

IMLI NEWS



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MESSAGE FROM H.E. MR W.A. O'NEIL, SECRETARY-GENERAL OF IMO

The shipping year in 1994 was dominated by the tragedy of the Estonia, which sank in September with the loss of more than 900 lives. For most of us the disaster was so great that it was almost unbelievable and it is still difficult to comprehend how, in an age of such technological progress, a ship can sink in a matter of minutes.

By the time this edition of IMLI News is published the Maritime Safety Committee will have met to discuss the accident and my proposal that a panel of experts be established to consider the whole subject of the safety of roll-on/roll-off ships. A great deal has been done in this area in the last few years, but the scale of the Estonia disaster was such that I must question the sufficiency of these measures.

Can we be certain that enough has been done to make the bow and stern doors safe? Do we need to look again at the undivided vehicle deck which is basic to the ro-ro design? These are just some of the questions which need to be asked: they must be answered and they must be answered as quickly as possible.

The best way of dealing with such issues is through the forum of IMO. The Organisation has 150 States as members and its meetings are attended by representatives of more than 100 international organisations. In short, IMO can call on the best advice in the world when it comes to making decisions and although IMO is sometimes accused of operating too slowly it can move very quickly indeed.



H.E. Mr W.A. O'Neil, Secretary-General IMO, who presided over the 1992-1993 Graduation Ceremony, presenting the degree to Racine Diop (Mauritania).

We expect that the panel of experts on ro-ro safety will report to the Maritime Safety Committee at its next session in May 1995. The Committee in turn will be in a position to adopt recommendations which can be put into effect immediately and will also be able to consider making changes to international treaties such as SOLAS. Those draft amendments could be considered at a conference in November - and they could be in force 18 months after that.

Is there a better or swifter way of making changes to the laws of 125 countries that have so far ratified SOLAS? Would it be quicker to go to each country in turn and request that the changes be made unilaterally?

The answer has to be no. Some amendments and protocols adopted in the 1970s and even 1960s have still not entered into force - because they required the positive acceptance of a specified number of Governments. Not enough of them have so far considered the amendments important enough to be turned into law. It is difficult to see why they would be willing to act individually when they have failed to implement a collective decision.

The tacit acceptance amendment procedure means that any amendments adopted by IMO will enter into force on a specified date - 18 months after adoption is the shortest time - and will affect virtually every ship in the world.

And there is, of course, no need to wait for amendments to enter into force before acting. Governments are free to implement measures adopted by IMO immediately as far as their own ships are concerned.

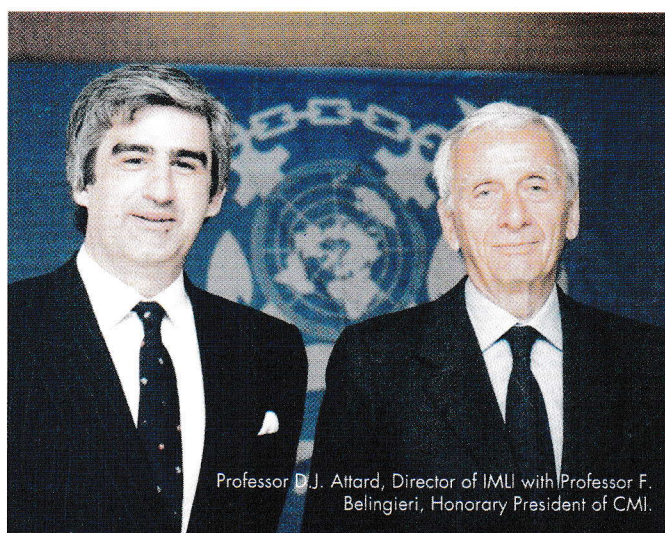
It is most important that any actions taken are taken by IMO, because this ensures that everything done meets with international approval. The worst possible developments would be the creation of a series of national codes which would not be recognised in other countries. Eventually maritime safety and pollution prevention, IMO's most important responsibilities, would become politicised - and both would suffer.

OVER A 100 IMLI GRADUATES BY JUNE 1995

During an academic year, IMLI students undertake one of the most intensive and comprehensive courses in the field of international maritime law available worldwide. For most this is done at great personal sacrifice. Some have to leave their dear families; others have to interrupt their already successful legal careers. For nine months, they are required to observe a quasi-monastic dedication towards the pursuit of excellence in their studies of the law regulating humankind's maritime activities. It is no easy task, given the vastness of IMLI's academic syllabus, and the Institute's high standards. Students are required to cover the whole spectrum of international maritime law. Furthermore, they are asked to prepare a dissertation on a particular maritime law topic and develop legislative drafting techniques, which are so important to Governments wishing to implement international maritime treaties.

