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COURSE MANUAL

Name of the Elective Course

ADMIRALTY & MARITIME LAW

Course Instructor:

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This document is prepared by the course instructor and contains basic information relevant to the execution of the course. It is the official record for all intends and purposes as far the elective course, *Admiralty & Maritime Law*, is concerned.

This course manual can be used as a general guide to the subject. However, the instructor can modify, extend or supplement the course (without tampering its basic framework and objectives) for the effective and efficient delivery of the course. The instructor will provide students with reasons for such changes.

Part I

Course Title: : **Admiralty & Maritime Law**

Course Code:: **L-EL-0150**

Course Duration: **One Semester (15 Weeks)**

No. of Credit Units: **2 Credits**

Level: **Advanced**

Medium of Instruction: **English**

Pre-requisites: **Knowledge of Contract law, Conflict of Laws, Code od Civil Procedure & Public and Private International Law**

Equivalent Courses: **None**

Cross-Listed Course: (Response to this question is mandatory): **Yes**

Part II

1. Course Description

This Course will deal with various facets of the ancient and modern concepts behind admiralty jurisdiction. It will cover the development of admiralty jurisdiction in England and then in India. The current development in the admiralty jurisdiction in England also will be dealt with because in India still the developments in England in admiralty law have some relevance. It will also cover the various aspects pertaining to the arrest of the ship, maritime liens and the International Conventions on arrest of ships and maritime liens. The efforts in India to codify and consolidate the law on admiralty jurisdiction would also be covered.

This Course will next deal with the common law, *lex maritima* or general maritime law and the international conventions governing the carriage of goods by sea. The general principles of carriage of goods and the interpretation of charter party will be dealt with. The law governing the voyage charter party and the time charter parties and bill of lading will also be covered. With the advent of containerization, the multi-modal transportation goods has assumed importance in the area of transportation of goods and therefore, the law dealing with multimodal transportation of goods will be dealt with.

Finally, maritime disputes are mainly resolved through arbitration, which is another specialized area in the field of arbitration known as maritime arbitration. The course will also briefly cover the different aspects of maritime arbitration.

2. Course Aims

The aim of the Course is to provide a deeper understanding among students on one of the ancient but currently very important branch of Indian law dealing with admiralty jurisdiction of Indian courts, the laws relating to carriage of goods by sea and maritime arbitration. This course assumes importance because of globalization and increasing trade through sea routes in India. In the year 2017, the Parliament has passed the Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 which will show the growing importance of the subject and its significance.

3. Teaching Methodology

There will be power point presentations on each Sessions. The lectures in the classes will be based on the power point presentations with detailed lectures on the points. The class will be an interactive class wherein the students are required to come to the class after reading the course material/relevant portion of the text book. Students must answer questions put in the classes and participate in the class discussions.

4. Intended Learning Outcomes

| Course Intended Learning Outcomes | Weightage in % | Teaching and Learning Activities | Assessment Tasks/ Activities |
|--|----------------|--|--|
| Very Good understanding of the course subject | 25% | Posing questions and encouraging class participation and discussions by students | Answering questions and active participation in class discussions |
| Developing analytical and critical ability | 25% | Encouraging critical analyzes of the issues and developing logical thinking on the subject | Developing an open mind and active participation in class discussions |
| Promoting excellent research skill | 25% | Encouraging additional research on the subject apart from teaching materials supplied. | Ability to do intense Research with an open mind |
| Developing clinical skill in arguing and presentation of cases and issues. | 25% | Requiring presentation of cases after critically analyzing them and pointing out the defects in the reasoning and presenting one's views along with latest developments. | Doing through research on case laws and development in the concerned area. |

5. Grading of Student Achievement

To pass this course, students must obtain a minimum of 40% in the cumulative aspects of coursework, e.g. internal assessments and final examination. **End of semester examination will carry 40 Marks out of which students have to obtain a minimum of 30% to fulfil the requirement of passing the course.**

Grade Sheet¹

| Percentage of Marks | Grade | Grade Value | Grade Description |
|---------------------|-------|-------------|---|
| 80 and above | O | 8 | Outstanding – Exceptional knowledge of the subject matter, thorough understanding of issues; ability to synthesize ideas, rules and principles and extraordinary critical and analytical ability |

