

ज्ञान

॥-न्यायस्तत्र प्रमाणं स्यात् ॥



**GIAN COURSE ON
CROSS BORDER BUSINESS LAWS
AND PRACTICE**

**OCTOBER 10-23, 2016
NATIONAL LAW UNIVERSITY, DELHI**

**MINISTRY OF
HUMAN RESOURCE DEVELOPMENT, GOVT. OF INDIA**



National Coordinating Institute
INDIAN INSTITUTE OF TECHNOLOGY KHARAGPUR

CROSS-BORDER BUSINESS LAW AND PRACTICE

OVERVIEW

Arguably the single most noticeable development in the last 40 years in economic terms is globalization, which has naturally increased the importance of cross-border trade. These developments have contributed greatly to the internationalization of trade. Ernst Rabel commenced the debates regarding the introduction of a worldwide uniform sales law. Private international law was considered to be complicated, abstract and had the reputation of being the "nuclear physics of jurisprudence."

Whenever parties enter into contracts the correct choice of law is crucial. It determines the legal relationship as it is impossible for parties to negotiate every point. It is obvious that a party, if given the choice and being the dominant partner in the negotiations, will choose its own law. The familiarity argument is often quoted to justify such a choice. If on the other hand the two parties are evenly matched, much time and energy could be saved by simply agreeing not on a neutral law but a unified law such as the CISG.

What then is the difference between "contract law" and "contract practice"? It is implicit in the description that contract law is tied to a system of law based on a national or domestic body of law. Through that particular municipal system, contract law would have evolved based on known and understood principles. However, contract practices are looking beyond a legal system and the law in general. Practices transcend legal, social and economic thoughts and processes and have become universal. That is, they are common elements, which transcend borders. It might be argued that, once contract practices have been identified, an international law can be put into practice.

The specific areas covered in the course, while not exhaustive, are sufficient to provide participants with a good understanding of Cross- Border Business Law and Practice. Additionally, the course materials include numerous cases from diverse legal jurisdictions, arbitral awards, decisions and hypothetical discussion problems. The program contents also are consistent with the course objectives of familiarizing participants with case law analysis from various judicial bodies and jurisdictions outside India.

COURSE OBJECTIVES

The primary objectives of the course are as follows:

1. To introduce participants to the legal aspects of cross-border business transactions.
2. Familiarize participants with the international laws and conventions that govern this unique area of law.
3. Gain an understanding of case law analysis, through the detailed discussion of judicial decisions from prominent legal systems of the world on Cross- Border Business Law and Practice.
4. Enable participants to consider critically the effectiveness of the current legal context in achieving the desired policy objectives
5. Importance of contract- The contract is the governing law of the parties; what law then is applicable if the parties live in different countries?

MODULES The course is structured into 30 Lectures consisting of 3 lectures per day.

- Introduction to Cross- Border Business Law, Case study on Cross- Border Legal Issues
- Choice of Law, Applicable/ Governing Law; HCCH Choice of Courts Convention 2005.
- Jurisdiction Agreements; Cross-border enforcement in commercial matters
- Transnational Business Dispute Resolution; Transnational commercial litigation;
- Commercial Division & Appellate Division of High Courts & Commercial Courts Act, 2015
- Principles of Contract formation under the CISG; CISG rules regarding conformity of documents.
- Conventions on International Carriage of Goods by Sea, Hague, Hamburg, Rotterdam
- Indian Law on Carriage of Goods- Carriage of Goods by Sea Act 1925,
- Incoterms; Documentary Credits
- Contract formation through Email- The E-contracts convention; Case study on e-contracts

COURSE DURATION

October 10-23, 2016

CREDITS

The course is credit based. Candidates will earn **TWO Credits** upon successful completion of this course, as per MHRD Guidelines on GIAN. Participants will have to identify a compatible course from their institution to be able to transfer the credits, they will have to process applications in their respective institutions.

DEADLINES

Registration form, along with the latest CV, to be emailed to ctcl@nludelhi.ac.in

Faculty/students from academic institutions are also required to send a copy of their current valid Identity card or a bonafide certificate from their institution.

Last date of submission of application: **1st September, 2016.**

Short-listed candidates will be intimated by the **10th September, 2016.**

The maximum number of participants will be limited to **fifty** only.

As per GIAN Guidelines, candidates of the host institution can fill a maximum **50% of the total seats.**

YOU SHOULD ATTEND IF YOU ARE A

- Law students at all levels (BA LLB/LLB/LLM/JD/JSD/PhD);
- Faculty from law schools, universities, colleges and institutions of higher education;
- Lawyers, In-house counsels;
- Professionals from industry involved in transnational commercial law practice.

