Act, 1955 and other laws of ports administration) & Maritime Insurance(MTL104)
5. Law of carriages of Goods by Sea & Sale and Purchase of Ships(MTL105)
6. Environmental Law and Maritime Pollution(MTL106)

ADMIRALTY LAW (MTL101)

MODULE-1

The Nature and Content of Maritime Action: Tortuous and Contractual

- Introduction
- Action in Personam
- Action in Rem
- Action in res

Study Material:

1. The Sources, Growth, and Development of the Law Maritime, George S. Potter, The Yale Law Journal, Vol. 11, No. 3 (Jan. 1902), pp. 143-152 (available on Jstor) Also
2. F.J.J. Cadwallader, 'The Court of Admiralty and Equity': Principles and Practice of Maritime Law, 138 RSA Journal, pp. 119-133, January 1990
3. David Chong, 'Admiralty InPersonam Jurisdiction of the High Court of Singapore: Emilia Shipping Incorporated v. State Enterprise for Pulp and Paper Industries, Singapore Journal of Legal Studies, 1991, pp. 204-215
4. Griffith Price, 'Statutory Rights in Rem English Admiralty Law' 27 J'nal of Comparative Legislation and International Law, 1945, pp.21-31
5. The International Convention on Arrest of Ships, 1999 Shardul Thacker, Arrest of vessels, Maritime Law Handbook, July 2021, pp.7-34

MODULE -2

Common Law and Admiralty Jurisdiction

- Admiralty Law and its evolution in England
- The USA and Admiralty Law
- Admiralty Law And Constitution Of India
- Admiralty Law India prior to Admiralty Act, 2017

Study Material:

1. Lionel H. Laing, 'Historic Origins of Admiralty Jurisdiction in England', 45 Michigan Law Review, pp.163-182, 1946
2. Admiralty and Maritime Law, Robert Force, N.Yiannopoulos and Martin Davies, Chapter 1, The AdmiraltyJurisdiction and Procedure, pp.1-65
3. Jackson et al v. The Steamboat Mangolia, 61 U.S. 296, 15 L.Ed
4. Maritime Jurisdiction and Admiralty Law in India, SamreshwarMahanty, Universal Law, pp.152-169

5. Maritime Jurisdiction and Admiralty Law in India, SamreshwarMahanty, Universal Law, p.1-47
6. M.V. Elizabeth v Harwan Investment Co. (1993) 2 SCC 433,
7. J. S. Ocean Liner LLC v M.V Golden Progress, 2007 (2) ARB LR 104 Bom, 2007
8. Kamalakar Madhav Bhagat v. Scindia Steam navigation Co., AIR 1961 Bom 186;
Mrs. Sahida Ismail v. Petko. L. Salvejkov, AIR 1973 Bom 18;
9. Jayaswal Shipping Co. v. S.S. Leeleavati, AIR 1954 Cal 415;
10. Rungta Sons Pvt Ltd v. S. S. 'Edison Mariner', (196-62) 66 CWN 1083;
11. Smt. Reena Padhi v. Jagdhir, AIR 1982 Orissa 57
12. State of Bombay v Heman Alreja AIR 1952 Bom 16; Edward Mills & Co., Ltd. v State of Ajmer, AIR 1955;
13. MaganbhaiIswarIalbhairPatel v. Union of India, AIR 1969 SC 783
14. https://www.google.de/books/edition/Admiralty_and_Maritime_Law/uQhZ4yajjOgC?hl=en&gbpv=1&dq=admiralty+law&printsec=frontcover

MODULE -3

Admiralty Jurisdiction: Legal Architecture in India

- **Admiralty Jurisdiction (2 hours)**
(Sec.1-3 of Admiralty Act, 2017)
- **Arrest of vessel in rem (2 hours)**
(Sec.5-7, Admiralty Act, 2017)
- **Procedural aspect of Admiralty Jurisdiction (2 hours)**
(S.12-15 Admiralty Act, 2017. M.V.A.L. Kumar v Tsavlis Salvage, Supreme Court of India 17/08/2000)
- **Miscellaneous (2 hours)**
Sec.16-18 Admiralty Act, 2017

