

IMLI *e*-News

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Former EU Director General for Transport:

“IMLI is a professional learning environment with a highly motivated student body from all parts of the world “

Mr. Robert Coleman KCMG, delivered recently a set of lectures within the 11th IMLI EC Maritime Law Course. During his stay at the Institute he provided a comprehensive overview of the EU Maritime Law and Policy with special emphasize on EU's External Maritime Relations, Rights and Duties of EU States and the EU Law on Marine Pollution.



Mr. Robert Coleman KCMG, lecturing to the 17th generation of IMLI lawyers.

Mr. Coleman was educated at Devonport High School for Boys, Oxford University (MA, Jurisprudence) and the University of Chicago Law School (JD). He is a Barrister at Law of the Inner Temple. Having taught law at the University of Birmingham Law Faculty, he practiced at the London civil bar before joining the European Commission in 1974 working primarily on various aspects of the completion of the internal market until 1991 when he became Director General for Transport. In 1999 he assumed responsibility for the Directorate General for Health and Consumer Protection where he continued until 2003.

A Senior Practitioner Fellow at the Institute of Governance of the Queen's University of Belfast during the academic year 2003 to 2004, he continues to be active there as a Senior Research Fellow on a visiting basis and has recently agreed to teach as a visiting professor at the University of Plymouth and at the World Maritime University, Malmö, Sweden.

In 2005 he was appointed a knight commander of the Order of Saint Michael and Saint George. He has published in a variety of learned journals on European Union affairs and is a frequent public speaker on the same subject.

Mr. Coleman, which were the highlights of your lectures at IMLI ?

The main message that I was trying to get across was that starting from the mid 1980s and continuing throughout the 1990s and into the new century, there has been a huge transformation of the legal environment for shipping in the European Union. Shipping operators now have access to a genuinely liberalized shipping market functioning within a coordinated legal framework and this framework covers the rights and responsibilities of both operators and EU Member States. This change has of course important implications for maritime policy both within the Union and externally.

There has been a huge shift in legal responsibility from the individual member States to the institutions of the Union and the effect of this has still to be worked out at the international level (for example, within the IMO). This process will still take some time to work itself out, but experience in other contexts suggests that in the medium to long term, the institutions of the Union will emerge as important actors at international level as they have in the WTO and the FAO

Which are in your opinion the most important (recent) developments within the framework of EC maritime law ?

There can be little doubt that, following the creation of the European Maritime Safety Agency, one of the most important developments is the proposed “third maritime safety package” containing various legislative measures to improve safety at sea. The most

important proposal is that on flag State responsibility which, if successful, will not only complete the regulatory framework, but will provide a new foundation for the EU's maritime safety policy. It is in many ways a return to the classical model in which the responsibility of the flag State, properly exercised, provides the fundamental guarantee for safe navigation. Once in place, it should hold out the prospect of a simplification of the regulatory and enforcement framework.

How do you see the role of the EU in the field of safety at sea ?

Given the importance of shipping to the EU's external and internal trade, and given its continuous exposure to significant risks around its extensive coastline, for example, due to the massive movement of hydrocarbons, the EU will necessarily have to remain active in ensuring that shipping is as safe as it can be. It will be using the entire range of policy instruments at its disposal: research and development, infrastructure provision, regulation and enforcement, including the monitoring activities of the European Maritime Safety Agency. The considerable proportion of shipping in European waters flying flags from non-EU States means that the EU will continue to favour regulatory solutions at world level, particularly in the IMO and the ILO to the extent that these are an adequate response to the risks and challenges that it faces.

Is there a "conflict" between EC Maritime Law and International Law (ex. criminalization of seafarers, compulsory insurance for vessels sailing in the EEZ or equivalent of Member States...)?

In my view, there is no current conflict. The phasing out of single hull tankers according to an accelerated timetable was resolved by action within the IMO to adapt the international rule to meet the EU's needs and objectives. The recent legislation on criminal penalties for acts of serious negligence causing damage in territorial waters is not in my view in conflict with international law properly interpreted. MARPOL does not restrict the sovereign right of States to regulate acts in their territorial waters damaging or threatening to damage their security and, when such acts are committed, vessels are no longer in innocent passage. The proposed requirement on compulsory insurance seems to me more problematic as regards non-EU vessels in the Member States' territorial seas or their exclusive economic zones or equivalent. Is mere presence without insurance a sufficient threat to a coastal State's security to justify an exercise of jurisdiction? The Commission has not so far given a cogent justification for the exercise of legislative and enforcement jurisdiction in such cases. When the proposed directive is discussed in detail, I expect this aspect of the proposal will be given particular attention to avoid any conflict with international law as it stands or as it might be modified in the future.

What is your opinion about the IMLI students, programmes, premises, library (general impressions about IMLI) ?

Extremely positive: a very agreeable and professional learning environment with a highly motivated student body from all parts of the world.

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