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## **FACULTY OF LAW** **LLM BY COURSEWORK**

### **HISTORY OF THE LAW FACULTY**

Stellenbosch University traces its origin back to the opening of the Stellenbosch Gymnasium in 1866. The Gymnasium subsequently gave birth to the “Arts Department” which became “Stellenbosch College” in 1881. In 1887, the golden jubilee of Queen Victoria’s reign, the Stellenbosch College was transformed into the “Victoria College” in honour of the Queen. The possibility of the establishment of a single national university in Cape Town after the unification of South Africa, seriously threatened the continued existence of the College and the status of Dutch as an official language of the Cape Colony. The Victoria College, however, was not prepared to give up its heritage. By April 1918 it had managed to convince the Government of the need for the institution, and Victoria College then became Stellenbosch University.

At the centre of Stellenbosch, at the corner of Victoria Street and Ryneveld Street, is the Old Main Building, home to the Stellenbosch Faculty of Law. Inaugurated in 1886 as the main building of the Victoria College, this building also serves as a monument to commemorate the 200th anniversary of the establishment of the town by Simon van der Stel in 1686.

The Stellenbosch Law Faculty itself was established in 1921. Initially the Faculty focused on LLB degrees, training and equipping students, not merely as legal practitioners, but also as jurists. Graduates of the Faculty include judges, advocates, attorneys, business people, politicians and academics. In 1976 the LLM degree (by thesis) was awarded for the first time to two students. The Law Faculty introduced the Master of Laws programme (LLM by coursework) in 1994. A wide variety of modules is offered (see paragraph 17 below). The purpose of our LLM is not only to enable law graduates to specialise, but also to afford them an opportunity to concentrate on current issues brought to the fore by societal transition and constitutional and other recent developments, including South Africa’s resurgence as an important trading nation.



The Law Faculty – Stellenbosch University

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## I. The LLM Programmes at Stellenbosch

I.1 Stellenbosch University offers six LLM programmes by coursework, namely:

- the general LLM by coursework;
- the LLM in International Trade Law;
- the LLM in Intellectual Property Law;
- the LLM in Labour Law;
- the LLM in Alternative Dispute Resolution;
- the LLM in Public Procurement Regulation and Policy;

I.2 The curriculum for the **general LLM by coursework** is not formally organised on a departmental basis, and there is no uniform set of prescribed modules. Instead, students are invited to compile a curriculum from modules offered by the Faculty. Selections must meet the formal degree requirements and are subject to approval by the Faculty Board. The timetable also restricts the options available to the student. This is inevitable. The timetable, while leaving room for inter-disciplinary choices, permits student specialisation by the selection of modules within the broad areas of either Private, Mercantile or Public Law. In addition to the modules a research paper must be completed. For more information on the research paper see paragraph 18 below.

I.3 The **LLM in International Trade Law** comprises the following modules: International Sales Law; International Commercial Arbitration; Sustainable Development Law; Payment and Guarantees in International Contracts; Carriage of Goods by Sea; Legal Aspects of World and Regional Trade; and International Tax Law (all modules from the Department of Mercantile Law). Students must complete 4 of the 6 modules (2 modules per semester). In addition to the modules a research paper must be completed. For more information on the research paper see paragraph 18 below.

I.4 The **LLM in Intellectual Property Law** comprises three compulsory modules and one elective (all modules from the Department of Mercantile Law). The compulsory modules are Copyright Law, Patent Law and the Law of Registered Design, as well as Trademark Law. Students take either Intellectual Property Law in the Digital Environment or Competition Law as their elective. In addition to the modules a research paper must be completed. For more information on the research paper see paragraph 18 below. For more information about this programme visit the homepage of the Chair of Intellectual Property Law website here at [www.sun.ac.za/iplaw](http://www.sun.ac.za/iplaw).

I.5 The **LLM in Labour Law** comprises four compulsory modules, Employment Rights, Selected issues in International Labour and Social Security Law, Equality in the Workplace and Selected issues of Collective Labour Law (all modules from the Department of Mercantile Law). In addition to the modules a research paper must be completed. For more information on the research paper see paragraph 18 below.

