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How to Use Your Module Planner

The Module Planner is vital to your studies. It divides the work in each area into Units, and shows you the minimum number of hours you should spend on each Unit, at the top right hand corner of the first page of each Study Unit, in order to understand the law involved. You should plan on devoting a minimum of 150 hours to each module you study.

The section headed ‘Essential Reading’ contained in the Reading List and each Study Unit refers you to the materials with which you are provided: the Textbook, 150 Leading Cases and Statute Book. The materials listed in the Essential Reading are sufficient to enable you to complete the course very effectively.

The section headed ‘General Reading’ lists other books which, if you wish, you can read to give you other approaches to the law. These books are not provided but you should be able to purchase them from Hammicks Legal Bookshop, whose address, telephone number and website details are provided in the General Reading section of the Reading List. They are not essential for you to be successful on the course, but they may help to give you a different viewpoint of the law involved in this module.

The Module Planner guides you through the course. Work through it logically, and in order, and make sure you understand one Unit before you move on to the next. At the end of each Unit you will find a set of Self-Study Questions. Test yourself on these and make sure you understand them before you move onto the next Unit.

At the end of the Study Units you will find the Learning Project. A compulsory question will be set in the examination in Section A of your paper on all or parts of the material covered by the Learning Project, and this will count for 50 per cent of your overall grade, so it is essential that you ensure you study and understand all aspects covered by it. The Study Units which relate to the Learning Project have been indicated to guide you through this material while you study.

The Module Planner is your guide to the topic of English law that it covers. Have it with you as you study and you will make the most of this opportunity to obtain the best law degree of which you are capable.
With this Module Planner you should have the following materials:
Law of International Trade Textbook
Law of International Trade 150 Leading Cases
Law of International Trade Statute Book
Law of International Trade Revision WorkBook
If you do not receive this set of materials, please contact:
Distance Learning Department
Holborn College
Woolwich Road
Charlton
London
SE7 8LN
Tel: +44 (0) 208 317 6000
Fax: +44 (0) 208 317 6003
E-mail: dl@holborncollege.ac.uk
Topics Covered by Module

This module covers the following topics within English law:
Introduction to the Contract of Affreightment; Charterparty; Time Charter; Voyage Charter; Bill of Lading; Carriage of Goods by Sea Act 1992
The Bill of Lading
Carriage of Goods by Sea: The Common Law
The Hague-Visby Rules
Marine Insurance

Skills to be Developed and Examined

To be successful in the end of module examination you need to show that you understand and can apply the area(s) of law you have been studying. You must be able to demonstrate this to the examiners by writing answers which communicate the points you wish to make accurately and in good English. This is a key part of demonstrating that you have understood the points of law, the cases and the Acts of Parliament that you have studied.

Before you start to write your answer, identify the issues that are relevant to the question. These must be clearly stated in your short introductory paragraph(s). When referring to case law and statute law, you then need to explain the relevant legal principles in the context of the issues you identified in your introductory paragraph(s). Finally, you need to write a concluding paragraph which brings your points together. Do not write everything you know about an area, or write answers that take the form of a series of notes. Your answer should be structured in the way described above and be written in good English.

For further guidance on how you will be graded please consult your Award Guide which contains an explanation of the criteria used to grade your work.

It is important that you practice answering questions and in particular take the opportunity to submit a sample question for marking and feedback. This question is contained in the Practice Question section of the Module Planner.
Examinations

This module is assessed by one, two hour, unseen written examination. Examinations take place in September, January, and May of each year. The examination is in two parts: Part A is a compulsory question and counts for 50 per cent of the total grade, Part B has four questions of which you will be required to answer two only. Each of the questions in Part B is worth 25 per cent of the total grade.

The compulsory question in Part A is based on those topics which make up the Learning Project. You will find details of the Learning Project and the topic area covered by it at the end of the Study Units in this Module Planner. You should read this section carefully to identify those areas of the module covered by the Learning Project.

You will, therefore, know in advance of the examination that there will be a substantial question on the topics covered by the Learning Project. When you write the examination you should make sure that you devote 50 per cent of the time to the question in Part A. Your answer to this question should normally be about twice as long as your answer to the two questions in Part B.

The purpose of the Learning Project is to allow you to study a significant part of the syllabus in depth in the sure knowledge that you will be examined on it. In this way, hard-working students who have studied their materials thoroughly will be able to write an in-depth answer and have full credit for the work they have done reflected in the grade awarded.

There is no assessed coursework for this module. The total grade for the module is based upon the unseen written examination. Although you should make sure that you cover the whole syllabus, it is particularly important that you study those syllabus topics which are covered by the Learning Project thoroughly so that you can write a complete answer to the compulsory question in Part A and take advantage of the fact that this question is worth 50 per cent of the grade.

The examination is a two-hour examination with an additional 15 minutes reading time. It is an unseen examination. You will, however, be able to take into the examination an unmarked copy of your 150 Leading Cases, Statute Book and Law Update (this means that you should not write on these materials; you are only allowed to underline or highlight part of the text). As stated above, you will also know what topics will be covered by the compulsory question in Part A of the examination, provided you have studied the details of the Learning Project at page 44 of this Planner.
A Brief Guide to Study Skills

As a distance learning student you will undoubtedly have other demands on your time. It is, therefore, important that you use your time effectively. The following tips are intended to help you do so.

**Time Management**

- Be realistic.
- Work out what time you have available for study; take out time for sleeping, eating, recreation, etc.
- Try to plan ahead – do not leave everything to the last minute.
- Prioritise – do not do the easiest task first, but the one that really needs to be done first.
- Set objectives which are reasonable, and make sure that they are somewhere you see them.
- Break large tasks into manageable sub-tasks and set target dates against each sub-task.
- Keep a wall planner chart.
- Try doing the most difficult things when you feel at your best.
- Remember the unexpected always happens, so be flexible – don’t get angry when plans have to change.

