

# Maritime Law, Insurance and Claims

## INTRODUCTION

- Maritime Law, Insurance and Claims can lead to significant inroads into an organisation's budget due to costly litigation processes and dispute settlement processes. A good scrutiny and overall analysis of draft contracts to remove ambiguities and risky clauses can make the vital difference to bottom line success or failure of an organisation. Professionals involved in the legal and technical side of the shipping and logistics industry must be able to work effectively together and with customers and contractors to accomplish key organisational objectives.
- This training course provides an in-depth overview of all phases of contracting and will enable you promoting an understanding of the key principles. It is designed to equip you with the structure of maritime commercial law, damages, insurance and claims thereof is a key component of the modern professionals' skill set in a variety of contracting contexts. The training course will provide an overview of the regulatory and contractual frameworks which govern the maritime industry and is specifically designed for working professionals and will cover essential topics in maritime law and the legal and practical requirements of shipping contracts.

This training course will highlight:

- The interactions of national legal systems in this field and the importance of English law
- The contractual frameworks with existing regulations and selective leading case law
- Insurance and damages
- Drafting claims
- Negotiating contracts profitably
- Arbitration and Alternative Dispute Resolution (ADR) Techniques

## OBJECTIVES

- This training course aims to provide an overview of the Maritime Law, Insurance and Claims, to understand how to negotiate profitably key contracts, understand the insurance and claims side in more depth, to assess and manage pricing and overall risks, and to understand the application of ADR relevant to Maritime contracts.

At the end of this training course, you will learn:

- Fundamentals of Commercial Contracts
- Types of Maritime Contracts
- International Law of the Sea as it applies to Maritime and Shipping Contracts
- Management and Negotiation Techniques and the Role of Counsel
- Key Legal Contractual Risk Management Issues
- Managing force majeure and liability clauses
- Analysis of Key Provisions in Maritime Insurance and Claims
- International Dispute Resolution in Maritime Contracts

## TRAINING METHODOLOGY

- This interactive training course will provide the participants an ideal opportunity to improve and sharpen their skill sets in planning and reviewing Maritime Law, Insurance and Claims contracts within international standards through interactive session with role playing, case studies, discussion groups and scenario building and the high-point of the training course being a simulation exercise of maritime contracts negotiation involving interactive role play by the participants. The objective of the interactive role play is to enable participants to apply the knowledge and understanding gained at the workshop to negotiate a more effective maritime contracts. This will help participants gain practical insights into managing the risks and enhancing their rewards.

## ORGANISATIONAL IMPACT

- For professionals involved nationally and internationally in the Maritime Law, Insurance and Claims, this course offers a unique opportunity to rapidly increase your understanding of the related contracts and to improve your negotiation techniques and skills in drafting a variety of related contracts. Therefore, your organisation will benefit from this training course by:
- Gaining expertise and improving knowledge and skill sets of personnel dealing with areas of legal risks in handling maritime contracts.
- Through various workshops and exercises ability to appreciate and understand the current international practices in maritime contracts
- How mitigate risks in maritime contracts
- Enhancing contract personnel negotiation skills
- Analysis of key liability provisions in Maritime Contracts

## PERSONAL IMPACT

Attendees will gain by participation in this training course as a result of:

- A unique opportunity to rapidly increase your understanding of the international practices relevant to maritime contracts
- Improving your negotiation techniques and skills in drafting a variety of related maritime contracts
- Insurance and Claims in the maritime industry
- Managing and mitigating legal risks associated with maritime contracts
- Choosing most appropriate form of dispute resolution and how to draft a suitable ADR clause

## WHO SHOULD ATTEND?

This training course is suitable to a wide range of professionals but will greatly benefit:

- Offshore support vessel owners, charterers, and operators
- Commercial Managers in the maritime industry
- Maritime Legal practitioners
- Marine Insurance and Risk Managers looking to reduce the legal and contracts risks for their companies
- Ship brokers
- Geologists and Engineers looking to increase and improve their commercial contracts knowledge
- Government Departments, Policy Makers and Regulators

## Course Outline

### The Commercial and Legal Framework

- The Legal System & Fundamental legal principles
- Mandatory elements of a legally enforceable contract
- Contract formation
- Terms and conditions
- Contract terms
- Interpretation of contract terms
- Assessing available remedies for breach of contract
- Rescission
- Compensatory damages
- Consequential and incidental damages
- Liquidated damages

### Avoiding Risk through Contract Termination Clauses

- Common termination clauses

- Penalty provisions
- Avoiding common pitfalls

### Reducing Risk through Effective Use of Force Majeure Clauses

- Understand the purpose and risks this clause is intended to mitigate
- Avoiding common Force Majeure pitfalls
- Protect yourself from abuse and misuse of this clause
- Mechanics of exercising Force Majeure rights

### Essentials of Maritime Law

- Understanding legal system governing contracts
- International Private Law Rules and Conflict of Laws
- Charterparties
- Incorporation of the Hague-Visby Rules; fixtures 'sub details'; safe ports; dangerous goods; seaworthiness; class; delivery and redelivery; hire; freight, laytime and demurrage; liens
- Shipping Documents in International Trade
- The Vessel and her Liabilities: Collision and Marine Casualties
- Pollution Claims

### Avoiding Common Contract Pitfalls & Negotiations

- Exclusion of liability
- Exclusion of one's own fault
- Use of words and phrases such as notwithstanding
- Without prejudice to, subject to, and such other terms and phrases encountered in contract documents
- Representations and warranties
- Guarantees

### Insurance Claims and Uncertainties

- Commonly Available Insurance Covers and Standard Clauses
- The type and application of Insurance Cover
- Uncertainties in validity of claims
- Substantiation of Claims
- Claim against whose insurance policy Charterer or Shipowner?

### Fundamental OSV Chartering Concepts

- Types of vessels considered to be OSVs
- Contracts used in OSV chartering
- The role of owners, charterers, customers, insurers/P&I Clubs, brokers, other contractors and governments
- Interests involved- private commercial interests, public interests
- An overview to Allocation and management of risk

- Introduction to knock-for-knock indemnity

## Key Liability Clauses in OSV Chartering

- Indemnity
- Persons and entities covered
- Exclusions
- Examples of various type of indemnity provisions
- Practical Exercise: Contract drafting exercise –Drafting effective indemnity clauses
- Limitation of Liability Clauses
- Overall Contract Limitations
- Liquidated Damages vs. Penalties
- Mutual Waiver of Consequential Damages
- Insurance, including additional-assured status and subrogation waivers

## Drafting Claims

- Guidelines for drafting routine claims and invoices
- Claims to be Contractually enforceable
- Substantiation of additional claims
- Claims for unexpected events

## New OSV Shipbuilding Contract

- Maritime Risks
- Collision
- Pollution
- Rescue Operations and Fire Fighting- Standby Duty
- Safety of Client's Personnel in Living Quarters of OSV
- Salvage
- Warranties and Guarantees

## Dispute Resolution in Maritime Contracting

- Types of dispute resolution vehicles: negotiation, arbitration, mediation, litigation, expert determination
- Importance of the dispute resolution clause
- Framing the dispute resolution clause
- Ad hoc dispute resolution agreements