

# IMLI NEWS



THE MAGAZINE OF THE IMO INTERNATIONAL MARITIME LAW INSTITUTE-MALTA. NO. 5 1996

## EXTRACTS FROM THE CONCLUDING ADDRESS BY PROFESSOR DAVID J. ATTARD, DIRECTOR OF IMLI, AT THE 1994-1995 GRADUATION CEREMONY

The task of concluding this splendid ceremony crowning the academic achievements of our graduates is not easy, particularly as it marks the successful conclusion of six academic years which IMLI has conducted annually since 1989. During each academic year, our students are required to undertake a unique course of studies, which covers the whole spectrum of international maritime law. IMLI's academic standards, which are endorsed by international external examiners, are high. Our graduates' commitment is praiseworthy, especially when one bears in mind the tremendous personal hardship that they have had to endure. Many have had to leave their dear families; others have had to interrupt their already successful careers. I therefore feel it is appropriate that I should record my deep appreciation for your endeavours, and state what a great personal pleasure it has been to work with you and to honour your academic success. Despite the great demands that have been imposed upon you, you have succeeded admirably.

This year's academic course is the sixth since IMLI was set up, it may therefore be appropriate to briefly review our Institute's progress and achievements in the light of the goals established by our founding fathers. I vividly recall that when Dr. C.P. Srivastava, the then Secretary General of IMO, met in 1988, the Honourable Dr Joseph Fenech, the former expressed his concern over the lack of specialised national expertise in the developing States - which was able to advise Governments on maritime law, and the incorporation of IMO conventions and regulations into municipal legislation. At this stage

IMO, through its Technical Cooperation Programme, was dealing with the problem by providing governments with visiting expert advisers. However, given the magnitude of the problem and the limited resources available, this assistance was not considered sufficient. It was felt that more effective sustainable progress could be attained if developing States could be assisted in developing their own national expertise in the field of international maritime law.

It was primarily with this in mind that IMLI was established. Eminent maritime lawyers from developing and developed States, under the Chairmanship of Professor Francesco Berlingieri, (the then President of the Comité Maritime International) were instructed by the Secretary General to draw up an academic programme which dealt with maritime law on an international and comparative basis, coupled with the teaching of legislative drafting techniques. Their work remains the basis of the current IMLI Programme, which, however, under the guidance of an International Academic Committee - has been extended to cover new areas such as a Marine Environmental Law and Private International Maritime Law. Instruction is undertaken by full-time and part-time academics who are supported by a regular flow of eminent visiting specialists who lecture on their particular area of expertise. It is appropriate here to record my appreciation for CMI's assistance in identifying these experts and supporting their visit.



Distinguished guests at the 1995 Graduation Ceremony

### The IMLI Global Network

We believe that IMLI's success is best demonstrated by the achievements of its graduates. Since the first academic course held in 1989, over a hundred lawyers from 55 States have graduated from IMLI. The very large majority of them are currently actively engaged in the service of their country. It gives me great pride to note that our graduates are often asked to take on senior responsibilities in their countries. The posts, which IMLI graduates occupy, range from a Chief Justice in the Court of Appeal, Attorney Generals, Judge Advocate Generals to Legal Advisors in National Maritime Authorities. In the international fora, IMLI graduates have demonstrated a similar aptitude for success. It is often possible to find them leading national

*cont. on p. 2*

## IMLI UPDATE

### Neil Kinnock, Commissioner for Transport of the European Commission, to preside at the 1996 IMLI Graduation

The resident faculty of the Institute continued to comprise two full-time professors, namely the Director and the Senior Deputy Director. In the 1994-1995 academic year, seven part time lecturers participated in the teaching programme. In the current academic year, the Institute has three part-time lecturers assisting the two resident professors (Table A).

During the academic year 1994-1995, ten distinguished visiting fellows participated in the teaching programme. Five of the visiting fellows were funded by the Comité Maritime International (CMI). In the current academic year, so far, the Institute has had eleven visiting lecturers. It is expected that another three will participate in teaching in the second semester (see back page). Of the total, three are being sponsored by the Comité Maritime International. The Institute is fortunate to have in residence for four weeks,

Francis M.B. Reynolds, Professor of Law at Oxford University, who will teach the course on Carriage of Goods by Sea.

At the end of the 1994-1995 academic year, two examinations were held and the students submitted their dissertations and maritime legislation projects. All twenty students graduated at a ceremony held on 18th June, 1995 at the Malta Maritime Museum. Seven graduates received distinctions and prizes were awarded to four. The President of CMI, Professor Dr. Jur. A. Philip, presided over the graduation ceremony.

Following graduation, a field trip was held in London, during which the graduates attended a maritime court hearing, and visited - among other places - the International Maritime Organisation, the United Kingdom P & I Club (Thomas Miller and Sons), the International Chamber of Shipping, and Ince & Co. At all of these places the students were received with great enthusiasm and had the benefit of a detailed insight into the practical side of the application of international maritime law.