I.6 The **LLM in Alternative Dispute Resolution** comprises three compulsory modules and one elective. The compulsory modules are International Commercial Arbitration, Mediation and Selected Dispute Resolution Techniques. Students can choose International Sales Law, Employment Rights, Sustainable Development Law or Public Procurement Regulation as their elective module. In addition to the modules a research paper must be completed. For more information on the research paper see paragraph 18 below.

I.7 The LLM in **Public Procurement Regulation and Policy** is a **professional** LLM degree and comprises two compulsory modules and two electives. The professional LLM is differently organised from the LLM programmes above. Read more about the programme here: <http://blogs.sun.ac.za/law/llm-pgdip-in-public-procurement-policy-and-regulation/>

I.7 With exception of the LLM in International Trade Law, Intellectual Property Law, Labour Law, Alternative Dispute Resolution and Public Procurement Regulation and Policy, under university regulations, the degree certificate will not reflect any chosen field of specialisation.

1.8 The LLM by coursework is not a correspondence course. Class attendance at Stellenbosch is required.

## 2. Registration of modules elsewhere

2.1 Students registering for a general LLM degree at Stellenbosch may be allowed to enrol – subject to the prior approval of the respective Faculty Boards and subject to paragraph 4.2 below – for a maximum of one approved module from the LLM programme at UCT or UWC. The practical legal training course will not be accredited as a LLM module at Stellenbosch.

Recognition of such module followed at other universities is however subject to prior approval by the Faculty Board of Stellenbosch University. Such recognition may be given on condition of additional work being done.

2.2 Students who decide to enrol for a module at UCT and/or UWC, should note that registration as a special student at those universities would also be required.

## 3. Exchange programme

South African students in the general LLM programme may apply to participate in our international exchange programme. Successful applicants will complete two LLM modules at one of our international partner universities. Interested candidates may apply with the LLM coordinator, before 15 February 2021.

## 4. Completion of degree

4.1 A student will be awarded the LLM degree after

- (a) the successful completion of prescribed curricula in four modules; and
- (b) the successful completion of a research paper, prepared under supervision, of 15 000 to 20 000 words (including footnotes, but excluding bibliography) on a topic approved by the Faculty Board.

4.2 Students will be required to complete and submit their research papers at the university where they are registered for degree purposes. See paragraph 18 below for more information on the research paper.

## 5. Module selection: some limitations

5.1 The availability, presentation and structure of modules in a given year may be affected by the absence of faculty members on leave. It is therefore also important for students who commence with their studies during the July intake of an academic year to consult the prospectus for the academic year that starts in January of the *following year*, as soon as it becomes available.

5.2 A minimum enrolment of five students is required for a module to be presented.

5.3 Students following the **general LLM**, may choose:

- (a) any number of modules offered in the LLM in International Trade Law or the LLM in Labour Law;
- (b) a maximum of two modules offered in the LLM in Intellectual Property Law (subject to approval by the programme coordinator);
- (c) Mediation and/or Specialised Dispute Resolution Techniques (from the LLM in Alternative Dispute Resolution) may only be taken subject to the approval of the programme coordinator;

5.4 The timetable also restricts the available options.

## 6. Duration of the programme

6.1 Full-time students are required to satisfy the prescribed requirements within one academic year (consisting of two semesters of 13 weeks each). Two modules must be followed in each semester, and students will be examined on a semester basis.

6.2 The Faculty Board may allow students to extend their studies over a period of two years. Such students will be required to follow at least one module per semester. In such a case class fees will depend on the number of modules followed in a given semester.

6.3 Full-time and part-time students may elect to commence their studies at the beginning of the first or second semester.

6.4 Students are not permitted to register for more than two modules per semester.

## 7. First meeting and training sessions

All students are required to attend the first meeting at the beginning of the academic year. This meeting is provisionally scheduled for Thursday, 28 January 2021 at 16:30 at the Old Main Building. The purpose and details of this meeting are set out in a further notice, which can be obtained from Karin Wiss (karinwiss@sun.ac.za). A separate informal meeting will be arranged for students who only commence with their studies in the second semester.

Students are furthermore obliged to attend the training sessions offered by the Faculty. A schedule will be provided to the students at the first meeting.



The Learning Commons in the main library – Stellenbosch University

## 8. Medium of Instruction

The language of instruction is **English**. Yet assignments, research papers and examinations may be written in Afrikaans or English.