¹ Under extraordinary circumstances, the JGU Academic Council or the JGU Deans' Council can suspend the grading criteria or make it optional. If the grading criteria are suspended, the policy which will be framed by the School based on the decision of the said bodies will prevail over the grading criteria. However, whether a situation is extraordinary or not will be decided by the said bodies only.

| Percentage of Marks | Grade | Grade Value | Grade Description |
|---------------------|-------|-------------|--|
| 75 – 79 | A+ | 7.5 | Excellent - Sound knowledge of the subject matter, thorough understanding of issues; ability to synthesize ideas, rules and principles and critical and analytical ability |
| 70 – 74 | A | 7 | Very Good - Sound knowledge of the subject matter, excellent organizational capacity, ability to synthesize ideas, rules and principles, critically analyse existing materials and originality in thinking and presentation |
| 65 – 69 | A- | 6 | Good - Good understanding of the subject matter, ability to identify issues and provide balanced solutions to problems and good critical and analytical skills |
| 60 – 64 | B+ | 5 | Fair – Average understanding of the subject matter, limited ability to identify issues and provide solutions to problems and reasonable critical and analytical skills |
| 55 – 59 | B | 4 | Acceptable - Adequate knowledge of the subject matter to go to the next level of study and reasonable critical and analytical skills. |
| 50 – 54 | B- | 3 | Marginal - Limited knowledge of the subject matter and irrelevant use of materials and, poor critical and analytical skills |

| NEW COURSE LETTER GRADES AND THEIR INTERPRETATION | | | |
|---|---------------------|--------------|--|
| Letter Grade | Percentage of Marks | Grade Points | Interpretation |
| P1 | 45 - 49 | 2 | Pass 1: Pass with Basic understanding of the subject matter. |
| P2 | 40 - 44 | 1 | Pass 2: Pass with Rudimentary understanding of the subject matter. |
| F | Below 40 | 0 | Fail: Poor comprehension of the subject matter; poor critical and analytical skills and marginal use of the relevant materials. Will require repeating the course. |
| P | Pass | | ‘P’ represents the option of choosing between Pass/Fail grading system over the CGPA grading system in the COVID 19 semester in Spring 2020. The option is provided when students attain a minimum of 40 percentage marks under the current grading structure in a given subject. |
| I | Incomplete | | Extenuating circumstances preventing the student from completing coursework assessment, or taking the examination; or where the Assessment Panel at its discretion assigns this grade. If an "I" grade is assigned, the Assessment Panel will suggest a |

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| NEW COURSE LETTER GRADES AND THEIR INTERPRETATION | | | |
|--|----------------------------|---------------------|--|
| Letter Grade | Percentage of Marks | Grade Points | Interpretation |
| | | | schedule for the completion of work, or a supplementary examination. |

6. Criteria for Student Assessments

Internal assessment of the participants will be based on the following criteria.

| Assessment | Weightage | Remarks |
|--------------------------|------------------|---|
| Class Participation | 10 Marks | Students are expected to read the allotted reading materials and answer questions and participate in class discussions |
| Case Presentation | 20 Marks | Students have to present a decided case in the open class and be ready to answer any queries related to the case presented. |
| Research Paper | 30 Marks | A topic will be allotted to the student who has to submit a research paper of not more than 2500 words. The mark will be given on the basis of analysis of the subject with latest articles and case law. |
| End Semester Examination | 40 Marks | . The Examination will be Take Home 24 Hours. |

Part IV

Course/Class Policies

Academic Integrity and Plagiarism

Learning and knowledge production of any kind is a collaborative process. Collaboration demands an ethical responsibility to acknowledge who we have learnt from, what we have learned, and how reading and learning from others have helped us shape our own ideas. Even our own ideas demand an acknowledgement of the sources and processes through which those ideas have emerged. Thus, all ideas must be supported by citations. All ideas borrowed from articles, books, journals, magazines, case laws, statutes, photographs, films, paintings, etc., in print or online, must be credited with the original source. If the source or inspiration of your idea is a friend, a casual chat, something that you overheard, or heard being discussed at a conference or in class, even they must be duly credited. If you paraphrase or directly quote from a web source in the examination, presentation or essays, the source must be acknowledged. The university has a framework to deal

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with cases of plagiarism. All form of plagiarism will be taken seriously by the University and prescribed sanctions will be imposed on those who commit plagiarism.