The seventh course of the Institute commenced on 2nd October, 1995. Of the

numerous applications received for this course, seventeen candidates were admitted. Of these, one is a self-financed candidate. In the present student body, five new countries are represented (Table B on page 2). These are Cape Verde, Peru, Saudi Arabia, Tonga and the United States. Five of IMLI's students are holders of CFTC fellowships and one has received a fellowship from the CMI. One other student received a fellowship from a donor Government arranged by IMO.

*cont. on p. 2*

#### TABLE A

#### FACULTY MEMBERS: 1995-1996

Professor D.J. Attard LL.D., D. Phil. (Oxon), Advocate, Director; Professor P.K. Mukherjee LL.B. (Dalhousie), Barrister-at-Law, Master Mariner, Senior Deputy Director and Professor of Maritime Law; Dr S. Borg LL.D., M.Jur.(Hons) Int. Law; Dr T. Fenech LL.D., LL.M. (Lond.), Advocate; Dr G. Gauci LL.D., LL.M. (Soton), Ph.D. (Wales), Advocate.



Professor F. Wiswall donating a framed litograph reproduction of the painting by J.G. Evans entitled "The Celebration of Washington's Birth Day at Malta on board the U.S.S. Constitution. Commodore J.D. Elliot, 1837"



delegations to IMO meetings and diplomatic conferences. The Secretary General of the Commercial Arbitration Centre, established by the Gulf Cooperation Council, and the Vice-Chairman of the Executive Council of the multi-million dollar International Oil Pollution Compensation Fund are just two of the notable international posts which IMLI graduates now occupy.

We believe that IMLI has created a unique worldwide network of lawyers that is leaving its mark on the development of international maritime law. In most of the major ports of the developing world, the international maritime community can now count on finding the expertise of an IMLI graduate. This proliferation is expected to continue. As more and more Governments take cognisance of our Institute's role, the requests for places at IMLI are increasing. I am pleased to announce that as of today, we have no fewer than 80 applications for the forthcoming course. It is also likely that next year the IMLI network will increase to cover five new States: Cape Verde, Peru, Saudi Arabia, Tonga and the United States.

**I.M.O.**

The International Maritime Organisation is today the world's most important source of international maritime law. It offers a unique forum wherein its 151 member States meet to codify and progressively develop the rules and principles of international maritime law. There are now over 35 IMO treaties and literally hundreds of IMO sponsored codes and recommendations dealing with the safety of ships and the protection and

preservation of the marine environment. It is often claimed that, at least theoretically, it is almost impossible to construct or operate a vessel without falling within the jurisdiction of IMO standards. There can be little doubt that this reflects the impressive work which the Organisation has succeeded in undertaking since its establishment in 1948. Nevertheless, this success, it should be recalled, is dependant largely on the extent to which States are prepared to enforce, by means of national laws, IMO's legal prescriptions. The instruments adopted by IMO, therefore, can only be viable and effective if States generally incorporate them into municipal law.

The importance of this requirement is demonstrated in IMO Resolution A.500 (XII) wherein the Assembly recommended to its Council that proposals for new conventions or amendments should only be entertained if there was, and I quote, "a clear and well-documented demonstration of a compelling need". This recommendation reflects the Assembly's concern that in order to ensure the effective widespread implementation of IMO legal instruments, account has to be taken of the "differences in available technical resources and in the processes of legislation amongst member States".

In this respect, it is with great satisfaction that I wish to announce the recent unanimous decision of the IMO Flag State Implementation Sub-Committee wherein it was recognised that IMLI played an "important role in IMO's efforts to enhance implementation of the various IMO standards worldwide". Indeed, the Sub-Committee

recommended to the IMO Maritime Safety Committee that ways and means should be sought to ensure IMLI's long-term viability.

**I.M.O. Secretary General**

In a recent message to the Institute, H.E. The Secretary General of IMO, Mr William A. O'Neil, described IMLI graduates as "an essential component in IMO's efforts to improve shipping safety and fight marine pollution". Indeed this Graduation comes at a time when dramatic developments are occurring in the world of shipping. The astounding rate of technological innovation - for example - has brought about innumerable benefits but also new threats and dangers. As has been pertinently observed by H.E. The Secretary General, at a speech delivered to the Royal Institute of Naval Architects just a few days ago, the advent of high-speed craft has offered new commercial benefits. Nevertheless, as the recent Channel Islands incident has demonstrated, the maritime community has to seriously consider the risks of operating vessels at increasingly higher speeds, particularly in the event of collisions when passengers are involved. As the Secretary General pertinently asked: "if a collision with an iceberg at just over 20 knots sank the Titanic, what would happen to a much smaller ship doing 50 knots?"