## 9. English Proficiency

Students of the Faculty of Law have to be proficient in English and must be able to study, write exams and compile research papers effectively in English. International students applying for admission to the LLM Programme are required to submit proof of their current level of proficiency in English (i.e. TOEFL or IELTS scores).

Please note that, where appropriate, the Faculty will refer students to various support services offered by Stellenbosch University in this regard.

## 10. Method of instruction

10.1 Modules will be presented by means of seminar sessions based on prescribed material. Active student participation is required.

10.2 There will be one session of 2 hours in each module per week, or as otherwise arranged with students (e.g., one 4-hour session every second week).

## 11. Examinations

11.1 Formal examinations will be conducted in all modules. The research paper will be evaluated by a supervisor in conjunction with an internal and external moderator.

11.2 Written examinations may be combined with oral examinations and/or assignments.

11.3 In addition to any other requirements which apply to the calculation of the final mark for a module (for example those stated in the module framework) a final mark of less than 50 must be allocated if a student obtains a mark of less than 40 in the written examination.

11.4 There are no supplementary examinations for LLM modules. However if a student has failed only one module, and has passed the other three modules, such student may, at the discretion of the Dean in consultation with the relevant academic department, be permitted to write a dean's concession examination. The pass mark for such examination is 50%.

## 12. Admission requirements

A student with an LLB degree conferred by this University or any other bachelor's degree in Law (excluding the BLURIS degree) and who has attained an average of 60% in the final year of this degree or a comparable achievement in another qualification (for example at least 6 points in the First German State Examination), or a student who has attained a level of proficiency or accomplishment in Law which, in the judgement of the Senate, is regarded as adequate for this purpose, may apply in writing to read for a Master's degree in Law. The Senate will consider every application on merit.

Applicants for the LLM (Intellectual Property Law) may be required to submit a selection essay to the programme coordinator in support of their application.

## 13. Admission procedure

13.1 Applications may be submitted online at [www.sun.ac.za/pgstudies](http://www.sun.ac.za/pgstudies) or [www.maties.com](http://www.maties.com). South African students must apply before 15 January of the year of registration and foreign students before 30 September of the year before registration. However, late applications will also be considered.

13.2 Applications for registration for the second semester have to be submitted by 15 July in the case of South African students and 31 March in the case of foreign students. However, late applications will also be considered.



The campus – Stellenbosch University

## **14. Tuition fees (approximate)**

- 14.1 The tuition fees for 2021 have not yet been finalised, however a provisional account can be created online at [www.maties.com](http://www.maties.com)
- 14.2 International students are also required to pay an international registration fee and an international tuition fee. Please contact the International Office at [interoff@sun.ac.za](mailto:interoff@sun.ac.za) or at [suifinance@sun.ac.za](mailto:suifinance@sun.ac.za) for more information.
- 14.3 The onus is on the student to establish the fees prior to registration. Students should note that student fees might be amended annually. This will affect students who decide to complete the LLM programme over two years instead of one, as well as students who enrol in the LLM programme during the second semester, thereby completing the degree over two academic years.
- 14.4 The tuition fees do not include the cost of textbooks, notes or other materials prescribed for the specific modules.

## **15. Visa information**

International students are required to have a valid study visa to study at Stellenbosch University. Stellenbosch University is not permitted to register a student without a valid temporary residence visa (study visa).

Please contact the nearest South African High Commission or Embassy (<http://www.dirco.gov.za/webmissions/index.html>) to confirm the application process and supporting documents required for the visa application.

## **16. Financial assistance**

Consult Part 2 of the Yearbook of Stellenbosch University.



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## 17. Modules

### DEPARTMENT OF MERCANTILE LAW

#### **Advanced Company Law**

*Lecturer to be confirmed (Second semester)*

The corporation or company has been the vehicle for wealth creation in all modern economies. However, the company form has often been abused to the detriment of investors, employees and the general public. Since the turn of the 21st century this was spectacularly illustrated by the Enron and Worldcom scandals in the United States and also by similar events elsewhere. Corporate governance concerns the structures and practices that must be in place to ensure that all stakeholders in a company are fairly treated and that their interests are properly guarded. The student who completes this module successfully will have an understanding of international trends in Company Law and the most important international documents on corporate governance from a comparative point of view.