**Effective Reading**

**Reading**

- Read with purpose (what questions have to be answered?).
- Read selectively – scan and skim – only read in detail what you need to.
- Mentally recite what you have just read.
- Make notes at appropriate points – bullet points, do not rewrite the whole book.

**Review**

- Did I answer the questions I wanted to?
- Do I understand and remember what I read?
**Studying**

**Where?**

- Choose somewhere that is conducive to study. You need: a large table or desk; a suitable chair; a bookcase; adequate, suitable lighting; adequate ventilation; reasonable temperature – too cold,
- you can’t concentrate – too warm, you will go to sleep.
- Banish distractions – magazines, radio, telephone, TV.
- Decide where you study best, and try to keep to it.

**When?**

- When you are alert.
- Not when you are too tired.
- When it is the best time of day for you – some people work better at night, others early in the morning.

**How?**

- Try studying for 50 minutes, break for 10 minutes, etc.
- Have all you need available – pens, pencils, dictionary, PC, etc.
- Avoid too much physical relaxation or you will go to sleep!
- Actively study – make notes, etc. It is difficult to just read for too long; it makes you sleepy and you lose concentration.
- Remember to have breaks and do have time for relaxation.
- Set yourself targets, and give yourself rewards!

**Practice Questions**

At the end of each unit you will find Sample Questions, and at the end of the Planner is a Practice Question and Suggested Answer. strongly advised to submit at least one answer to either a Sample Question or the Practice Question for marking. Unless you do so you will not gain any insight into your strengths and weaknesses.
Introduction to Study Units

The Study Units deal with the individual topics covered by the module. The module is broken down into Study Units to enable you to look at each area of law in digestible parts. You must work through each Study Unit in order, ensuring that you understand the material covered by each Unit before progressing on to the next one.

Each Study Unit is broken down into four major sections.

- **Reading List**

  This indicates what reading you must do (Essential Reading) in order to cover all of the material set in the Unit. All material listed in the Essential Reading is provided as part of your study materials. You can, if you wish, further your knowledge and understanding by completing the General Reading in each Unit. These materials are not essential for you to complete the course, but you may find them useful in your study. Such materials are not supplied, and you are responsible for obtaining copies of the titles listed in the General Reading. Details are given in the Reading List of suppliers.

- **Case Law and Statutes**

  This section directs you to those cases and statutes that you will need to read and understand in order to complete the Unit. All materials listed here can be found in your Textbook or 150 Leading Cases.

- **Self-Study Questions**

  These are questions designed to set the parameters of the Study Unit and to test your application of the basic principles.

- **Sample Questions**

  These may be essay or problem questions, often taken from past examination papers. You should attempt your own answers to all of these questions.
Reading List

These are the titles that you will use throughout the course. They are referred to in the reading section of each Study Unit, to guide you in your learning.

Essential Reading

All materials listed here must be read in order for you to understand the module. These books are supplied as part of your study materials.

These are the titles that you will use throughout the course. They are referred to in the reading section of each Study Unit, to guide you in your learning.

Essential Reading

All materials listed here must be read in order for you to understand the module. These books are supplied as part of your study materials.

Law of International Trade Textbook

Law of International Trade 150 Leading Cases

Law of International Trade Statute Book

General Reading

These materials are not supplied, and are not essential to pass the module. You may, however, wish to refer to them to deepen your understanding of the topics covered by the course. You are responsible for obtaining your own copies of these titles. If you choose to do so, you should be able to purchase them by contacting Hammicks Legal Bookshops at 192 Fleet Street, London EC4A 2NJ; tel: +44 (0)20-7405-5711 or you can order online at www.hammickslegal.co.uk.

The Law of International Trade
Day and Griffin (3rd edition 2003) Butterworths

Introduction to the Carrier of Goods by Sea

Ridley’s Law of the Carrier of Goods by Land, Sea and Air
D’Arcy (7th edition 1992) Shaw & Sons

Schmitthoff: Export Trade
Schmitthoff (10th edition 2000) Sweet & Maxwell

In addition, in each Study Unit you will find a list of cases which should be consulted. Summaries of these can be found in the 150 14 Leading Cases; cases marked with an * are referred to in the Textbook. If you have access to the Internet you may wish to take advantage of the legal materials available via this source. See your Award Guide for details.

For those students who have never studied the law, certain terminology used may be difficult to understand at first. As you progress through the course, you will learn a range of new words and phrases that are frequently used in the study of law. If you encounter any difficulties with the terminology used, however, you will find it useful to refer to a legal dictionary, which will explain the meaning of legal words and phrases in plain English. Mozley and Whitley’s Law Dictionary (12th edition 2001) by Butterworths is very helpful, and can be purchased through Hammicks Legal Bookshops.
Study Unit 1  Suggested minimum study hours: 20

Topic

Introduction to the Contract of Affreightment; Charterparty; Time Charter; Voyage Charter; Bill of Lading; Carriage of Goods by Sea Act 1992

Introduction

An exporter of goods may perform the obligation to ship goods by chartering a vessel under a charterparty or by booking a space on a vessel. This Unit compares the contract of affreightment with the different types of charter. It also considers the position of stevedores who damage cargo during loading or unloading.

Objectives

a To consider the following in the context of the carriage of goods by sea: i contract of affreightment; ii charterparty; iii time charter; iv voyage charter; v bill of lading.
b To examine the application of the Carriage of Goods by Sea Act 1992.