It is therefore a great pleasure and satisfaction to be able to congratulate IMLI graduates for having succeeded despite the magnitude of their task. They join a worldwide elite network of 82 IMLI lawyers dedicated to the supremacy of international maritime law; a network which is likely to increase by the end of the 1994/1995 Academic Year, to over 100 lawyers coming from 55 States.

IMO's contribution to improved maritime safety is widely recognised. I feel that it is appropriate to high-



Professor D.J. Attard, Director of IMLI with Professor F. Belingieri, Honorary President of CMI.

light IMLI's role in this task. The world merchant fleet is rapidly aging. The current global over-supply of ships, and the astounding cost of building new ones, explain why old tonnage is not being replaced. The average cargo ship is now estimated to be some 20 years old. Consequently, as every day passes, the safety risk factor tends to increase ominously, thereby requiring urgent, legal response strategies.

Earlier this year, H.E. Mr O'Neil, Secretary General of IMO, addressing a symposium in New York, described safety at sea as "IMO's most important responsibility and that means in particular the safety of people"; primarily, men and women who operate the world's ships and risk their lives to ensure that the rest of us are provided with our daily food, oil for our transportation and heating, resources for our factories and all the other materials which are used by modern-day society.

IMO has today become the main forum where over 145 governments meet and deliberate on the promulgation of legal measures and response strategies to improve maritime safety and prevent marine pollution. There are now, more than 40 different IMO treaties concerned with these two inter-related issues, coupled by literally hundreds of IMO-sponsored codes and recommendations. These instruments have been ratified by



Dr Arvid Pardo, architect of the doctrine of "common heritage of mankind" in the new Law of the Sea, is a regular visiting Professor at the Institute.

so many States - that on paper at least - it should be virtually impossible to construct vessels which do not meet the IMO requirements. In reality, however, most problematic has been the manner by which IMO prescriptions are implemented as this varies from State to State, often influenced by national interests and/or commercial advantage. Unless all governments and ship owners are prepared to carry the responsibilities of ensuring safety at sea, many of the legal prescriptions will have little effect despite the best intentions. It is therefore not surprising that Mr O'Neil, at the very start of his message commemorating the latest World Maritime Day, very pertinently and wisely pointed out that as far as IMO's target of safer shipping is concerned, implementation is the key to success. It is a responsibility that no one who is involved in shipping can evade.

IMLI hopes that in its own small way, together with its graduates, it is part of the IMO process to encourage and facilitate the global adoption and implementation of treaties, regulations and standards designed to improve safety of international shipping. At our Institute, we encourage the study and full understanding of the implications and ramifications of these legal instruments.

IMO has no enforcement powers to ensure that shipowners respect international prescriptions. Ultimately, under international law, it is the State which is generally endowed with the power of enforcing internationally agreed legal instruments. IMLI graduates can be considered as apostles of law sent to various ports and registries to encourage countries to implement and comply with IMO conventions and standards. Their task is to ensure that Governments adhere to these instruments and that national legislation conforms to, and is in harmony with, their requirements to ensure compliance with IMO standards.

The success which IMLI enjoys is also the fruit of the tremendous support we receive from many sectors of the international maritime community. The numerous persons that deserve my recognition and appreciation cannot all be acknowledged in these brief notes. Nevertheless, there are a number of personalities who deserve particular recognition.



Lord J.F. Donaldson, Master of the Rolls, has lectured at IMLI, 1992-1993.

I am most grateful for the support, interest and guidance that the Secretary General of IMO so kindly offers our Institute. Without his assistance and commitment, many of our achievements would not have been attained. I thank him for, despite his many other responsibilities, he is always generous to IMLI.

I am grateful to a number of Governments, particularly the Governments of Switzerland, Canada and France for their unfailing support; to the Government of Malta for granting our beautiful premises; and the Commonwealth Fund for Technical Cooperation for its regular and generous support in providing fellowships.

My special thanks goes to the Institute's Governors, particularly to Dr Joe Fenech, Minister of Justice and one of the founders of the Institute, Mr William Birch Reynardson of CMI, which provides the funding for eminent visiting professors and student fellowships. Dr Walter Muller, who is a most active visiting professor, and Professor A. Os, the Chairman of the Ad Hoc Finance Group for his support and guidance. I greatly appreciate the support of Mr Magnus Goransson, Director, Legal Affairs & External Relations Division of IMO, for despite his heavy schedule, is always generous with his time and advice.