The module has the following content: Introduction to comparative company law; company structures and principles in common law systems (including South Africa); company structures and principles in other European legal systems. Corporate Governance: corporate governance issues with examples from South Africa, the UK, USA, Germany, France and the Netherlands; self-regulatory codes; accounting, accountants and analysts; conflicts of interest; corporate governance and corporate reconstructions. Other capita selecta in the field of company law may also be covered.

#### **Competition Law**

*Prof PJ Sutherland (Second semester)*

In this module, South African competition law is studied from a comparative perspective. The main jurisdictions for comparison are the European Union and the United States but passing reference will be made to German, Canadian, Australian and UK law. In most legal systems the focus of competition law now is on interests of consumers in productive dynamic and allocative efficiency. The first part of the module considers the goals of South African competition law against this backdrop. The next section concerns the economics of competition. Economics is central to the resolution of competition law issues and this part of the module is intended to provide the student with the basic economic skills that are needed for this purpose. Thereafter the jurisdiction of competition authorities and the international dimension of competition are studied. Next comes the central part of the module. The substantive competition law, that is the law regarding horizontal and vertical restrictive practices, abuse of dominance and mergers, is evaluated in detail. Finally, a brief survey of the institutions responsible for regulating competition law and the remedies available for breaches of competition will be done.

#### **Copyright Law**

*Prof S Karjiker (First semester)*

This course will focus on selected issues in South African copyright law, with reference to the position in other jurisdictions such as the United Kingdom, United States and New Zealand. Topics covered will include originality, authorship, ownership, the idea-expression dichotomy, moral rights, parallel importation, and reverse engineering.

#### **Corruption and Public Procurement** [*presentation in 2021 to be confirmed*]

*Prof S Williams-Elegbe*

An evaluation of the nature, effects and typologies of corruption in public procurement. The module will examine both public and private sector corruption as they affect the government contract process and the measures that procurement regulation utilizes to counter procurement corruption and the efficacy of these measures, with reference to domestic and international corruption cases. The module will also look corruption and anti-corruption in its broader context, beyond public procurement.

*Note: This modules forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

## **Equality in the workplace**

*Prof A Louw (Second semester)*

This module focuses on the emerging field of employment discrimination law in South Africa. The Labour Relations Act of 1995 (LRA) and the Employment Equity Act of 1998 (EEA) prohibit discrimination against employees and extend that protection to applicants for work. The EEA also makes provision for the implementation of affirmative action measures to redress the disadvantages in employment experienced by black people, women, and the disabled. The module will be divided into two parts: The first part will concentrate on the prohibition of discrimination. Issues such as the meaning of discrimination, the structure of a discrimination claim, the difference between direct and indirect discrimination, justification and proof and evidence will be examined. Attention will also be paid to some of the typical areas of application, such as pregnancy, sexual harassment and equal pay claims. In the second part of the module, affirmative action will come under the spotlight. South Africa's Constitution breaks ranks with many legislative provisions elsewhere in the world by making explicit provision for affirmative action policies. In this regard, it is asserted that the South African Constitution embraces a substantive or asymmetrical – rather than a formal or symmetrical notion of equality. In order to give effect to the Constitution, the EEA places an obligation on 'designated employers' to implement affirmative action measures to redress the disadvantages in employment experienced by black people, women and people with disabilities. Against this background, we will examine the response of the South African judiciary and arbitrators to challenges launched against affirmative action practices and policies, and evaluate the principles that have crystallised against the framework of the constitutional commitment to substantive equality. Even though the focus will be on South Africa, the module will be approached from an international and comparative perspective.

## **Employment Rights**

*Prof C Garbers (First semester)*

In this module we will evaluate the interaction of the three main sources of labour law and of terms and conditions of employment, namely the Constitution, legislation and the contract of employment (as influenced by collective agreements). Once the scene has been set with an overview of the interaction between these three sources, attention will shift to the examination of selected issues under each of the three headings. Although the emphasis of the module is on individual labour law (i.e. the relationship between the individual employee and his or her employer), the principles of collective labour law will also be addressed and incorporated where necessary. Students who complete the module will have a sound understanding of South African labour law in general, as well as an advanced understanding of some of the more important issues in individual labour law (many of which have proved to be problematic in other jurisdictions). Note, however, that some issues – such as discrimination and the individual rights underlying collective labour law (e.g. freedom of association and the right to strike) – will not receive detailed attention in this module, simply because these topics are dealt with in other LLM-modules in labour law to which students have access.