Essential Reading

These titles have been supplied as part of your study materials. Law of International Trade Textbook – Chapters 5 and 6 Law of International Trade 150 Leading Cases – (See listed cases)

General Reading

These titles have not been supplied and are not essential reading, but you may wish to refer to them to further your understanding. The Law of International Trade, Day and Griffin – Relevant Chapter(s)

Case law and statute

Effort Shipping Co Ltd v Linden Management SA and Another, The Giannis NK [1998] 1 All ER 495 (HL)
Hong Kong Fir Shipping Co v Kawasaki Kisen Kaisha [1962] 2 QB 26 (CA)
Midland Silicones Ltd v Scruttons Ltd [1962] AC 446
Monarch Steamship Co v Karlshamns Oljefabriker [1949] AC 196
Morrison & Co Ltd v Shaw, Savill and Albion Co Ltd [1916] 2 KB 783
New Zealand Shipping Co Ltd v AM Satterthwaite & Co Ltd, The
Eurymedon [1975] AC 154
Port Jackson Stevedoring Pty Ltd v Salmond & Spraggon (Australia)
Pty Ltd, The New York Star [1980] 3 All ER 257
The Ardennes [1951] 1 KB 55
Whistler International Ltd v Kawasaki Kisen Kaisha Ltd [2000] 3 WLR 1954
Carriage of Goods by Sea Act 1992

Cases marked with an * can be found in your Textbook; all other cases can be found in your 150 Leading Cases.
Self-Study Questions

1 What are the principal obligations at common law of a carrier of goods by sea?
2 What are the exceptions to strict liability for those obligations?
3 What is a time charterparty?
4 What is a voyage charterparty?
5 When is a charterparty bill of lading necessary? By whom is it issued and to whom? What purposes does it serve?

Sample Questions

1 ‘The only certain rule in the interpretation of the clauses in a time charter is that each clause must be considered on its own merit.’ Discuss.

(Wolverhampton LLB by Distance Learning Question.)

2 ‘The charterparty is as popular as the contract of affreightment evidenced by a bill of lading. This is because these two distinctly different forms of contract serve the differing needs of shippers.’ Discuss.

(Wolverhampton LLB by Distance Learning Question.)
Study Unit 2 Suggested minimum study hours: 20

Topic

The Bill of Lading

Introduction

The bill of lading serves as a receipt for goods shipped, a document of title and evidence of the contract of carriage. This Unit examines the functions of the bill of lading and considers when clauses in a charterparty may be incorporated into the bill of lading.

Objective

To consider the functions of the Bill of Lading.

Essential Reading

These titles have been supplied as part of your study materials. Law of International Trade Textbook – Chapters 5 and 8 Law of International Trade 150 Leading Cases – (See listed cases)

General Reading

These titles have not been supplied and are not essential reading, but you may wish to refer to them to further your understanding. The Law of International Trade, Day and Griffin – Relevant Chapter(s)

Case law and statutes

Benarty, The [1985] QB 325
Borealis AB v Stargas Ltd and Another, The Berge Sisar [2000] 1 WLR 209
Diamond Alkali Export Corporation v F L Bourgeois [1921] 3 KB 443
Leduc & Co v Ward and Others (1888) 20 QBD 475
Maramar Maritime Corporation v Holborn Oil Trading Ltd [1984] 1 AC 676
Morviken, The [1983] 1 Lloyd’s Rep 1
San Nicholas, The [1976] 1 Lloyd’s Rep 8
Svenska Tractor Aktiebolaget v Maritime Agencies (Southampton) Ltd [1953] 2 QB 295
The Ardennes [1951] 1 KB 55
The Coral [1993] 1 Lloyd’s Rep 1
The Delfini [1990] 1 Lloyd’s Rep 252
The Happy Ranger [2002] 2 All ER (Comm) 24 (CA)
Whistler International Ltd v Kawasaki Kisen Kaisha Ltd [2000] 3 WLR 1954 Bills of Lading Act 1855
Carriage of Goods by Sea Act 1992
Sale of Goods Act 1979
Cases marked with an * can be found in your Textbook; all other cases can be found in your 150 Leading Cases.

**Self-Study Questions**

1. What are the three functions of a bill of lading?
2. What is meant by a 'clean' bill of lading?
3. To what extent is a bill of lading an indication of the contract between the carrier and the shipper?
4. To what extent is a bill of lading a document of title of goods? To whom is the bill made out?
5. What remedy does the buyer have if there is a deviation clause enabling deviation for any purpose and in conflict with the contract of sale?
6. Is an endorsee of a bill of lading subject to an arbitration clause in a charterparty if the bill of lading contains the clause: ‘freight and other terms as per charterparty’?

**Sample Questions**

1. ‘A holder of a bill of lading may bring a claim against a carrier for lost or damaged cargo, but a carrier can escape liability by inserting a disclaimer into the document. Such disclaimers undermine the purpose of the bill of lading.’
   Critically discuss the above statement
   (Wolverhampton LLB by Distance Learning, January 2001, Question 5.)

2. ‘General words of incorporating a charterparty into a bill of lading may not be sufficient to make an endorsee of a bill of lading liable for such things as demurrage.’
   Discuss the above statement.
   (Wolverhampton LLB by Distance Learning, September 2001, Question 4.)
Study Unit 3  Suggested minimum study hours: 20

Topic

Carriage of Goods by Sea: The Common Law

Introduction

The common law imposes certain obligations on a carrier which may be subject to contract, and/or statutory provisions. This Unit examines the carrier’s obligations at common law, as well as the carrier’s right to freight.

Objective

To examine the duties of the carrier at common law.