MODULE -4

Law of Maritime Claims and Maritime Liens

- **Maritime Claim (5 hours)**
- S.4, Admiralty Act, 2017 &
- Convention on Limitation of Liability for Maritime Claims, 1976
- S. 352 A, Merchant Shipping Act, 1958
- Murmansk Shipping Company v Adani Power Rajasthan Ltd
- High Court of Bombay (Admlty), Mr. Justice S C Gupte delivered judgment on 8 January 2016 (2016) 946 LMLN 2
- NV. SCHEEP V MV. "S.ARAZ" [2001] 15 NWLR [PART 691] 622
G & C LINES V HENGRACE [NIG.] LTD. [2001] 7 NWLR [Part 711] 51
- **Maritime Liens (5 hours)**
- Ss.4 and 9, Admiralty Jurisdiction Act, 2017,
- Ss.139 & 149 Merchant Shipping Act, 1958,
- International Conventions on Maritime Liens and Mortgages, 1993
- Epoch Enterrepots v. M.V. Won Fu (Civil Appeal no. 7039 of 2002) decided on October 29, 2002

- O. Konovalov v. Commander, Coast Guard Region (2006) 4 SCC 620
- **Priority of Maritime Lien (2 hours)**
- S.9, Admiralty Act, 2017

Suggested reading:

- Commercial Maritime Law, ed. Melis Ozdel, Bloomberg
- https://www.google.de/books/edition/Commercial_Maritime_Law/o1HaDwAAQBAJ?hl=en&gbpv=1&dq=maritime+law+UK&printsec=frontcover
- R.P. Anand, 'Maritime Practice in South-East Asia until 1600 A. D. and the Modern Law of the Sea', *The International and Comparative Law Quarterly* Vol. 30, No. 2 (Apr., 1981), pp. 440-454 (15 pages)
- S. Beecher, 'Can the Electronic Bill of Lading Go Paperless?', *The International Lawyer* Vol. 40, No. 3 (FALL 2006), pp. 627-647 (21 pages)
- B. McChensey, 'Marine Insurance and the Substantive Admiralty Law: A Comment on the Wilburn Boat Company Case', *Michigan Law Review* Vol. 57, No. 4 (Feb., 1959), pp. 555-576 (22 pages)
- E.R. Hardy, 'Exceptions Clauses and the Liability for Demurrage', *The Modern Law Review* Vol. 23, No. 4 (Jul., 1960), pp. 437-440 (4 pages)
- Michael J. Daly, Louis R. Koerner Jr., Anne L. Kulesa, Joseph F. Kulesa and Laurie Sands, 'Recent Development in Maritime and Admiralty Law', *Tort Trial & Insurance Practice Law Journal* Vol. 45, No. 2 (WINTER 2010), pp. 119-147 (29 pages)
- A.K. Bansal, 'The Four Pillars of International Maritime Law and Bills of Lading' *Journal of the Indian Law Institute* Vol. 48, No. 4 (October-December 2006), pp. 527-539 (13 pages)
- Union of India v. Compania Naviera Aeolus S.A. [1960] 1 W.L.R. 297; [1960] 1 All E.R. 753.
- Saxon Ship Co. Ltd. v. Union S.S. Co. Ltds (1898) 4 Com.Cas. 29
- Lilly Q Co. v. D. M. Stevenson Q CO. (1926) 17 Asp.M.L.C. 216

LAW OF THE SEA

(MTL102)

MODULE 1

Sources of the law of the sea - customary law. Treaties- Practice of Maritime Countries and Decisions of International court and Tribunals- Doctrine of Freedom of Sea (Evolution & present position), India and the law of the sea.