## **International Tax Law**

*Dr E Jansen van Rensburg and Dr I du Plessis (Second semester)*

The tax implications of cross-border transactions are examined. Topics covered include the bases of taxation, unilateral relief from double taxation, double taxation agreements; transfer pricing, thin capitalisation and similar techniques; certain aspects of customs and excise; controlled foreign company legislation; and the taxation of trusts.

**Note:** *A prior knowledge of South African tax law is recommended*

## **International Sales Law**

*Prof J Coetzee (First Semester)*

This module deals with international sales law and related issues. The following topics are dealt with: the structure of the international sales transaction and its context; salient features and problems requiring legal regulation; the documentary nature of the transaction; trade terms (with special emphasis on the ICC's Incoterms 2010); the role of private international law; the evolving international law; the need for a uniform law of international sale, and the agencies involved therein; an overview of the structure and general characteristics of the Vienna Convention for the International Sale of Goods, 1980 (CISG); factors relevant to the decision of a state to accede to the Convention; criteria governing the application and interpretation of the Convention; the formation of contracts of sale under the CISG; the substantive sales law under the



CISG including the duties and remedies of the parties, remedial provisions common to the parties, exemption from liability, and the passing of risk; evaluation of the CISG.

## **Payment and Guarantees in International Contracts**

*Prof CF Hugo (convenor) (First Semester)*

This module deals with the instruments of payment and guarantee encountered in international business and commercial transactions. The following issues are addressed: problems and risks relating to payment in international business; different payment mechanisms with the emphasis on documentary collections and documentary credits and their regulatory frameworks (especially the International Chamber of Commerce's (ICC's) Uniform Rules for Collections (URC) and Uniform Customs and Practice for Documentary Credits (UCP)); independent guarantees and standby letters of credit and their regulatory frameworks (especially the ICC's Uniform Rules for Demand Guarantees (URDG) and International Standby Practices 98 (ISP98)); the relationships between the different parties in abstract payment and guarantee relationships; the documents and their presentation with special emphasis on the doctrine of strict compliance; the principle of independence of the different relationships and the exceptions to this principle; the frustration of payment especially in the context of fraud (by injunctions and attachments); and discounting arrangements (factoring, forfaiting and negotiation). As independent guarantees are especially important in construction contracts, some attention is also devoted to the peculiarities of construction contracts. Finally the steady encroachment of block-chain technology into the trade financing field is also considered.

## **Carriage of Goods by Sea**

*Prof J Coetzee and guest lecturers (Second Semester)*

Most goods traded internationally are carried from the seller's country to the buyer's country by sea. In this respect, the carriage of goods by sea is an important component of international trade. This module deals with a capita selecta of substantive and/or procedural law aspects related to the carriage of goods by sea, such as uniform legal regulation; Incoterms; contracts of affreightment within the context of international trade; charterparties; bills of lading, sea waybills and other types of transport documents; obligations of the shipper and carrier; carrier liability; exemptions from and limitations to liability; and admiralty jurisdiction

## **Defence Procurement Regulation and Policy** [*presentation in 2021 to be confirmed*]

*Lecturer to be confirmed*

The module looks at defence procurement regulation and policy. The module looks at the relationship between the defence industry, national security and defence procurement. It looks at the approach to defence procurement in South Africa and the peculiarities and challenges of defence purchasing.

*Note: This module forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

## **International Commercial Arbitration**

*Prof DW Butler (First semester)*

This module focuses on the law and practice of international commercial arbitration, with specific reference to disputes involving South African, SADC and European parties. It includes the UNCITRAL Model Law on International Commercial Arbitration, which is under consideration for adoption by South Africa, and selected modern arbitration statutes in other jurisdictions; the role of national courts in the international arbitration process; the evaluation of international arbitral institutions and their rules (particularly the ICC and LCIA); choice-of-law rules in the context of international arbitration; arbitrability; the drafting of an international arbitration clause or submission agreement; the arbitral tribunal; competence/competence; modern techniques to make international arbitration proceedings more cost-effective and expeditious; interim measures; the award, including the challenge, recognition and enforcement thereof; the special features of investment arbitrations; and current issues in international commercial arbitration (e.g. confidentiality and consolidation). The use of ADR techniques like mediation as a prerequisite to arbitration and multi-tiered dispute resolution clauses are also briefly considered.