Essential Reading

These titles have been supplied as part of your study materials. Law of International Trade Textbook – Chapters 8 and 9 Law of International Trade 150 Leading Cases – (See listed cases)

General Reading

These titles have not been supplied and are not essential reading, but you may wish to refer to them to further your understanding. The Law of International Trade, Day and Griffin – Relevant Chapter(s)

Case law and statutes

*Bamfield v Goole* [1910] 2 KB 94
*Brass v Maitland* (1856) 26 LJQB 49
Elder, Dempster & Co Ltd v Paterson, Zochonis & Co Ltd [1924] AC 522
*Kish (J & E) v Charles Taylor, Sons & Co* [1912] AC 604
*Kopitoff v Wilson* (1876) 1 QBD 377
McFadden v Blue Star Line [1905] 1 KB 697
Monarch Steamship Co v Karlshamns Oljefabriker [1949] AC 196
Tattersall v National Steamship Co Ltd (1884) 12 QBD 297
The *Europa* [1908] P 84 PD
Carriage of Goods by Sea Act 1971: Schedule – Articles II–IV and VIII
Merchant Shipping Act 1995

FREIGHT

Aries Tanker Corporation v Total Transport [1977] 1 All ER 398; [1977] 1 WLR 185 (HL)
Asfar & Co v Blundell & Another [1896] 1 QB 123
*Dakin v Oxley* (1864) 10 LT 268
Hain Steamship Co Ltd v Tate & Lyle Ltd [1936] 2 All ER 597 (HL)
*Maria D, The* [1991] 2 Lloyd’s Rep 311
The *Metula* [1978] 2 Lloyd’s Rep 5
Merchant Shipping Act 1995
DANGEROUS CARGO

Mitchell, Cotts and Co v Steel Brothers and Co Ltd [1916] 2 KB 610

Cases marked with an * can be found in your Textbook; all other cases can be found in your 150 Leading Cases.

Self-Study Questions

1 What is seaworthiness and what is its effect on a contract of carriage by sea? What is its importance in relation to the excepted perils? 2 Upon whom does the burden of proof fall to show that the goods are properly and carefully loaded? What is ‘bad storage’? 3 What is the effect of stowing cargo on deck? Define the obligations of the carrier in such circumstances. 4 What are the conditions precedent to a shipowners’ rights to freight? 5 What is the effect of deviation at common law?

Sample Questions

1 Amy shipped a cargo of vases on board The Iris owned by Careful Carriers Inc. The goods were being shipped from Ghana to England. On loading, the goods were stowed at the bottom of a hold and barrels of oil were placed on top. During the voyage the ship experienced engine trouble and was deviated to an intermediate port to undergo repairs. On completion of the repairs the ship returned to its original route but due to a lack of navigational equipment, the ship collided with another vessel. When the goods were unloaded in England, it was discovered that some of the vases had been crushed by the heavier barrels of oil that had been placed on top. The impact of the collision had damaged a further number of vases. Advise Careful Carriers Inc as to their liability for the damaged vases.

(Wolverhampton LLB by Distance Learning, May 2001, Question 2.)

2 ‘Unlike a breach of seaworthiness, an unjustified deviation is always a fundamental breach of the contract of carriage.’ Discuss the above statement.

(Wolverhampton LLB by Distance Learning, September 2001, Question 2.)
Study Unit 4 Suggested minimum study hours: 20

Topic

The Hague-Visby Rules

Introduction

The Hague-Visby Rules are given the force of law by s1(2) of the Carriage of Goods by Sea Act 1971. If applicable the Rules will affect the contract of carriage. This Unit examines the application of, and obligations under, the Hague-Visby Rules.

Objectives

a To determine when the Hague-Visby Rules apply to a contract of carriage. b To examine the obligations imposed on a carrier under the Hague-Visby Rules. c To examine the applicability of the excepted perils.
d To consider the effect of the provisions for the limitation of liability under the Hague-Visby Rules.

Essential Reading

These titles have been supplied as part of your study materials.

Law of International Trade Textbook – Chapter 8
Law of International Trade 150 Leading Cases – (See listed cases)

General Reading

These titles have not been supplied and are not essential reading, but you may wish to refer to them to further your understanding. The Law of International Trade, Day and Griffin – Relevant Chapter(s)

Case law and statute

APPLICATION

Benarty, The [1985] QB 325
Morviken, The [1983] 1 Lloyd’s Rep 1
Pyrene Co Ltd v Scindia Navigation Co Ltd [1954] 2 QB 402
Svenska Tractor Aktiebolaget v Maritime Agencies (Southampton) Ltd [1953] 2 QB 295

DUTIES OF THE CARRIER

Riverstone Meat Co Pty Ltd v Lancashire Shipping Co Ltd [1961] AC 807
Smith Hogg & Co Ltd v Black Sea and Baltic General Insurance Co Ltd [1940] AC 997
Stag Line Ltd v Foscolo Mango [1932] AC 328
The Coral [1993] 1 Lloyd’s Rep 1
The Eurasion Dream [2002] 1 Lloyd’s Rep 719
EXCEPTED PERILS

International Packers London Ltd v Ocean Steam Ship Company Ltd  
[1955] 2 Lloyd’s Rep 218
Leesh River Tea v British India Steam Navigation [1967] 2 QB 250 Lennards Carrying Company Ltd v Asiatic Petroleum Co Ltd [1915] AC 705
The Tilia Gorthorn [1985] 1 Lloyd’s Rep 552

BILL OF LADING

Silver v Ocean Steamship Co Ltd [1930] 1 KB 416

DANGEROUS CARGO

Effort Shipping Co Ltd v Linden Management SA and Another, The Giannis NK [1998] 1 All ER 495 (HL)
Mediterranean Freight Services Ltd v BP Oil International Ltd, The Fiona [1993] 1 Lloyd’s Rep 257

Cases marked with an * can be found in your Textbook; all other cases can be found in your 150 Leading Cases.

Self-Study Questions

1. When will the Hague-Visby Rules apply to a contract of carriage?
2. What is the duty to provide a seaworthy ship under the Hague-Visby Rules?
3. What is the effect of a deviation under the Hague-Visby Rules?
4. When are the ‘excepted perils’ in Art IV r2 available to the carrier?
5. What is the effect of stowing cargo on deck?
6. In what circumstances is the limitation of liability provided for in Art IV r5 not available to a carrier?