This article is an adapted version of the Concluding Remarks by Professor D.J. Attard, Director of IMLI, at the 1993/1994 Graduation Ceremony.

IMLI UPDATE

As we move into the second term of the current academic year, I take great pleasure at reporting that IMLI is now in its sixth year of operation. There is no doubt that the Institute has finally overcome its teething pains and is now fairly well established as a centre of excellence in the scholarly pursuit of international maritime law. It is now over two years that Professor David J Attard has taken over the helm of the IMLI ship. He has successfully steered the Institute towards a promising future in all respects. Much has happened at IMLI over the past two years, and in this issue, readers, including graduates and friends of IMLI, will finally be able to satisfy their yearnings for news of IMLI.

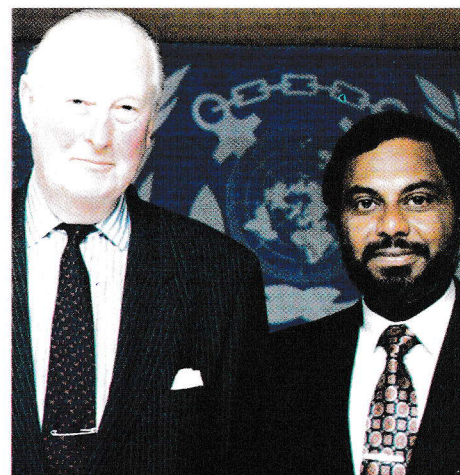
The Academic programme of IMLI remains as intensive and challenging as ever. The public international law aspect of the course continues to be directed by Professor Attard, with assistance from Mr Justice J.A. Filletti, who teaches international institutions, and Dr Kevin Aquilina,

a graduate of the first class of IMLI, who teaches some elements of public international law and marine environmental law. Professor Attard teaches the bulk of the Law of the Sea and supervises all the dissertations on that subject.

Professor P.K. Mukherjee continues to direct the shipping law and the maritime legislation programmes. Drs Gauci and Ganado continue to assist in the shipping law side of the course by teaching marine insurance and bills of lading, respectively. Dr Tonio Fenech has been teaching nationality, ownership and registration of ships for the past two academic years. Dr Anne Fenech joined the faculty as a lecturer in the beginning of the 1992/93 academic year. She teaches charterparties.

In all, we now have six lecturers assisting the two senior members of faculty.

Since the 1993-94 academic year, a new pro-

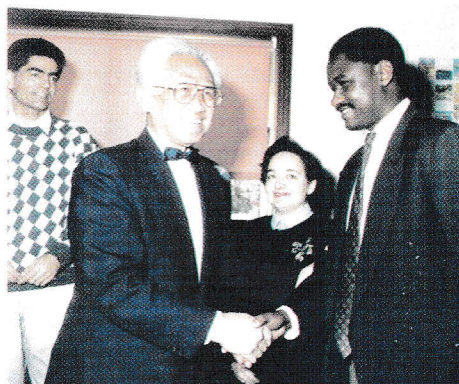


Prof. P.K. Mukherjee, Senior Deputy Director of IMLI with Mr W. Birch Reynardson, C.B.E., Governor of IMLI, Titulary Member of the Comité Maritime International.

programme in European maritime law has been introduced. This programme is part of a significant support package, which the Institute is now receiving from the European Community on an on-going basis. Starting this current academic year, a programme in private international law, with a focus in maritime law is being introduced. Specific problems in conflict of laws in a maritime context will be the subject matter of this programme.