Disability Support and Accommodation Requirements

JGU endeavors to make all its courses accessible to students. All students with any known disability needing academic accommodation are required to register with the Disability Support Committee dsc@jgu.edu.in. The Committee has so far identified the following conditions that could possibly hinder student's overall well-being. These include: physical and mobility related difficulties; visual impairment; hearing impairment; medical conditions; specific learning difficulties e.g. dyslexia; mental health.

The Disability Support Committee maintains strict confidentiality on the matters under its purview. Students should preferably register with the Committee during the month of June/January as disability accommodation requires early planning. DSC will coordinate all disability related services such as appointment of academic mentors, arranging infrastructural facilities, and course related requirements such as special lectures, tutorials and examinations.

All faculty members are requested to refer students with any of the above-mentioned conditions to the Disability Support Committee for getting them disability-related accommodation. Faculty members are also requested to be sensitive to the needs of such students and cooperate with Disability Support Committee and the School, extending students the necessary support by maintaining utmost confidentiality of the matter.

Safe Space Pledge

This course may discuss a range of issues and events that might result in distress for some students. Discussions in the course might also provoke strong emotional responses. To make sure that all students collectively benefit from the course, and do not feel disturbed due to either the content of the course or the conduct of the discussions. Therefore, it is incumbent upon all within the classroom to pledge to maintain respect towards our peers. This does not mean that you need to feel restrained about what you feel and what you want to say. Conversely, this is about creating a safe space where everyone can speak and learn without inhibitions and fear. This responsibility lies not only with students, but also with the instructor.

P.S. The course instructor, as part of introducing the course manual, will discuss the scope of the Safe Space Pledge with the class.

Cell Phones, Laptops and Similar Gadgets :

Only Laptops are permitted.

Part V

Keywords Syllabus

Admiralty, Maritime, *Lex Maritima*, Jurisdiction, Admiralty Jurisdiction, *In Personam* Jurisdiction, *In rem* Jurisdiction, Maritime Claims, Arrest of Ships, Maritime Liens, Mareva Injunction, Carriage of Goods by Sea, Contract of Affreightment, Implied Terms, Charter Parties, Voyage Charter Parties, Time Charter Parties, Seaworthiness, Dangerous Goods, Reasonable Dispatch, Deviation, Safe Port, Laytime, Load Port, Disport, Arrived Ship, Demurrage, Dispatch, Notice of Readiness, Hire, Off-hire, Right to Withdraw, Redelivery, Bill of Lading, E-bills, Functions, Presentation, Description of Goods, Hague-Visby Rules, Hamburg Rules, Freight, Exceptions, Limitation of Liability, Ship Owner's lien, Containerization, Multi-modal Transportation of Goods, and Maritime Arbitration.

Course Design and Overview (Weekly Plan)

| WEEKLY SESSION NOS. | TOPICS | READING MATERIAL |
|------------------------------------|--|---|
| I & II | <u>1. ADMIRALTY & MARITIME LAW</u> 1.1. Nature of Admiralty law 1.2. Development as the Law of the Merchant 1.3. Sources of Maritime law and Admiralty law 1.4. History of Admiralty law – in England & in India 1.5. The Admiralty Court 1.6. Jurisdiction and Practice 1.7. Subject Matter – jurisdiction 1.8. Territorial Jurisdiction of Admiralty Court in England & India 1.9. Jurisdiction <i>in rem</i> 1.10. Jurisdiction <i>in personam</i> | <u>READING MATERIALS</u> 1.“Admiralty Jurisdiction of Indian Courts”, By Dr. A. Francis Julian 2.Maritime Practice in India by Shrikant Hathi & Binita Hathi (2007), Hathi & Associates, Mumbai 3.Admiralty Court Act, 1861 4.Colonial Courts of Admiralty Act, 1890 5.Colonial Courts of Admiralty (India) Act, 1891 6.151th Report of Law Commission of India 7.Admiralty Bill, 2005 8. Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017 <u>CASE LAWS:</u> <i>M.V. Elisabeth</i> v Harwan Investments and Trading Ltd. [(1993) Supp. 2 SCC 433] |