Sample Questions

1. ‘A carrier has greater protection under the Hague-Visby Rules than he/she would otherwise have under the English common law.’ Discuss the above statement.

(Wolverhampton LLB by Distance Learning, May 2001, Question 3.)

2. Dan shipped a cargo of baseball bats from New York to England on board The US Carrier, a ship owned by Fastlanes Inc. A bill of lading was issued stating that English law was the law of the contract of carriage. The bill of lading was endorsed to Clive. In New York the ship had been repaired by independent contractors engaged by Fastlanes Inc. The independent contractors had failed to tighten the storm valves and during the voyage water seeped into the holds. The water damaged half of the baseball bats. A further quarter of the bats were damaged by other cargo falling on them when the ship listed in a storm.

Advise Clive on whether he has a claim against Fastlanes Inc in respect of the damaged bats.

(Wolverhampton LLB by Distance Learning, September 2001, Question 3.)
Study Unit 5  Suggested minimum study hours: 20

Topic

Marine Insurance

This Unit covers material contained in the Learning Project.

Introduction

An exporter or importer of goods will usually ensure that when goods are shipped they are covered by marine insurance. This Unit examines the relationship between the parties and their duties under the insurance contract. It also examines the perils covered, and exclusions available, under the Institute Cargo Clauses.

Objectives

a To consider the relationship between the assured and the broker.
b To consider the rules on disclosure.
c To consider types of insurable interests.
d To consider policies cover and exclusions.
e To apply the case law on cover and proximity.
f To examine the differences between actual total loss and constructive total loss, and partial loss and damage.

Essential Reading

These titles have been supplied as part of your study materials. Law of International Trade Textbook – Chapters 10 and 11 Law of International Trade 150 Leading Cases – (See listed cases)

General Reading

These titles have not been supplied and are not essential reading, but you may wish to refer to them to further your understanding. The Law of International Trade, Day and Griffin – Relevant Chapter(s)

Case law and statute

Anglo-African Merchants Ltd and Another v Bayley and Others [1970] 1 QB 311
Asfar & Co v Blundell & Another [1896] 1 QB 123
Bayview Motors Ltd v Mitsui Marine and Fire Insurance Co Ltd and Others [2002] 1 Lloyd’s Rep 652
Black King Shipping Corporation v Massie, The Litsion Pride [1985] 1 Lloyd’s Rep 437
British & Foreign Marine Insurance v Gaunt [1921] 2 AC 41
Canada Rice Mills v Union Marine & General Insurance Co [1941] AC 55
Container Transport International Inc v Oceanus Mutual Underwriting Association (Bermuda) Ltd [1984] 1 Lloyd’s Rep 476
General Re-Insurance Corporation v Forsakringsaktiebolaget Fennia Patria [1982] 2 WLR 528
Inglis, John Gillanders v William Ravenhill Stock (1885) 10 App Cas 263
Ionides v Pender (1874) LR 9 QB 531
McAura v Northern Assurance [1925] AC 619
Cases marked with an * can be found in your Textbook; all other cases can be found in your 150 Leading Cases.

Self-Study Questions

1 When is the contract concluded and who pays the premium?
2 What circumstances must be disclosed to the insurer by the assured?
3 What is meant by ‘material’?
4 What is a voyage policy? Why do these policies normally contain a ‘transit clause’?
5 What are the differences between the Institute Cargo Clauses A, B, and C?

Sample Questions

1 On 9 March, C, acting through his broker, X, insured 100,000 crates of oranges ‘at and from Naples’ for delivery at London per the MV ‘Overseer’. The policy was in the usual Lloyd’s form with the Institute Cargo Clauses ‘C’ attached. During the negotiations for the policy, C stated that the value of the oranges was 120 per cent more than it was in fact. 20,000 crates fell into the harbour at Naples whilst being loaded. On 29 March C learned that the oranges had been standing on the quayside at Naples and may have been damaged by rain. The vessel discharged her cargo at London on 17 April; 20,000 crates were found to be rotting due to improper packing. 20,000 others had been damaged by seawater entering the ship’s hold. The insurance policy issued stated that the premium had been paid. In fact C had paid the amount of the premium to X prior to the loss but X had not passed on the sum and had gone bankrupt. Advise the parties.

(Wolverhampton LLB by Distance Learning Question.)

2 What degree of causation must be shown to enable the assured to recover for loss/damage due to peril insured against?

(Wolverhampton LLB by Distance Learning Question.)
In common with all the modules that form part of the LLB by Distance Learning programme this module involves a Learning Project. Undergraduate students at the University of Wolverhampton are required to demonstrate that they are capable of independent research before they can be recommended for the award of a degree. For distance learning students this is assessed by reference to the Learning Project you undertake in respect of each module. It requires you to pay specific attention to a list of defined reading. Commonly covering a range of cases and statutes you are required to demonstrate your mastery of the area(s) of law concerned by undertaking a compulsory question as part of the end of module examination. This will commonly take the form of an extended legal problem and require you to demonstrate not only that you understand the areas of law concerned but are able to apply them clearly and without error. It could also take the form of an essay question requiring you to demonstrate an ability to comment on linked areas of law. Particular attention will be paid to the accuracy with which you cite the law and the arguments of those responsible for its development. You will also be expected to demonstrate that you understand, and have not been confused by, the ambiguities and contradictions that exist in the undergraduate study of the law. This question, which will change with each examination paper, will account for 50 per cent of the overall grade and require you to devote one hour of the two-hour examination period to it. Please note that for each examination you are allowed 15 minutes’ reading time on top of the two hours you have to write your answers. You may also take into the examination the relevant 150 Leading Cases and Statute Book. Please note that these may not contain any additional notes or markings.
Learning Project for The Carriage of Goods by Sea: Cargo Insurance

Essential Reading

Law of International Trade 150 Leading Cases (Relevant Chapter(s)) Sellman and Evans (2002) Old Bailey Press

Guidance notes

This Learning Project is covered by Unit 5 in your Module Planner. You should aim at an understanding of marine insurance (the oldest form of insurance, with many special features of its own) from the point of view of the businessman concerned in the international sale of goods. Remember that, while passengers and goods of small bulk/high value mostly go by air nowadays, the overwhelming bulk of international transport of goods is still by sea, and still subject to the traditional risks of the sea. In carrying out your reading and research you should have special regard to the following key points.
Nature of insurable interest: effect of PPI policy.