MODULE 2

Internal waters and territorial sea – Determination of baseline (Normal and Straight baseline), Archipelagic Waters (Determination of baseline of Archipelagos and Islands)- International Straits - Jurisdiction in Internal Waters and Territorial Waters, - Navigation Rights - Rights of Innocent Passage - Rights and Duties of Coastal states over Territorial sea.

MODULE 3

Contiguous zone, Exclusive Economic Zone and Continental Shelf - Coastal State jurisdiction over contiguous Zone, breadth - Evolution of the concept of EEZ - Rights of Coastal States over EEZ- Evolution of concept of Continental Shelf - Coastal States jurisdiction over Continental Shelf and Marine Scientific Research.

MODULE 4

Delimitation of Maritime Frontiers between Adjacent and Opposite States - Equidistant and equitable principles - Rights of Land Locked States and Geographically Disadvantaged States - Concepts of High Sea - Freedom of Navigation and Fisheries in High Sea - Jurisdiction over International crimes like piracy, Slave Trade, Terrorism and Unlawful Activities - Control of Marine Pollution - Conservation of living resources of High Seas - International Sea Bed authority- Exploration and Exploitation of non-living resources of high sea.

Suggested Readings:

1. Columbus, Law of the Sea
2. R.R.Churchill & A.V.Lowe, *The Law of the Sea* Melland Schill Studies in International Law (1998)
3. A.V. Lowe & S.A.G Talmon, *The Legal Order of the Oceans; Basic Documents on the Law, of the Sea*, Hart Publishing (2009)
4. P.Chandrasekhara Rao & P.H Gautier, *The Rules of International Tribunal for the Law of the Sea*, Martinus Nijhoff (2006)

5. David Freestone, Richard Barnes & Davidong, *The Law of the Sea Progress & Prospects* Oxford University Press. 2006
6. James Kraska, *Contemporary Maritime piracy* praeger publishers Inc. 2011
7. Paul Todd, *Maritime Fraud and Piracy* Informa Law from Routledge, 2nd Edition 2010

INTERNATIONAL COMMERCIAL ARBITRATION

(MTL103)

MTL102	International Commercial Arbitration	L	T	P	S	C	CH
Scheme Version:1.0		2	0	0	0	2	30
Pre-requisites/Exposure	LLB: Alternative Dispute Resolution						
Co-requisites	NA						

COURSE OBJECTIVES

1. The object of the course is to impart, theoretical as well as practical, knowledge and understanding to the students about this recent commercial dispute resolution mechanism, i.e., international commercial arbitration.
2. To make the students understand the distinction between international and domestic arbitration.
3. To make the students understand the concept of choice of law, the UNCITRAL model of the law and its application in the different countries.

COURSE OUTCOMES

1. Students will be able to learn the basic rules that guide the arbitration process from start to finish.
2. Students will be able to learn about the growth of international arbitration law as well as critically evaluate its functioning in India and abroad.
3. To enable the students to recognize the difference between arbitration and other law.

COURSE DESCRIPTION

This course will consider the nature of international arbitration including its advantages and disadvantages as a form of dispute resolution in international trade, the distinction between the international and commercial arbitration, choice of law in international arbitration, UNCITRAL model of law, and its application in different countries, enforcement of international arbitration agreement, international arbitration awards and challenge of the awards. This course will involve textbook material and case studies.

MODULE-1

- **Introduction to International Commercial Arbitration:** Dispute resolution in international trade, Concept, and nature of arbitration, Important terms used in international commercial arbitration, The hybrid nature of the arbitral process, Types of arbitration.
- **Arbitrability:** Concept, Golden Rule, Arbitrable and Non-arbitrable disputes
- **Arbitration Agreement:** Meaning, Definition, Significance of arbitration agreement, Functions of the arbitration agreement, Requirements of a valid arbitration agreement, Forms of the arbitration agreement, foreign arbitration agreement, Autonomy of an arbitration agreement, Indian position on the autonomy of arbitration agreement.

