



Shipping Law and Contract Fundamentals

SINGAPORE | 27 - 28 June 2024 | 5 - 6 December 2024



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Course Information

Face to Face Training

SINGAPORE

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Key Learning Objectives

- Become familiar with the range of international treaties and laws that govern the international maritime trade
- Grasp what fundamental legal concepts must be included within maritime-based commercial contracts
- Understand the mechanics of drafting both Time and Voyage Charters
- Be able to differentiate between the above and a Bareboat Charter
- Know what a 'Contract of Affreightment' (COA) is
- Gain an understanding of the mechanics and operations of Bills of Lading
- Ascertain what is involved within the topic of Maritime Liens
- Become familiar with some of the key elements of Marine Insurance Contracts
- Understand the key elements of the Law of Salvage, the Law of General Average and aspects of the Law of Marine Collision
- Know some of the key facts contained within the IMO legislation relevant to Sulphur emissions and ballast water

Who Will Benefit

- People engaged in shipping activities
- Ship management
- Legal personnel
- Contractual personnel

About the Course

Admiralty and Shipping Law is a truly international species of legal doctrine, recognized around the world by both practitioners and the courts. It dates back over the centuries and continues to evolve as time and the maritime industry changes, yet many of the original tenets remain relatively unchanged. It is both a deep and complex area of law – being multifaceted and subject to many variations dependent upon jurisdictional treatment and legal system. It is governed by a multitude of conventions and treaties which attempt to create harmonisation in international commercial dealings.

This contracts and shipping law course has been designed to be an immersive experience, considering some of the key issues and components within the ambit of these laws that impact international maritime commerce. There is an emphasis on Case Law, interactive discussion and problem-solving.



Meet Your Course Director



Capt. Robert Gordon, LLB, LLM, Master Mariner & Solicitor (England & Wales) Managing Director, SeaProf Executive Education Former MD and Chairman, SEAsia P&I Services

Capt. Gordon spent 20 years at sea as a deck officer, shipmaster and pilot before coming ashore to study maritime law at the University of Southampton. He then qualified as a Solicitor and practiced as a partner with admiralty law firm, Thomas Cooper in London. Capt. Gordon founded SEAsia P&I Services, which specialises in marine casualty investigation and P&I correspondent defence work. SEAsia then expanded rapidly by creating a unique franchised network of 20 P&I correspondent offices throughout Asia. The network continues to operate successfully, providing high profile P&I claims investigation and resolution as well as loss prevention services to both International Group P&I Clubs and the fixed premium P&I insurance market.

Capt. Gordon has a special interest in sharing knowledge with the next generation of maritime industry professionals. He was engaged for many years as an Adjunct Lecturer and Professor by the BI Norwegian School of Business in providing lecture modules on marine insurance, ship management and maritime law for Nanyang Technical University's (NTU's) highly regarded MSc in Shipping programme. Capt. Gordon, as MD of SeaProf Executive Education is now focused on the production and delivery of maritime business education courses in Australia and the Asian and Pacific regions.

Course Outline

MARITIME CONVENTIONS AND TREATIES

- Historical maritime trade routes
- Modern maritime routes
- Socio-economic and political impacts of trade routes
- The Hague Visby Rules
- The Hamburg Rules
- The Rotterdam Rules
- The York Antwerp Rules
- The Law of Carriage of Goods by Sea
- Safety of Life at Sea (SOLAS)

KEY CONTRACTUAL ELEMENTS:

- Governing Law
- Establishing the rights, duties and obligations of the parties to the contract
- Understanding the ramifications of indemnity, insurance and liability provisions
- Provisions relating to risk and performance
- Warranties and guarantees
- Termination clauses
- Damages – LDC's
- Payment terms
- Dealing with breach of contract
- Assignment and novation of contract
- Force Majeure provisions
- INCOTERM provisions examined

VOYAGE CHARTERS – KEY CLAUSES FOR DRAFTING EXAMINED

In this section of the shipping law training, some of the key clauses that are vital from the contractual drafting perspective are presented and discussed – issues such as the specific vessel characteristics,

voyage time, the issue of deviation clauses, 'Dead Freight', Demurrage and Laytime, FM and the arbitral clause and many more

Case study and exercise

TIME CHARTERS – KEY CLAUSES FOR DRAFTING EXAMINED

In this section, some of the key clauses that are vital from the contractual drafting perspective are presented and discussed – issues such as 'flags of convenience', usage of 'standard form' charters, the 'Freight Rate', vessel characteristics, speed and bunkering (fuel consumption/refuelling issues), period of charter, the 'off-hire' clause, liability for cargo damage, the 'Division of Responsibility', etc.