Types of insurable interest.
Relationship between insurer, broker and assured.
Disclosure.
Assignment of policy.
Insurable risks (Institute Cargo Clauses).
Exclusions.
Constructive total loss.
General average.
The proximate cause rule.

Case law and statute

Anglo-African Merchants Ltd and Another v Bayley and Others [1970] 1 QB 311
Asfar & Co v Blundell & Another [1896] 1 QB 123
Bayview Motors Ltd v Mitsui Marine and Fire Insurance Co Ltd and Others [2002] 1 Lloyd’s Rep 652
Black King Shipping Corporation v Massie, The Litsion Pride [1985] 1 Lloyd’s Rep 437
British & Foreign Marine Insurance v Gaunt [1921] 2 AC 41
Canada Rice Mills v Union Marine & General Insurance Co [1941] AC 55
Container Transport International Inc v Oceanus Mutual Underwriting Association (Bermuda) Ltd [1984] 1 Lloyd’s Rep 476
General Re-Insurance Corporation v Forsakringsaktiebolaget Fennia Patria [1982] 2 WLR 528
Inglis, John Gillanders v William Ravenhill Stock (1885) 10 App Cas 263
Itonides v Pender (1874) LR 9 QB 531
McAura v Northern Assurance [1925] AC 619 Noten (T M) BV v Harding [1990] 2 Lloyd’s Rep 283
Pan Atlantic Insurance Co Ltd and Another v Pine Top Insurance Co Ltd [1995] 1 AC 501
Rhesa Shipping Co SA v Herbert David Edmunds, The Popi M [1985] 2 Lloyd’s Rep 1
Soya GmbH Mainz Kommanditgesellschaft v White [1983] 1 Lloyd’s Rep 122 (HL)

Marine Insurance Act 1906

Cases marked with an * can be found in your Textbook; all other cases can be found in your 150 Leading Cases.
Sample Questions

1 Meena asked her brother, Ernest, to arrange insurance for a consignment of rare stamps to be shipped from New York to London on board the SS Sabrina. Ernest arranged for insurance under the ICC ‘A’ clauses but failed to tell the insurer that the stamps were rare. During the voyage the ship encountered a storm and water entered the holds, which were not secure due to defective hatches. Half of the stamps in the holds were damaged by the water. On arrival in London, the stamps were unloaded and placed in the warehouse. Before the stamps could clear customs, the undamaged stamps were stolen. The insurers have refused to pay out for the losses because of Ernest’s failure to disclose that the stamps were rare. Advise Meena.

(Wolverhampton LLB by Distance Learning, September 2001, Question 1.)

2 Raj insured a cargo of ten containers of cashmere dresses that were shipped on board the Feisty Breeze. The insurance was arranged through Raj’s broker, Tan, who informed the insurers that a cargo of dresses were being shipped from London to Hong Kong. The insurance was arranged under the ICC ‘C’ policy. During the voyage the master was forced to divert the ship for repairs to be carried out. After the ship had regained its route for Hong Kong, a fire broke out on board due to the negligence of one of the crew, who dropped a lighted cigarette. Five containers of cashmere dresses were damaged due to the smoke from the fire. On arrival in Hong Kong, when the goods were being unloaded, three containers of dresses were dropped into the harbour. Advise the insurers as to the extent of their liability for the lost and damaged cargo.

(Wolverhampton LLB by Distance Learning, May 2001, Question 1.)

Practice Question and Suggested Answer

The following test is designed for practice only and does NOT count as part of the assessment regime. A Suggested Solution is, however, offered in the following section. Students are advised not to consult this solution until they have completed the test. It is expected that you will return your answer to the College for marking and feedback. Unless you undertake such work you will not gain an insight into your academic strengths and weaknesses before you attempt the examination.

Before attempting your answer, please ensure that you understand the assessment criteria explained in the Award Guide, and the guidance contained in the section of the Module Planner headed ‘Skills to be Developed and Examined’.

Question

Carriers Inc have agreed to carry cargo belonging to Juice Dream Ltd, shippers of fruit juice. The master has noticed that the barrels of fruit juice are leaking but Juice Dream Ltd have said that they will indemnify Carriers Inc if a clean bill of lading is issued. Juice Dream Ltd have also informed Carriers Inc that the ship may stop at ports which are slightly off the route, even though the bill of lading does not contain a deviation clause. Advise Carriers Inc on any liability they may incur if they agree to Juice Dream Ltd’s proposals.

(Wolverhampton LLB by Distance Learning, May 2001, Question 5.)

Suggested Answer to Practice Question

NB: Do not consult this solution until you have completed the test.
Outline Answer

In answering this question, which required a discussion of the bill of lading, students should have had regard to the following key points.


Barrels are leaking – bill of lading should be claused. Clean bill – tainted with deceit – carrier cannot rely on indemnity; Brown Jenkinson v Percy Dalton (1957).

Oral agreement regarding stopping at ports – bill of lading is evidence of contract of carriage regarding shipper, but becomes the contract of carriage in the hands of a third party: The Ardennes (1951); Leduc v Ward (1888). Claim against carrier by third party for breach of contract of carriage.

