

Faculty of Law

LLM – International Commercial Law



UNIVERSITY
OF
JOHANNESBURG

FACULTY OF LAW



**Our Future
Reimagined**

International trade and commerce are on an ever-increasing upward trajectory, notwithstanding some political doubts about globalisation expressed in recent times. An increase in international trade and foreign investment is the only way for Africa to reach the ideal of inclusive economic growth and sustainable development, ultimately alleviating poverty on the continent. Globalising trade and commerce requires legal practitioners to possess in-depth knowledge of International Commercial Law. The LLM in International Commercial Law, the flagship programme of the Faculty of Law at the University of Johannesburg, prepares students to deal with global challenges and become active participants in an interdependent world and an interconnected future. The Faculty of Law addresses the lack of skills and knowledge in the particular field in Africa and other emerging regions of the world by offering this specialised programme.

The various modules in International Commercial Law provide students with analytical and problem-solving skills for a challenging multi-levelled global legal landscape. Students are introduced to a wide range of national legal systems and legal instruments on a regional, supranational and international level (uniform law). These rules may be of a substantive nature but could also take the form of conflicts rules (private international law), referring the particular substantive issue to a national legal system or a regional or international substantive instrument. The interplay between the different natures and levels of legal norms is emphasized in the programme, thus equipping students to deal with the complexity and interwoven structure of the global legal milieu. As such, students are provided access to a diverse and wide range of legal epistemologies. Legal rules and principles are ever-changing and, in International Commercial Law, increasingly take a denationalised form. Developments on the various levels are meticulously followed and integrated in the curriculum. Particular attention is given to legislation, case law and doctrine from Africa, the BRICS countries and other emerging regions of the world.

The LLM in International Commercial Law is designed to be completed by full-time students within one year and by part-time students over two years. The programme consists of the modules International Commercial Law A, B and C (ICLA, ICLB and ICLC), as well as a minor dissertation on a topic in International Commercial Law. ICLA and ICLB are offered during the first semester and ICLC during the second. The LLM programme provides the student with an overview of the private-law aspects of international trade, with an emphasis on private-international legal issues. The conflicts-orientation of the course indeed makes it unique, and a comprehensive comparative approach is taken in this regard, comprising legal systems in Africa, Asia, Australasia, Europe, North America and South America, together with the relevant regional, supranational and international instruments.

The course coordinator of the LLM in International Commercial Law is Prof Jan L Neels (Dt Jur, Leiden), who is an honorary member of the Governing Council of UNIDROIT in Rome, a member of the Academy of Science of South Africa, director of the Research Centre for Private International Law in Emerging Countries and distinguished professor of Private International Law/International Commercial Law at the University of Johannesburg.

Prof Neels was a member of the working group responsible for the drafting of the Hague Principles on Choice of Law in International Commercial Contracts and the official commentary on the Principles under the auspices of the Hague Conference on Private International Law. He was a general editor of Girsberger, Kadner Graziano and Neels, *Choice of Law in International Commercial Contracts. Global Perspectives on the Hague Principles* (Oxford University Press, 2021), and recently published a first draft of the proposed African Principles on the Law Applicable to International Commercial Contracts.

Prof Michael G Martinek from the University of Saarland in Germany offers a substantial number of lectures in all the course-work modules in his capacity of a distinguished visiting professor of International Commercial Law at the University of Johannesburg. Prof Martinek is a leading academic and holds honorary doctorates from universities in China, France, Georgia, Poland and Romania.

Prof Eesa A Fredericks (Dr Jur, Leiden) is the module coordinator for ICLA and lectures in the modules ICLA and ICLC. He is a member of the Governing Council of UNIDROIT in Rome, the deputy director of the Research Centre for Private International Law in Emerging Countries and associate professor of Private International Law at the University of Johannesburg. In addition, Prof Fredericks serves on the working group on matters relating to jurisdiction in transnational and commercial litigation under the auspices of the Hague Conference on Private International Law. (UJ has formal agreements with the Hague Conference and UNIDROIT, and the UJ law library is a repository library for both intergovernmental organisations).

Additional lectures are offered by Dr Garth Bouwers (Dr Jur/LLD, Lucerne/UJ) (ICLA: jurisdiction and recognition and enforcement in various African jurisdictions; ICLB: tacit choice of law; ICLC: the CISG), Ms Chloe Johannes (ICLC: maritime transport law and maritime transport insurance law) and guest lecturers from other (foreign) universities, organisations and courts, including Distinguished Visiting Professor Sierd J Schaafsma (Dr Jur, Leiden) (Justice of the Supreme Court of the Netherlands).

Classes ordinarily take place between 18h00 and 20h00 on weekdays. In general, students must have obtained an average of 65% for the subjects in the LLB degree to be considered for admission. The student body has included learners from Belgium, the Democratic Republic of the Congo, France, Germany, Ghana, India, Malawi, Nigeria and Zimbabwe.

International Commercial Law A

1. The role and nature of International Commercial Law.
2. Civil and commercial jurisdiction in Australia, Canada, the European Union, Ghana, India, Kenya, Nigeria, South Africa and the United Kingdom.
3. The recognition and enforcement of foreign judgements in Australia, Brazil, Canada, the European Union, Ghana, India, Kenya, Nigeria, South Africa and the United Kingdom.
4. The Hague Convention on Choice of Court Agreements.
5. The Hague Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters.

International Commercial Law B

Private international law of contract, liberative prescription and property in –

- a. national legal systems, including those of Angola, Australia, Brazil, Canada, China (including Hong Kong and Macau), the Democratic Republic of the Congo, Egypt, Ethiopia, Ghana, India, Indonesia, Iran, Japan, Kenya, Mauritius, Mozambique, Nigeria, Paraguay, Russia, Singapore, South Korea, Southern Africa, Switzerland, Taiwan, Turkey, Ukraine, the United Arab Emirates (including the Dubai International Financial Centre), the United Kingdom, the United States of America and Vietnam;
- b. regional and supranational instruments, including the Mexico City Convention, legislative instruments of OHADA, the Rome I Regulation (European Union) and the proposed African Principles on the Law Applicable to International Commercial Contracts;
- c. international instruments, including the Convention sur la loi applicable aux ventes à caractère international d'objets mobiliers corporels and the Hague Principles on Choice of Law in International Commercial Contracts.

International Commercial Law C

1. An introduction to comparative law.
2. International law of contract and aspects of property law:
 - a. domestic property and contract law in the international sphere: selected jurisdictions;
 - b. the Incoterms of the International Chamber of Commerce;
 - c. the United Nations Convention on the International Sale of Goods;
 - d. the United Nations Convention on the Limitation Period in the International Sale of Goods; and
 - e. the UNIDROIT Principles of International Commercial Contracts.
3. International financing law from the perspective of the common law and private international law, with reference to the International Chamber of Commerce's Uniform Customs and Practice for Documentary Credits and UNIDROIT's Cape Town Convention on International Interests in Mobile Equipment plus protocols (including the Aircraft Protocol).
4. An introduction to international transport law and international transport insurance law from the perspective of South African law with reference to international instruments.
5. International commercial arbitration from the perspective of South African law and private international law with reference to the UNCITRAL Model Law on International Commercial Arbitration and the New York Arbitration Convention.

For further information and enquiries regarding entry requirements, closing dates and the application procedure, please do not hesitate to contact the faculty:

Auckland Park Kingsway Campus

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For information on the content of the coursework, please contact **Dr Solomon Okorley** (LLD, UJ) (LLM ICL tutor and PDRF) at solomono@uj.ac.za