FEES

The participation fees for taking the course is as follows:

A. Participants from outside India: US \$450/-

B. Professionals/Lawyers/Non-Academics: Rs. 20,000/-

**C. Faculty/Students from academic institutions requiring accommodation (excluding food):
Rs. 10,000/-**

D. Faculty/Students from academic institutions not requiring accommodation: Rs. 5,000/-

E. Faculty and Students from National Law University, Delhi: No Fee

The above fee includes all instructional materials, classes and internet facility.

*The participants will be required to **pay separately** for food/meals.*

Accommodation may be provided within the University campus only in case of availability, which will be in limited numbers. Preference shall be given to faculty members and outstation candidates.

Demand draft to be made in favour of: - **Registrar, National Law University, Delhi, payable at Delhi.**

Super scribe on the envelope "**MHRD GIAN Course on Cross-Border Business Law**"

Venue: **National Law University-Delhi, Sector 14, Dwarka, New Delhi, India – 110078.**

www.nludelhi.ac.in



LOCAL GIAN COORDINATOR

Professor Dr. G.S. Bajpai, Registrar,
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Email: registrar@nludelhi.ac.in
Web: <http://nludelhi.ac.in/gian.aspx>

PROFESSOR DR. BRUNO ZELLER

International Teaching Faculty



Professor Bruno Zeller is a Professor of Transnational Commercial Law at the University of Western Australia. He is also an Adjunct Professor at Murdoch University, Perth, a Fellow of the Australian Institute for Commercial Arbitration, Panel of Arbitrators – MLAANZ, Visiting Professor Institut für Anwaltsrecht, Humboldt University, Berlin and a Visiting Professor Stetson Law School, Florida.

He holds a Ph.D. from The University of Melbourne, Master of International Trade Law from Deakin University, B.Com and B. Ed from The University of Melbourne. His areas of expertise are International Trade Law, International Arbitration, Conflict of Laws and Maritime Law. He has published extensively on the CISG, arbitration law, harmonisation of contract law and carbon Trading.

He is involved in mootings with a passion to train and prepare teams of students to participate in the Willem C. Vis International Commercial Arbitration Moot in Vienna. Dr Zeller has been invited to participate as an arbitrator at the Vis International Moot in Vienna and Vis East Moot in Hong Kong and has been recognised as a significant contributor in the area of International Uniform laws, e-commerce and the methodology of interpretation of uniform international instruments.

He is actively involved in research in the areas of international private law and dispute resolution and has published extensively, with international recognition and quoted by leading academics as contributing to the stock of knowledge on international uniform sales laws. Most of his articles are comparative in nature where domestic principles of contract law are compared and analysed with international unified laws and restatements of contract law such as the UNIDROIT principles. His articles have been quoted in a submission to the Supreme Court of the United States.

DR. RISHAM GARG

Host Faculty and Course Coordinator



Dr. Risham Garg holds a Doctor of Laws (LL.D.), doctoral research degree, on International Contracts & UN CISG Convention. He currently teaches courses on 'Bankruptcy Insolvency & Restructuring' and 'Transnational Commercial Laws' in the LLM programme; he also teaches core & seminar courses in the BA.LLB. (Hons.) program on Law of Contracts, Sale of Goods, Private International Law. He is continuing with the National Law University Delhi as a regular faculty member since 2009. He has previously worked as a Lecturer at the Amity Law School, (IP University Delhi) for over six years during 2002-2009. He has been a visiting faculty at the Indian Institute of Corporate Affairs (IICA), National Law University Odisha Cuttack, the Indian Law Institute, Amity Business School Noida. He has also acted as a consultant to the Directorate of Legal Education of the Bar Council of India.

He has been involved in publishing and presenting research papers on contemporary issues in commercial laws and active participation in consultations in various forums. He acts as an Arbitrator at the Willem C. Vis International Commercial Arbitration Moot on the International Sale of Goods (CISG Convention) at Vienna and at Hong Kong; and also at the India rounds of the Vis Pre-Moot. He has been a Visiting Research Scholar at UNCITRAL, Vienna, Austria in 2007.

Recently he organized an MHRD GIAN Course on Comparative Contract Law & Practice, during May 12-22, 2016. This course was conducted by Professor Stefan Vogenauer, Managing Director of the Max Planck Institute for European Legal History and former Director of the Oxford Institute of European and Comparative Law (2004-2015). <http://nludelhi.ac.in/news2.aspx?id=121>; [http://nludelhi.ac.in/download/2016/event/jan-2016/Comparative%20Contract_Law%20Regn_Form%20\(GIAN\)-1.pdf](http://nludelhi.ac.in/download/2016/event/jan-2016/Comparative%20Contract_Law%20Regn_Form%20(GIAN)-1.pdf) He has also organized a one-day seminar on 'Bankruptcy Laws & Cross-Border Insolvency in India- The way ahead, on 14th May 2016. <http://nludelhi.ac.in/news2.aspx?id=122>

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