Answer

Note: this answer is based on one written by a distance learning student covering the question set as part of an examination. The bill of lading has three functions: (1) as a document of title, (2) as evidence of receipt of the goods when shipped, and (3) as evidence of the contract of carriage.

The carrier, when issuing the bill of lading, will mark it for any identification marks, and the quantity and apparent condition of the goods; the information contained thereon is the final and conclusive evidence of the condition of the goods when received or shipped. The carrier is estopped from claiming a contrary condition when the bill of lading is transferred to a third party acting in good faith. A clean bill of lading is one which bears no superimposed clauses expressly declaring a defective condition of the goods. One with such clauses is called a claused bill of lading. The bill of lading relates only 37 to the apparent order and condition of the goods and does not detail the state of the goods themselves.

The bill of lading is evidence of the receipt of the goods when in the hands of the shipper, but becomes a contract of carriage in the hands of the transferee. Any agreement between the shipper and the carrier regarding the carriage contract which is not contained in the bill of lading is not binding on the subsequent transferee unless such agreement has been incorporated into the bill of lading. Where the carrier signs a clean bill of lading knowing that the terms he is representing on that bill are false, and the shipper offers an indemnity in return for the clean bill, the courts will not show much sympathy towards that indemnity, as the consideration for it is illegal. The situation in this case is similar to Brown Jenkinson v Percy Dalton (1957) in which it was held that the carrier had made a representation in the bill of lading that they knew to be false and which they knew the transferee would rely on. Such a false misrepresentation was tantamount to committing the tort of deceit, and the shipper’s promise to indemnify the carriers against any loss resulting from such representation was therefore illegal and unenforceable. In the circumstances, Carriers Inc is unlikely to be able to enforce the indemnity given by Juice Dream Ltd and will not be able to recover any loss arising out of any misrepresentation relating to the condition of the barrels.

As regards the proposed agreement relating to deviation, which is not incorporated into the bill of lading, this will not bind the transferee, who may then have a claim against the carrier. The bill of lading becomes a contract of carriage in the hands of the transferee, and the carrier is liable for any loss suffered by the transferee as a result of an unjustified deviation.
Marker's comment on Student Answer

This was a good answer in that it discussed the main issues, stated the law and it focused on the question. A weakness of the answer was a lack of authority; for example, there was no reference to the Carriage of Goods by Sea Act 1992, s4, or the Hague-Visby Rules, Art III r3.
Revision

What to revise

Consider carefully what you have been told about the format of the examination. How many questions will you be required to answer in what length of time? Work out how long you are likely to have to write an answer to any one question.

Look at past exam papers. A sample can be accessed via the School of Legal Studies website www.wlv.ac.uk/sls. They may help you to identify the questions which are most likely to appear on your exam; and on which you can concentrate your revision. This is known as question spotting and, although this is not advisable, it may sometimes be necessary. If you have to do this, you should revise two additional topics just in case: the question on one of the topics on which you have concentrated most may be phrased in such a way that you are not certain how to answer it. It is, however, safer to deal with every topic in the module so that you are prepared for all questions.

By looking at past exam papers you may also be able to determine whether certain topics tend to be examined by way of problem scenarios or general discussion questions. Structure your revision to accommodate the different approaches those two different types of question require.

Look closely at the topics covered by the module. Those topics which have been given the greatest emphasis are a good bet to appear in the exam.

The question in the Learning Project is compulsory so make sure that your revision is thorough on the topic, or topics, it covers.

Planning your revision

The best method of revision is to revise continuously throughout your study of a module, but whether you revise continuously or prefer the last minute approach, try to relax on the day before an exam. To do well you need to be both physically and mentally fit.

Well before the exam period make yourself a revision calendar. Make sure that the revision period you plan is long enough to cover all of the modules you have studied, and gives you regular breaks away from your studies. You need to start your revision at least two weeks before the examination period. It is not wise to plan to revise for more than an hour at a time without a short break. You should build in some days in which you put revision aside altogether and do something which will take your mind off the upcoming exam period.

Don’t just divide the revision period equally between topics. Make a realistic appraisal of which topic(s) you are weakest in and plan to give them the most time. In deciding how much time to give each topic you should also take into account how much the exam counts towards your overall mark. In other words, plan your revision to do best on exams which will give you the most benefit in terms of your overall results.

Do not concentrate all your revision of any one topic in a solid block. You will find that your concentration will be better if you rotate your revision from topic to topic.

Plan your revision of any one topic in stages. The first stage is to acquire a knowledge of the topic. This involves re-reading your notes and whatever is necessary in your books. The second stage is to break that knowledge down into easily remembered key components. The third stage is to hone your ability to identify issues and relate them to those key components. This is best accomplished by writing answers to past exam questions.
How to revise

If you have any general problems with your studying, don’t just sit there hoping it will come right in the end; contact the Module Leader or the College.

There are a number of stages in the revision process. First you have to ensure that you have an adequate knowledge of the topics. This is a matter of re-reading notes and filling in gaps by reading relevant sections of your Textbook or other materials until you have reached the point where you understand the material being dealt with.

While you are reviewing your notes and other study materials, you should be identifying and marking key points which you can return to when you start to make your revision notes.

Remember: revision can only be effective if it is based on a previously acquired basic knowledge and understanding of the topics.

The second stage of revision is to create a set of revision notes.

These will be aimed at (1) setting out key points and (2) relating these to each other in such a way that they form a coherent picture of a particular topic (3) identifying key cases and/or statutory provisions which you need to know details of.

There are numerous ways of structuring revision notes. Which you choose will be a matter of personal preference. The basic aims, however, are to create a set of notes which you can review quickly many times; and one from which you can retain a vivid mental image so that you will be easily able to recall them in the examination.