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| <p>III</p> | <p>2. <u>MARITIME LIENS</u> 2.1. Issue of <i>in rem</i> claims 2.2. Default Proceedings 2.3. Arrest 2.4. Sale 2.5. Determination of priorities 2.6. International Conventions on the Arrest of Ship 2.7. Admiralty Bill, 2005 2.8. Admiralty (Jurisdiction and Settlement of Maritime Claims) Act, 2017</p> | <p><u>READING MATERIALS</u> 1. International Convention for Unification of Certain Rules Relating to Maritime Liens and Mortgages at Brussels, 1926 2. International Convention Relating to the Arrest of Sea-Going Ships, 1953 3. International Convention for the Unification of Certain Rules relating to Maritime Liens and Mortgages, 1967 4. International Convention on Maritime Liens and Mortgages, 1993 5. Geneva Conventions on Arrest of Ships, 1999 6. Mayers, “Maritime liens” (1928) 6 Can Bar Rev. 516 7. Herbet, “The Origin and Nature of Maritime Liens” (1929-30) 4 Tul. Law Rev. 381</p> <p><u>CASE LAWS:</u> 1. <i>The Bold Buccleugh</i>” (1843-60) All ER Rep.125 2. Epoch Enterrepots v <i>MV Won Fu</i> [(2003) 1 SCC 305] 3. <i>MV AlQuamar</i> v Tsavlis Salvage (Intl) Ltd (2000) 8 SCC 278 4. O. Konavalov v Commander, Coast Guard Region (2006) 3 SCC 398 5. World Tanker Carrier Corpn. v SNP Shipping Services Ltd (1998) 5 SCC 310 6. Chrisomar Corpn. v MJR Steels Private Ltd. (2017) SCC Online 1104</p> |
| <p>IV & V</p> | <p>3. <u>CARRIAGE OF GOODS</u> 3.1. Construction of Contracts 3.2. Implied Terms 3.3. The undertaking as to seaworthiness 3.4. Obligation of reasonable dispatch 3.5. Obligation not to deviate from the agreed route 3.6. The Obligation to nominate a safe port 3.7. The obligation not to ship dangerous goods 3.8. Interpretation of Charter Party</p> | <p><u>READING MATERIALS</u> 1. Carriage of Goods by Sea Act, 1925 2. Pp 1 -31; 89-90 Scrutton, “Charter Parties,” (1996) 3. pp. 9 to 44, John F Wilson, “Carriage of Goods by Sea” (7th Edn)</p> <p><u>CASE LAWS: -</u> 1. Int’l Packers v Ocean Steamship Co. [1958] 1 Lloyd’s Rep 73 2. Hongkong Fir Shipping Co (1962) 2 QB 26 3. Reardon Smith Line v Black Sea and Baltic General Insurance (1939) AC 62 4. Scaramanga v Stamp (1880) 5 CPD 295 5. <i>Swiss Atlantique</i> [1967] 1 AC 361 6. Photo Production v Securicor [1980] AC 827 7. <i>The Antares</i> [1987] 1 Lloyds rep 424 8. <i>The Eastern City</i> [1958 2 Lloyds Rep 127</p> |