Over the past two academic years the Institute has had several eminent visiting fellows, some of whom are IMLI governors. Among them are Dr W Muller (Switzerland, Titulary Member - CMI) who has lectured at IMLI since its inception. He has provided the impetus for the programme in private international law. Professor F.W. Wiswall Jr. (U.S.A., Titulary Member - CMI) has been teaching the law of marine collisions over the past three years and M. Ph. Boisson (France, Legal Adviser, Bureau Veritas) has been teaching some aspects of regulatory maritime law over the past two years. Mr W.R. Birch Reynardson (U.K., Titulary Member - CMI) has not only taught P & I Insurance for the past two years, but has been the initiator and driving force behind the substantial support from the Comité Maritime International (CMI), which the Institute is continuing to receive. Over the past three years, the CMI has provided eminent lecturers in the persons of Professor F. Berlingieri (Italy, Honorary President - CMI), Professor C. Palme (Sweden, Advocate, Former Honorary Secretary of the Swedish Association of International Maritime Law), Mr N. McGovern (Ireland, Former Chairman, Irish Shippers' Council, Titulary Member - CMI) and Maître E. Fontaine (France, Gide Leyette Nouel), besides Professor Wiswall and Mr Birch Reynardson himself. As well, the CMI has sponsored Dr C Debatista (University of Southampton, Institute of Maritime Law), Mr J.S. Lux and Mr C. De La Rue (U.K., Admiralty Solicitors, Ince & Co.) and Mr A Von Ziegler (Switzerland, Schellenberg & Haissly) as visiting lecturers.

Among other eminent visiting fellows, the Institute has been fortunate to have Mr M. Jacobsson



H.E. Dr Subroto, Secretary-General of OPEC addressed the 1993-1994 students.

(Sweden, Director - IOPC Fund), Dr R. Vogel (Germany, Deputy Director, Shipping Division, UNCTAD), Mr G. Weiss (Germany, Head of Delegation of the European Community in Malta), Prof. I.E. Shearer (Australia, University of Sydney), Dr A. Pardo (U.S.A., Former Ambassador of Malta to the United Nations), Prof. D.R. Thomas (U.K., University of East Anglia, Faculty of Law) and the Rt. Hon. Lord Justice J.F. Donaldson (U.K., former Master of the Rolls, Admiralty Judge, President of BMLA), Mr W. Blonk (Director for Maritime Transport and Ports,

EC DG VII) Dr Subroto (Secretary-General, OPEC) and Chief Emeka Anyaoku (Secretary-General, Commonwealth).

The Institute notes with deep regret the demise of Prof. F.J.J. Cadwallader (U.K., University of Wales, Cardiff Law School), who was once mid-term resident professor at IMLI.



H.E. Chief Emeka Anyaoku, Secretary-General of Commonwealth, signing the IMLI visitors' book, 1994-95. Overlooking at the far right is Prof. P. Serracino Ingloft, Rector of the Malta University.

It is notable that in five years IMLI has graduated 82 students from 48 countries. In the current academic year there are 20 students. This year seven new countries have been added to our list, which are Azerbaijan, Barbados, India, Latvia, Mexico, Palestine and Sierra Leone. It is obvious that IMLI graduates are our roving ambassadors, who constitute a worldwide network. There are some countries from which students are sent to IMLI on a regular basis. It is particularly worthwhile to note in the context of the current year that most of the countries are providing full or partial funding of their nominated students' course fees out of their own resources.

It is with utmost regret that we would like to inform all our readers, and particularly the graduates of the first class of IMLI, i.e. 1989-90, that John Chilindu Kondowe of Malawi passed away on 16th April, 1994. John will be remembered as an excellent student and a most amiable person over all. He graduated with a distinction and won the Secretary-General's second prize for outstanding overall performance.

Since the last academic year, IMLI has now been involved in hosting international seminars and conferences in maritime law. In May 1993, the first colloquium was held at IMLI on Recent Developments in the International Law of Maritime Liens and Mortgages. The speakers included Dr W. Muller, who was the Chairman of the Diplomatic Conference on Maritime Liens and Mortgages held in Geneva, Professor P.K. Mukherjee, and Dr Max Ganado. Shortly thereafter, another colloquium was held on Development of European Community Legislation: An Insider's Experience. In October 1993 and November 1994 the Institute co-sponsored two seminars on Maritime Law organised by the Malta Branch of the European Law Students' Association (ELSA). IMLI faculty members participated as speakers, and both events, which drew many European law students and practitioners, were hugely successful. It is notable in this context that Robert d'Alessandro an IMLI graduate of the 92-93 year has recently been elected the President of ELSA International. In October 1994, Professor D.J. Attard was the

key-note speaker and presented a paper to the 39th Annual Convention of the International Ship Suppliers Association on "The international regime relating to the arrest of seagoing ships: some developments".

It is most encouraging that, besides our regular financial supporters, namely, the Governments of Malta and Switzerland and the Commonwealth Fund for Technical Cooperation (CFTC), which in the current year has provided seven scholarships, the European Union has been providing significant financial support on a regular basis since 1992-93. It is also extremely encouraging that this year the CMI has provided a scholarship in addition to the academic support, which has been mentioned earlier. The Malta Maritime Authority has also donated Stg. £10,000 to the IMLI Library. There is no doubt that the reputation of IMLI is now anchored on firm ground and we look forward to a promising future with support from all friends of IMLI.