**Note:** *A prior knowledge of domestic arbitration law and practice is not a prerequisite for this module.*

## **Intellectual Property Law in the Digital Environment**

*Ms G Jansen and guest lecturers (Second semester)*

Review of local, foreign and international instruments for the recognition and management of IP rights arising from/relating to digital media. Issues in electronic data protection measures, copyright and trademark issues on the internet, legal protection of computer programs and websites, civil and criminal liability for infringement, counterfeiting/piracy, international standardisation and jurisdictional issues.

## **Legal Aspects of World and Regional Trade**

*Prof O Ruppel (Second semester)*

This module deals with the International Law principles governing trade among states. The focus is primarily on the General Agreement on Tariffs and Trade (GATT) and the World Trade Organization (WTO). The treaties establishing them contain the principles and mechanisms regulating inter-state trade. The theory behind international trade is explained, as well as the present nature of the international economic order. This includes institutional arrangements and the dispute solving mechanisms of the WTO. The principles governing trade in goods (GATT), in services (GATS) and with respect to the protection of intellectual property (TRIPS) are discussed. Regional trade agreements (for example SADC, SACU and COMESA) are examined with reference to, inter alia, South Africa's position. The constitutional provisions on the incorporation of international trade obligations into the domestic sphere are comparatively explained and discussed. Various aspects of sustainable development (and the law) and the most controversial challenges facing the WTO as an institution are critically discussed from an African perspective.

## **Mediation**

*Prof S Human and guest lecturers (Second semester)*

The theory and practice of mediation from a legal perspective, including negotiation techniques, ethical restraints and legislation promoting consensual mediation.

## **Patent Law and the Law of Registered Design**

*Dr MM Kleyn (First semester)*

The principles of South African Patent Law and Designs Law, with specific reference to the procedure for obtaining patent/design protection, rights administration, devolution, transfer and revocation of protection, applicable international instruments, third party risk assessments (freedom to operate) and patent validity assessments. The course includes an introduction to technology licensing principles and drafting of license agreements, as well as plant breeders' rights.

## **Selected issues in Collective Labour Law**

*Prof C Garbers (Second semester)*

This module complements the three other LLM modules in Labour Law and focuses on specifically selected issues in the field of collective labour law such as freedom of association, collective bargaining (including collective agreements and organisational rights), worker participation, and strikes and lock-outs. Although South African Labour Law will constitute the focus of the module, the material will be approached from an international and comparative perspective.

## **Selected issues in International Labour and Social Security Law**

*Prof K Calitz (First semester)*

The purpose of this module is twofold. In the first instance, an advanced study will be made of a number of selected topics in labour law which students do not study in detail in the other two labour law LLM modules offered by the Faculty (Employment Rights and Equality in the Workplace). The selection will consist of issues which have proved to be of practical and theoretical importance such as, for example, transfers of businesses, restraint of trade agreements, employment across national borders, globalisation and the development of international labour standards (with specific reference to implications for Southern Africa), the distinction between private and public sector employees, privacy in employment, jurisdictional questions raised by the dispute resolution regime, the liability of trade unions and union security arrangements. The choice of topics may change depending on developments in the field. In the second place, students will be introduced to the law relating to social security and undertake an advanced study of selected issues in this field.

## **Specialised Dispute Resolution Techniques**

*Prof D Butler (Second semester)*

A comparative analysis of the legal aspects of specialised dispute resolution techniques which have been developed to meet specific needs in certain fields, for example: adjudication in the construction industry; court-annexed mediation as a means of promoting access to justice; plea bargaining in relation to serious commercial crimes; compulsory arbitration for labour disputes; the ombudsman in the financial services industry; dispute resolution relating to state procurement; the WTO dispute resolution mechanism; family mediation.

Note: No more than six of the above techniques will normally be discussed in a particular year.