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| | | 9. <i>The Khian Sea</i> [1979] 1 Lloyd's Rep 545 |
| VI & VII | <u>4. VOYAGE CHARTER PARTY</u> 4.1. An Overview 4.2. The Arrived Ship 4.3. The Loading and Discharge Operation 4.4. Laytime 4.5. Demurrage and Dispatch | READING MATERIALS pp. 47 to 82, John F Wilson, <i>Carriage of Goods by Sea</i> (7 th Edn) CASE LAWS: - 1. " <i>Aello</i> " (1960) 1 Lloyds' Rep. 623 2. " <i>Johanna Oldendorff</i> " (1973) 2 Lloyds' Rep. 285 3. " <i>Maratha Envoy</i> " [1977 (2) All ER 849] (HL) 4. " <i>The Darrah</i> " (1977) AC 157 HL 5. <i>Metcalfe v Britannia Ironworks</i> (1877) 2 QBD 423 6. " <i>The Athamas</i> " [1963] 1 Lloyd's Rep 287 7. <i>Grants v Coverdale</i> (1884) 9 App Cas 470 |
| VIII & IX | <u>5. TIME CHARTER PARTY</u> 5.1. Description of the Vessel 5.2. Period of Hire 5.3. Payment of Hire 5.4. The Off-hire Clauses 5.5. Right to Withdraw 5.6. Redelivery of the Vessel | READING MATERIALS pp. 83 to 110, John F Wilson, <i>Carriage of Goods by Sea</i> (7 th Edn) CASE LAWS: - 1. <i>Cosmos Bulk Transport Inc. v China National Transportation Co.</i> [1978] 1 Lloyd's Rep 53 2. " <i>The Democritos</i> " [1976] 2 LL Rep. 149 3. " <i>The Dione</i> " [1975] 1 Lloyd's Rep 115 4. " <i>The Brimnes</i> " [1972 (2) Lloyds Rep 45] 5. " <i>The Afovos</i> " [(1980) 2 Lloyds Rep. 469 6. " <i>The Chikuma</i> " [(1981) 1 Lloyd's Rep 371] HL 7. <i>Seven Seas Transportation v Atlantic Shipping</i> [1975] 2 Lloyd's Rep 188 8. " <i>The Teno</i> " [1977] 2 Lloyd's Rep 289 9. " <i>The Nanfri</i> " [1978] 2 Lloyd's Rep 132 10. " <i>The Li Hai</i> " [2005] 2 Lloyd's Rep 389 |
| X to XIV | <u>6. BILL OF LADING</u> 6.1. Functions 6.2. Presentation of Bill of Lading 6.3. Bill of lading and third parties 6.4. E-Bill of lading 6.5. Bill of lading under charter parties 6.6. The Hague/Visby Rules and the Hamburg Rules: a comparison of two international carrier liability regimes. 6.7. Contractual and Common Law Exceptions 6.8. Limitation of Liability 6.9. Freight 6.10. Ship Owner's Lien | <u>READING MATERIALS</u> 1. pp. 113 to 253, John F Wilson, <i>Carriage of Goods by Sea</i> (7 th Edn) 2. T.K. Thomman, "Bill of Lading in International Law and Practice" Eastern Book Co 3. The Bill of Lading Act, 1855 CASE LAW 1. <i>Jindal Iron & Steel Co. Ltd v Islamic Solidarity Shipping Co. Jordan</i> [2005] 1 All ER 175 2. <i>Ellerman & Bucknall Ltd v Misramal</i> [1966] Supp. SCR 92 3. <i>British Steam Navigation Co. Ltd. v Shanmughavilas Cashew Industries</i> (1990) 3 SCC 481 4. <i>Smith v Bedouin Steam Navigation Co</i> [1896] AC 70 5. <i>Compania Naviera Vascongada v Churchil</i> [1906] 1 KB 237 |

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| | | 6. Crooks v Allen (1879) 5 QBD 38 7. “ <i>The Ardennes</i> ” 8. Sanders v Maclean (1883) 11 QBD 327 9. Glyn Mills v East & West India Dock Co [1882] 7 App Cas 591 |
| XV | <u>7. MARITIME ARBITRATION</u> 7.1. Conflict of Jurisdiction 7.2. Conflict of Laws 7.3. Maritime Arbitration | READING MATERIALS: - 1. Miriam Goldby & Loukas Mistelis (Ed.), “The Role of Arbitration in Shipping Law”, Oxford (2016). 2. PP. 307 to 337, John F Wilson, Carriage of Goods by Sea” (7 th Edn) |

Part VI Relevant Readings

3. John F Wilson, “Carriage of Goods” by Sea” (7th Edn.), Pearson, (2010)
4. Sarah C. Derrington & James M Turner, “The Law and Practice of Admiralty Matters”, Oxford (2nd Edn.). (2016).
5. Scrutton, “Charter Parties and Bill of Lading”, 21st Edn. Sweet & Maxwell (2008)
6. Michael Brynor Summerskill, “Laytime”, Sweet & Maxwell (1989)
7. John Schofield, Laytime and Demurrage” (7th Edn) Inform Law, (2016)
8. Hugo Tiberg, “The Law of Demurrage” 4th Edn., Sweet & Maxwell, (1995)
9. T.K. Thomman, “Bill of Lading in International Law and Practice”, Eastern Book Co
10. Miriam Goldby & Loukas Mistelis (Ed.) “The Role of Arbitration in Shipping Law”, Oxford (2016).