MODULE -2

- **Laws governing International Commercial Arbitration:** Types of laws applicable in international commercial arbitration, governing law of arbitration, the law applicable to substantive issues, the law governing arbitration agreement, the law of enforcement and recognition of the foreign arbitral award, arbitration rules
- **Choice of Law Clause:** Choice of law Clause, party autonomy, choice of national law, choice of national principles, conflict rules
- **Regulating International Commercial Arbitration:** UNCITRAL Model Law on Arbitration, Judicial intervention under UNCITRAL Model Law: Reference to arbitration, Interim measures; Jurisdiction of Arbitral Tribunal, Theory of competence-competence, appointment and removal of arbitrators, arbitral process, arbitral awards.

MODULE -3

- **The challenge to arbitral awards:** Methods and Grounds
- **Recognition and enforcement of foreign arbitral awards:** The International Conventions for recognition and enforcement of arbitral awards, Reciprocity and commercial reservation, Indian law- scope and applicability, Foreign award- meaning, General policy for review foreign award in India, Grounds for refusal of recognition and enforcement of a foreign award, Recognition, and enforcement of annulled awards.

MODULE -4

- **International Commercial Arbitration in Maritime Dispute**
- Emergence and development of arbitration in the maritime dispute
- Role of national courts in international commercial arbitration in the maritime dispute
- Interim measures
- Enforcement of award
- **Admiralty Claims and Jurisdiction**
 - a) Admiralty Courts
 - b) Maritime Claims
 - c) Arrest of Ship
 - d) In personam and rem actions
 - e) International Convention on Maritime Claims

TEXTBOOKS

T1 A.K. Bansal, *Law of International Commercial Arbitration* (Universal Law Publications, Delhi 2017)

T2 G.K. Kwatra, *The Arbitration, and Conciliation Law of India* (Universal Law Publications, Delhi 2017)

T3 Basu N.D., *Law of Arbitration and Conciliation* (14th edition reprint Universal Law Publications, Delhi. 2017)

REFERENCE BOOKS

R1 Gary B. Born, *International Commercial Arbitration*, (Kluwer Law International 2014)

R2 B.P. Saraf and M. Jhunjhunwala, *Law of Arbitration and Conciliation* (Snow white, Mumbai, 2000)

R3 Gerald R. Williams (ed.), *The New Arbitration and Conciliation Law of India*, (Indian Council of Arbitration New Delhi 2016)

R4 Basu N.D., *Law of Arbitration and Conciliation* (14th edition reprint Universal Law Publications, Delhi. 2017)

R5 Johari, *Commentary on Arbitration and Conciliation Act 1996* (Universal Law Publications, Delhi 1999)

R6 Markanda. P.C, *Law Relating to Arbitration and Conciliation*, (9th Ed. LexisNexis Butterworths & Wadhwa, Nagpur, 2016)

R7 Ajay Gulati & Jasmeet Gulati, *Public Interest Lawyering, Legal Aid & Para-Legal Services*, (Central Law Agency, Allahabad 2017)

LAW OF CARRIAGES OF GOODS BY SEA

MTL104

MODULE 1

Contracts of Affreightment - public and Private carriers - Duties of common carriers charter parties and bills of lading - Types of voyage Charter Parties – Owner’s obligations’ condition, warranties. in nominate terms, representations, charterer’s obligations

MODULE 2

Time Charter Parties - Nature. description of ship delivery date & canceling clause, charter period. early or late delivery, payment of hire, off-hire, deductions, withdrawal of ship, employment & indemnity clause, owner’s lien. Laytime, demurrage and freight.

MODULE 3

Bill of lading and functions- As a contract, as a receipt, as a document of title, provisions regarding documents of transport under the Carriage of Goods by Sea Act- International Conventions relating to rights and obligations of parties in Bills of Landing contract- Hague Visby Rules, Hamburg Rules and Rotterdam Rules.

MODULE 4

Breach and remedies - Breach of implied undertakings- liability for loss or damages to goods- Limits of liability - Exclusion of liability for loss- Carriage of passengers and their luggage- International Conventions on the carriage of passengers by sea- law of general average.