Therefore your revision notes should be made up of key words and phrases. Each entry in the notes should represent a condensation of information about the topic at hand. Strike a balance between brevity and comprehensiveness. Some concepts may be too complicated to remember without a detailed note. Others readily lend themselves to summing up in a phrase of even a word or two. A rule of thumb is to confine all the revision notes on one topic to one page or less of A4 paper.

Using different colours for different topics, or writing the notes so that they create a distinctive pattern on the page, is a way of creating a vivid mental image of your notes. During the exam you may be able to recall the particular information you need by calling up a ‘picture’ of the information. A stepped outline or a spider diagram are two of the ways you can create a pattern which will help you to recall information by focussing on the image and the way it was written down. Spider diagrams are especially useful for creating an image of the way ideas or rules link together.

Your friends may think you have become very eccentric but it is a good idea to stroll about your room reciting out loud the contents of a page of revision notes. This, after all, is how actors learn their lines before a performance, and you are doing the same thing when you set out to learn your revision notes before an exam.

You may be tempted to shortcut the process of building up a set of your own revision notes by buying one of the many revision guides which are available. These can be extremely useful to give you a very condensed overview of a topic, but remember this: what makes for exam success is displaying to the examiner your own knowledge of the topic. The only way to create your own knowledge of the topic is to create your own set of revision notes using all those other sources.

The third stage of revision is self-testing. Pick a question from a past exam – and this is where having made a considered choice about which topics to revise is essential – and write an answer to it under ‘exam conditions’: ie taking the length of time you would be given to do the question in
the exam. Then go back over your revision notes on that topic and see what you have left out, what you did wrong and what you put in that was not really relevant to the question asked.

You may want to return to your original notes from lectures and reading and have another look at that material. After half an hour or more break, pick another question on the same topic and write an answer to it. Go through the same review process again. Repeat the whole process once or twice more. The advantages of doing this will soon become apparent. You will identify weaknesses in your knowledge and/or understanding. You will see how some components of an answer to a question on a particular topic will re-appear over and over again no matter how the question is worded, and you will have written those bits down often enough that you will not have to spend time in the exam trying to work out how to phrase that part of your answer.

The benefit of self-testing is enormously enhanced if you do it as part of a group. Three or four of you working together will amongst you have a very comprehensive knowledge of any topic. What you are weak on, you can pick up from one of the others and vice versa. There is also the psychological boost which comes from working as part of a team. You will find that some of the things you thought it was important to write about completely eluded other members of the group. Also, you will not have seen some important point which they did. Discussing all of your answers together will help you to craft a complete answer to all of the aspects of the question. If you are not in contact with fellow distance learning students, ask members of your family or friends to test you. As well as helping you, this will give them a valuable insight into how much your studies mean to you and the hard work involved.

**Taking the Examination**

**Hints for Answering Questions**

The very first thing you must do is to read the whole question. If the question is a problem:

**DO**

Ask yourself:
- Why am I being asked to advise this person?
- What has gone wrong?
- What are the areas of law involved?

If the question is an essay:

**DO**

Ask yourself:
- What area of law does the essay cover?
- Which part of that area of law is the essay asking me to discuss?
- Which points do I have to focus on in answering the question?

**DO NOT, IN EITHER TYPE OF QUESTION**

- Start writing before you have read the whole question.
- Identify one area of law and write all you know about that area without putting it into the context of the question.

The next step is to write an outline plan of your answer. In this plan, you should identify the main points in the problem. If you do not want the plan to be taken into account in your answer, then cross it through and your examiner will ignore it. When you are writing your answer, follow your plan. This will help you avoid discussing areas of law which are not relevant to the question. It will also help you ensure that you cover all the points raised in the question and do so in a
logical, reasoned way. After you have read the question and written your outline plan you should re-read the question and then attempt the answer.

**WRITING THE ANSWER**

In writing your answer, start at the beginning and work through to the end. Make sure that you deal with each issue raised and that you apply the law to the relevant points. Reach a conclusion at the end. Do not start with your conclusion as you may find, part of the way through your answer, that you realise your original conclusion was wrong and you will have to start again.

Always give authorities for your answers. These authorities will be statutes and/or cases.

**DO**
- Address the issues from the start of your answer.
- Start at the beginning and work through to the end.
- Reach a conclusion at the end.
- Relate your answer to specific points in the question.
- Give authority for every point of law you make.
- Write clearly and in good English.
- Time your answers.

**DO NOT**
- Write all you know about the area before you start actually answering the question; you will only have to write it out again in dealing with the specific points in the question.
- Reach a conclusion at the beginning.
- Move away from the structure of your outline plan.
- Give unsupported statements of law.
- Spend so long answering one question that you do not have enough time to answer the rest.
- Write in note form (unless you have spent too much time on your previous answers and are left with insufficient time to write a full answer).
- Copy large amounts of material from the books you are allowed to take into the examination. Make sure that you put all quotations in quotation marks otherwise you may be thought to have been cheating.
Module Questionnaire

Carriage of Goods by Sea

The School of Legal Studies and Holborn College attach great importance to your views. We would, therefore, be grateful, if now that you have finished studying this module, you would answer the following questions and return them to the address given below. Your answers will be considered by the distance learning teaching team and used in updating teaching materials.

1 What two things did you find most useful about the materials you were provided with for this module?
____________________________________________________________________
____________________________________________________________________

2 What two things did you find least helpful about the materials you were provided with for this module?
____________________________________________________________________
____________________________________________________________________

3 Please identify any typographical errors you encountered in using this planner (please make reference to appropriate page numbers).
____________________________________________________________________
____________________________________________________________________

Return to:
External Programmes Administrator
School of Legal Studies
University of Wolverhampton
Arthur Storer Building
Molineux Street
Wolverhampton
WV1 1SB
United Kingdom
You may if you wish e-mail your answers to in4655@wlv.ac.uk