## **Sustainable Development Law**

*Prof O Ruppel (First semester)*

This module provides insight into the relatively new discipline of sustainable development law. This area of law is becoming increasingly important due to continuing globalisation, investment flows and the liberalisation of international trade. The module pays special attention to the delicate balance between international trade and economic growth on the one hand and environmental protection and social justice on the other. Developmental challenges and opportunities, environmental dangers and legal response mechanisms to unsustainable and inequitable development patterns will be discussed from the perspective of emerging economies. These broad themes will be investigated with reference to contemporary issues such as climate change, land and water management, food security, waste and pollution control, population trends and sustainable energy. Following a trans-disciplinary approach, the module will critically and comparatively analyse relevant legal principles, sources and cases from international and domestic law.

## **Trademark Law**

*Prof S Karjiker (Second semester)*

The principles of South African Trademark Law, with reference to legislation, case law and academic opinion. Common law issues of unlawful competition and the right to attract custom. Related principles of international trademark protection and foreign law.

### **Comparative Apartment Ownership**

*Prof CG van der Merwe (First semester)*

The module provides an international overview of apartment ownership (condominium, strata titles, Wohnungseigentum, propiedad horizontal, appartementeneigendom), which relates to residential, commercial, office and resort condominiums. The role of the developer in the establishment of apartment ownership; sales off building plans and developments in stages in order to finance the construction of the buildings comprised in the scheme; the subdivision of the buildings into units, common property and limited common property as well as the rights owners have with regard to these areas will be discussed. The importance of participation quotas as a formula to determine an owner's share in the common expenses, the common property and the value of his or her vote at general meetings will be investigated as well as the enforcement of financial and social obligations in order to prevent the condominium from degenerating into a slum, alterations and improvements and the importance of sound management of the scheme. The module concludes with a discussion of the conversion of rental buildings into apartment ownership schemes. This module provides an excellent background for students to evaluate apartment ownership schemes in their own countries.

### **International Law and Children's Rights**

*Prof S Human and guest lecturers (First semester)*

This module examines the particular aspects of international law that have an impact on the promotion of children's rights. The child as bearer of rights – as an individual, and as a member of both a family and a community – is entitled to special measures of protection in terms of international children's rights instruments. Some of these instruments are quite well-known and include the United Nations Convention on the Rights of the Child; the African Charter on Rights and Welfare of the Child; and both The Hague Conventions on Inter-Country Adoptions and International Child Abduction. The module will provide a comprehensive review of these and other less well-known international documents, the development of children's rights as a particular discipline and the practical implications thereof, while placing particular emphasis on the implementation of children's rights in South Africa.

### **Forced Migration and Children's Rights**

*Prof S Human and guest lecturers (Second semester)*

In this module, students will actively engage with key concepts in international children's rights law as they apply in the context of internal and external forced migration. Participants in the module will critically analyse various classifications of the forced migration of children, including asylum seekers, refugees, stateless children, internally displaced children, and children displaced by climate change. While the vulnerability of these groups of children cannot be ignored, the material in this module will focus on their rights as well as the responsibilities of key actors including the State, international organisations, non-governmental organisations, humanitarian organisations, armed groups and other non-State actors.

### **The Law of Trusts**

*Prof M de Waal (First semester)*

The origin, nature and development of the trust; the trust in legal comparative perspective; the formation of a trust and the requirements for a valid trust; the legal position of the trustee; the administration of the trust; the legal position of the trust beneficiary; the variation, revocation and termination of trusts; types of trusts; the trust and taxation; challenges and change in the law of trusts.

**Note:** *A prior knowledge of the South African law of succession and law of contract is recommended for this module.*

## DEPARTMENT OF PUBLIC LAW

### **Infrastructure Procurement Regulation and Policy in South Africa** [*presentation in 2021 to be confirmed*]

*Lecturer to be confirmed*

A detailed examination of the law and policy of infrastructure procurement in South Africa. The module examines the legal regulation and policy framework of infrastructure procurement. It also examines the intersection between public-private partnerships and infrastructure procurement, the implementation of policy in infrastructure procurement and the remedies available in the event of a breach of infrastructure procurement rules in South Africa.