Case study and exercise

BAREBOAT CHARTERS

- What makes a bareboat charter different from other forms?
- All the operational and managerial functions that are controlled by the charterer (except capital costs)
- Bareboat charters and purchase options – a form of 'financial leasing'
- Other reasons for Bareboat charters – not wanting to make additional investment (therefore risk) – additional tonnage required for a specific period of time
- Important clauses – vessel description and characteristics, the 'hire' period, delivery and redelivery of vessel 'hire' amount, payment, ship maintenance, Insurance
- Overlap and underlap

Class exercise

Course Outline

CONTRACTS OF AFFREIGHTMENT (CONTRACT CHARTERS)

- A 'hybrid charter' combination of elements of both time and voyage charters – AKA 'volume contract'
- Safe port and berth warranties
- Case Study: The Ocean Victory
- Force Majeure and CoA

Case Study: *Classic Maritime v Limbungan Makmur SDN BHD & Anor* [2019]:

- The BIMCO War Cancellation Clause
- Other potential contractual issues within CoAs
- 'Hardship' Clauses
- Some problems for CoAs regarding the impact of Covid-19

BILLS OF LADING – MAJOR TERMS AND CONDITIONS

In this section of shipping law training, the key terms and conditions associated with the Bill of Lading are examined, and why they are important from a drafting perspective – issues such as The 'Clause Paramount', Responsibility for Carriage, 'Voyage Clause', 'Container Clause', The 'Transshipment Clause', Dangerous goods, 'Freight Clause, Lien, General Average Clause, 'Both to blame' collision clause, the New Jason Clause, etc. are discussed

- The 3 fundamental problems with B/L's
- The Contracts (Applicable Law) Act 1990 (including The Rome Convention)
- The problem with a B/L being a 'negotiable instrument'
- The evolution of the eB/L
- The 2 key legal issues of an eB/L – validity and replication
- Problems with eB/L's
- Advantages of eB/L's

Case Study: *MSC Mediterranean Shipping Company S.A. v. Glencore International AG* ('The MSC Eugenia')

- The Rotterdam Rules
- UNCITRAL MELETR

MARITIME LIENS

- What is a maritime Lien?
- The Brussels Conventions of 1926 and 1952
- Variance in jurisdictional treatments examined
- Maritime Liens; mortgages and the arrest of a ship
- 2 major rights – against the property and on the property
- Where does the Lien rank against other creditors (order of priority)?
- Extinction of Liens
- The issue of sovereign immunity from a maritime lien

MARINE INSURANCE CONTRACTS

- The Marine Insurance Act 1906
- The scope of marine insurance
- Some different types of policies
- Insurable interest
- Subrogation and 'double' insurance
- Assignment
- Warranties – express and implied
- Deviation
- Institute Cargo Clauses A, B and C

THE LAW OF SALVAGE

- What is Salvage?
- The Salvor's duty of care
- AG Ofir Marketing Ltd v Menora Insurance Co Ltd, CC 2429/01, February 18 2014. (Israel)
- The "Vinalines Pioneer"[2015] SGHC 278
- 4 key factors relevant to damages and salvage
- The International Convention on Salvage 1989
- The LOF (Lloyds Open Form)
- Pure(Merit) and 'Contract' Salvage – an important distinction legally
- 'High Order' and 'Low Order' salvage – inherent criteria necessary
- The Bunker Convention 2001 Art 3.5– (removal of responder immunity) – implications
- The potential of criminal sanctions – The Water Resources Act (UK) – The 'Sea Empress'
- Salvor misconduct

- IMO International Convention On Salvage 1989; Art 18
- IMO International Convention On Salvage 1989; Art 23 – 'time bars'
- Section 236 of the Merchant Shipping Act 1995
- The issue of concurrent liability (i.e. a 'later' salvage operation held liable for an earlier one)
- Sveriges Angfartygs Assurans Forening (The Swedish Club) and others v Connect Shipping Inc and another
- The Capella (1891)
- Military wrecks – illegal salvage?
- The Protection of Military Remains Act (1986) (UK)

Case Studies – *The 'Tasman Spirit'; The 'Amoco Cadiz', The 'Prestige'*,

- Marine collision and salvage

THE LAW OF GENERAL AVERAGE

- General Average defined – The Marine Insurance Act 1906
- The Doctrine of General Average
- The 5 'components' of General Average
- Common events that trigger a GA claim – fire (vessel and/or cargo), Foul weather (storms, etc.), Collision, equipment/structural failure (i.e. engines), displacement of cargo, running aground, other events (i.e. piracy; salvage)
- GA bonds
- The SCOPIC Clause
- Marine collision and GA
- Convention on the International Regulations for Preventing Collisions at Sea (1972; 1981)
- The Substantive Law of Collision at Sea – the law of negligence
- Civil and criminal jurisdictions
- Assessment of damages
- The key areas of issue of marine casualty – loss of life, serious injury, loss/destruction of property, damage/ loss of/ to the vessel

IMO: MARPOL

- Sulphur emissions
- Ballast water regulations

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