Suggested Readings:

1. Girvin, *Carriage of Goods by Sea*, Oxford University Press (2007)
2. Chorley & Giles, *Shipping Law* Pitman London.
3. Payne & Ivamy, *Carriage of Goods by Sea*, Butterworth’s London (1989)
4. Scrutton, *Charter Parties and Bill of Lading*, Sweet & Maxwell, London (2008)
5. Carver, *Carriages by Sea*, Vol. I & II. Butterworth’s, London (12th edn)
6. David M. Sasson, *C.I.F & F.O.B Contracts*, London (1995)
7. T. Kochuthornman, *Bills of Lading in International Law and Practice*, Eastern Book Company 1986

MARITIME INSURANCE

MTL105

MODULE I

History and development of Marine Insurance Law- Insurable interest & subject matter of Marine insurance - General principles of insurance law applicable to marine insurance contracts- types of policies- voyage, time and mixed, valued and unvalued- Hull insurance, Carso insurance and Liability Insurance.

MODULE 2

Formation of Marine Insurance contracts- Brokers and their duties and liabilities, express and implied conditions in marine insurance policies- Construction of Marine Insurance Contracts- warranties and conditions in Marine Insurance.

MODULE 3

Attachment- Attachment of risk - risks exempted by statute and by contract - Statutory and contractual provisions for change of Voyage, deviation and delay applicable to Voyage Policies- Proximate cause of loss- principles of causation.

MODULE 4

Avoidance of liability under Marine Insurance - measure of Indemnity - Losses and other incidences of liability - Interrelationship between General Average and Marine Insurance- Recovery of losses and return of premium- abandonment- subrogation - double insurance reinsurance -Risk covered under mutual insurance associations policy - UNCTAD Standard Clauses.

Suggested Readings:

1. Jonathan Gilman Q.C., *Arnould's Law of Marine Insurance and Average*. Sweet & Maxwell (2008).
2. Howard Bennet, *The Law of Marine Insurance*, OUP-Oxford (2006)
3. Chalmers, *Marine Insurance Act. 1956*, Butterworth's. London
4. B.C. Mitra, *The Law Relating to Marine Insurance*, University Book Agency (1993)
5. N.G. Hudson, *Marine Claims Handbook*, Lloyd's of London Press (1996)
6. Capt. D.E. Driver, *Guide to Marine Hull Insurance*, Navaneet Publications (1995)
7. Budgar, *Elements of Cargo Insurance*, Woodhead (1983)

MARITIME POLLUTION AND LEGAL CONTROL

MTL106

MODULE 1

Meaning of Marine pollution- sources of marine pollution - evolution of law regulating marine pollution- UNCLOS-III Provisions- Oil pollution from ships – OIL POL and MARPOL conventions - Liability of ships for oil pollution damages.

Module 2

Marine pollution by sea bed and subsoil explorations - pollution by accidents at sea- Pollution by atomic weapon testing in the High Sea - Marine pollution from land-based sources -dumping of wastes - nuclear wastes disposal - Carriage of hazardous waste.

Module 3

Enforcement of pollution control laws - flag state and port state jurisdiction - Indian legislation on marine pollution - Liability for marine pollution damage - transboundary pollution.

Module 4

Conservation of Marine Eco-system - UNCLOS III provisions and Biodiversity Convention - Conservation of Endangered and Migratory species –National obligation International Cooperation for Conservation.

Suggested Readings:

1. Simmonds, *United National Conference on the Law of the Sea* (1982).
2. F. John Vernberg, Winona B. Vemberg, *Pollution and Physiology of Marine Organisms*, Academic a Press.
3. Kramer, *Treaty and Environmental Law* 3rd Edn. Sweet & Maxwell.
4. Michael G. Faure and James Hu (Eds.), *Prevention and Compensation of Marine Pollution Damage*, Netlrerlands.