*Note: This module forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

### **International Criminal Law** [*presentation in 2021 to be confirmed*]

*Prof G Kemp*

This module comprises a study of both substantive and procedural issues in the emerging system of international criminal law (ICL). By way of introduction the sources of and basic principles underlying ICL will be discussed. In order to analyse the substantive issues in ICL a capita selecta of important international crimes such as aggression, war crimes, crimes against humanity, and genocide will be studied. In addition, we will also focus on some of the emerging transnational crimes like money laundering and corruption. In terms of procedural issues we will look at the most important aspects of direct and indirect enforcement of ICL. For this we will study the various international tribunals, with specific attention given to the permanent International Criminal Court. We will also look at the way ICL is enforced at national level through domestic legal systems.

**Note:** *A prior knowledge of Public International Law is strongly recommended.*

### **International Legal Regimes on Public Procurement**

*Prof G Quinot*

A comparative evaluation of the major international instruments on public procurement law, namely the UNCITRAL Model Law, the EU Procurement Directives, the WTO Government Procurement Agreement and the World Bank Procurement Regulations. The module aims at providing an in-depth understanding of how international regimes on procurement operate and how they affect domestic procurement and how the law aims to balance the tension between the conflicting goals of international and domestic procurement regulation.

**Note:** *This module forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

### **Policy and Public Procurement Law** [*presentation in 2021 to be confirmed*]

*Lecturer to be confirmed*

A study of the role of public procurement in implementing various public policies and the implications for public procurement law. Typical policies pursued via public procurement and investigated in the module include social policies such as promoting equality and wealth distribution, environmental policies and economic policies such as industrial development and support of local goods and suppliers. The various legal mechanisms available to implement policies through procurement are investigated.

**Note:** *This module forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

## **Procurement Law Compliance** [*presentation in 2021 to be confirmed*]

*Lecturer to be confirmed*

This module focuses on the various mechanisms that can be incorporated in a public procurement law regime aimed at ensuring compliance with the rules of that system. It investigates both administrative and judicial mechanisms of compliance and assesses the advantages and disadvantages of the various options.

**Note:** *This module forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

## **Public Procurement Regulation and Policy in South Africa**

*Prof G Quinot*

A detailed examination of the law and policy of public procurement in South Africa. The module examines the constitutional provisions on procurement, the policy framework and the major legislation that govern procurement at the different levels of government. It also examines how corruption affects the procurement process and outcomes in South Africa.

**Note:** *This module forms part of the professional LLM in Public Procurement Regulation and Policy. This module may in some years be available as an elective in the general LLM by coursework, students must note however that the module will be taught in blocked lectures and not on a weekly basis.*

## **18. Submission of research paper: information and instructions**

- 18.1 A student will be awarded the LLM degree after successful completion of prescribed curricula in four modules and the successful completion and acceptance of a research paper, prepared under supervision, of 15 000 to 20 000 words (including footnotes, but excluding bibliography).
- 18.2 The research paper must be on a topic approved by the Faculty Board. Students are requested to take the initiative and make their own suggestions. The chosen topic need not necessarily be linked to one of the modules offered in the LLM programme. Should a student be registered for one of the specialised LLM programmes (International Trade Law, Intellectual Property Law, Labour Law or Alternative Dispute Resolution), such a student is required to complete a research paper on an approved topic in the field of specialisation. More information on the research paper, can be obtained from Karin Wiss (Tel: +27 (0)21 808 3780 e-mail: [karinwiss@sun.ac.za](mailto:karinwiss@sun.ac.za)).

## **19. Accommodation**

- 19.1 Registration for the LLM-degree does not imply that a student automatically qualifies for accommodation in one of the official residences of the University. The Law Faculty is not responsible for arranging accommodation.
- 19.2 International students seeking accommodation must contact:  
The Postgraduate and International Office  
Private Bag XI  
Matieland 7602  
SOUTH AFRICA  
Tel. no: +27 (0)21 808 4702  
Fax no: +27 (0)21 808 3799  
E-mail: [interhouse@sun.ac.za](mailto:interhouse@sun.ac.za)
- 19.3 South African students seeking accommodation must contact:  
For men's residences  
at tel no: +27 (0) 21 808 2620  
and fax no: +27 (0) 21 808 2847.  
For ladies' residences  
at tel no: +27 (0) 21 808 3892  
and fax no: +27 (0) 21 808 2847.