Professor P.K. Mukherjee
Senior Deputy Director



IMLI visiting Professors: Mr W.R. Birch Reynardson, Mr C. De La Rue, Mr A. Von Ziegler, Professor C. Palme, Professor F. Wiswall.

IMLI NEWS

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The IMO International Maritime Law Institute
was established under the auspices of the
International Maritime Organization, a
specialised agency of the United Nations.

MEMBERS OF THE GOVERNING BOARD



Professor Dr. Walter Muller, Governor of IMLI and Mr M. Goransson, Director, Legal Affairs & External Relations Division of IMO, greeting H.E. Dr Ugo Mifsud Bonnici, President of Malta, before the 1993-1994 Graduation Ceremony.

Dr W.A. O'Neil, Secretary-General, IMO; Senator W.D. Angus, President, Canadian Maritime Law Association; Mr C. Arul, President, Maritime Law Association of Singapore; Professor D.J. Attard, Director, IMLI; Mr W. Birch Reynardson, Titulary Member, Comité Maritime International; Dr W.A.G. Blonk, Director, Commission of the European Communities; M. Ph. Boisson, Legal Adviser, Bureau Veritas, France; The Hon. Dr J. Fenech, Minister of Justice, Malta; Professor E. Gold, President, Canadian Maritime Law Association; Mr E.N.C. Hare, Deputy Secretary-General, Commonwealth Secretariat; Mr J.W. Hickman, Corporate Secretary and Legal Director, Lloyd's Register of Shipping; Mr J. Hulliger, Director, Swiss Maritime Navigation Office; Mr G.G. Ivanov, Permanent Representative of the Russian Federation to IMO; Professor D.C. Jackson, Deputy

Director, Institute of Maritime Law, Southampton University; Judge Sir Robert Jennings, President, International Court of Justice; M. J. Ch. Leclair, Permanent Representative of France to IMO; Professor P.K. Mukherjee, Senior Deputy Director, IMLI; Dr W. Muller, Honorary Vice-President, Comité Maritime International; Professor A. Os, Deputy Director-General, Royal Norwegian Ministry of Foreign Affairs; Dr. C.P. Srivastava, Secretary-General Emeritus, IMO; Professor F.L. Wiswall, Jr., Member, Maritime Law Association of the United States.

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1993-1994 AWARDS

IMO Secretary General's Prize for Outstanding Overall Performance: **Sharon Rose**
Malta Maritime Prize for Best Dissertation: **Jotham Scerri Diacono**
IMLI Prize for Best Maritime Legislation Project: **Ahmed Muizzu**



The 1993-1994 Graduates and IMLI Staff.

IMLI RECORD CORNER

Mr W. Birch Reynardson was awarded a CBE for services to maritime law. **Professor D.J. Attard** has been appointed visiting professor at the Università di Roma "Tor Vergata". **Yusif Zainal** has been appointed Secretary-General of the Gulf Co-operation Council in Bahrain. **Robert D'Alessandro** is President of the European Law Students' Association - ELSA (International) in Brussels. **Kosi Latu** has been promoted to Principal State Solicitor in Western Samoa. **Iria Isabel Barrancos Domingos** has established her own maritime law firm in Panama. She got married and is expecting a baby. **Hassan Rajae** is a delegate of Iran to various maritime forums, including IMO and UNCTAD. **Alfonso Rodriguez Pizarro** has established his own maritime law firm in Bogota, Colombia. **Kevin Aquilina** is a part-time lecturer at IMLI and is also teaching international law at the University of Malta. **Carmel Chircop** is a legal adviser at the Malta Maritime Authority. **Fred Amoa** is a legal officer at the Forum Fisheries Agency in Honiara, Solomon Islands. **Lidwina Shapwa** had a baby. **Mazni Buang** had been a delegate of Malaysia to various maritime forums. **Azuka Ogo** was appointed to the vice-Chairmanship of the IOPC Fund in 1992.

IMLI Graduates may obtain an IMLI Lapel Badge by writing to the Administrative Assistant and enclosing a bank draft for the amount of Stg.£ 8.70.

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Dr W. Blonk, Director for Maritime Transport and Ports of the European Commission, with Prof. D.J. Attard, Prof. P.K. Mukherjee and the 1994-1995 Class.

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