Similar questions of safety arise with respect to bulk carriers and roll-on roll-off ferries. Recent accidents have highlighted the need for urgent action. On the other hand, it is often not healthy nor advisable to develop legal response strategies in the wake of major incidents. Measures adopted in an electric and emotional environment are usually dominated by political considerations, rather than technical arguments. The Torrey Canyon, The Amoco Cadiz, The Exxon Valdez, The Herald of Free Enterprise, and The Estonia all represent highly controversial tragic incidents which led to satisfactory response strategies but left many issues unresolved. The Exxon Valdez case, for example, led to the introduction of mandatory requirements for double hulls, which however most experts agree would have done nothing to prevent the Valdez accident which was largely due to a navigational error. As Secretary General O'Neil has pointed out "a system, which merely reacts to disasters, is basically flawed, especially in an age when ships are becoming older and the traditional structure of shipping is being transformed".

Clearly, we cannot accept procrastination in evolving legal formulae, especially those of a preventive nature, for it is not reasonable to expect governments, particularly in the face of major maritime disasters, to await patiently for the deliberations of experts. Furthermore, delay in responding or inaction risk generating a spate of unilateral measures, which contradict the multilateral approach so vital to the well-being of international maritime law.

We as lawyers have to ensure that the development of international maritime law not only keeps up with rapid pace of technological innovation but recognises safety and pollution prevention as paramount considerations. Indeed, this is my final parting task for today's IMLI graduates. As prospective Government advisors, you should continuously strive to ensure that policy-makers rigorously provide for the safety and environmental implications of shipping and other maritime activities. We need to adopt the attitude which the aviation industry has in this respect. As Mr. O'Neil has pointed out "this culture does exist to a certain extent in the aviation industry where the consequences of something going wrong are inevitably considered to be far more serious than in most shipping accidents. But more people died on the Estonia than in any aircraft accident in history".

This is a major challenge which I wish to set before you return to your countries. Given the new skills and knowledge which you have now gained - dear graduates - you have a further responsibility of ensuring that this change of culture is brought about in the interest of safer shipping and cleaner seas.

**IMLI UPDATE - Neil Kinnock, Commissioner for Transport of the European Commission, to preside at the 1996 IMLI Graduation**

In November 1995, a seminar on international maritime law was held in Malta under the auspices of the European Law Students Association (ELSA) and co-sponsored by the Institute. Some of the seminar sessions were held in the lecture hall of the Institute and were addressed by four IMLI faculty members. This seminar was very well attended by many European law students and young lawyers, as well as members of the local maritime community. This was the third such seminar held in Malta through the joint initiative of ELSA and IMLI, and it is hoped that this will continue as an annual event.

On the 15th September, 1996, IMLI will co-sponsor the First Student-Lecturer International Focus on Legal Education and Practice. This conference is being held in association with other distinguished international bodies, including the Universities of Leiden, Harvard, Tokyo and Oxford.

IMLI is delighted that Mr Neil Kinnock, Commissioner for Transport of the European Commission, has accepted to preside over the forthcoming graduation, to be held on the 6th June, 1996.



Mr Patrick Griggs, IMLI Visiting Fellow, addressing IMLI graduates at Ince & Co, London



Mr Richard Shaw, IMLI Visiting Fellow, guiding graduates at the London Baltic Exchange

**TABLE B - IMLI STUDENTS: 1995-1996**



The 1995-1996 class during lecture

ALEAMOTU'A Siosaia T.	Tonga
AL-FARSHOUTI Hussin H.	Saudi Arabia
AL-SANOSY Abdul A.	Saudi Arabia
ARIAS LAZARTE Carlos G.	Peru
CHARLES Ailette M.	USA
DA LUZ Jose P.	Cape Verde
DEPASQUALE Francesco	Malta
GATERE Catherine M.	Kenya
GAUCI Gianfranco	Malta
KHAN Ashraf ul I.	Bangladesh
KINZONZOLO Joachim	Congo
MARKEVICIS Patriks	Latvia
MKANDAWIRE Maria F.	Zambia
NGOWI Maria A.P.	Tanzania
PLANKOVA Inara	Latvia
SANI Aminu M.	Nigeria
VONGTAU Samuel A.	Nigeria



## SELECTED IMLI ACHIEVEMENTS

<b>Mr Glenn Cabanez</b> Republic of the Philippines	Graduate of 1990	Director, Maritime Industry Authority
<b>Ms Nkemdlim Ejemaif</b> Nigeria	Graduate of 1990	Legal Adviser and Company Secretary Nigerdock Nigeria Limited
<b>Mr Karim Rezaul</b> Bangladesh	Graduate of 1990	Asst. General Manager Bangladesh Shipping Corporation
<b>Mr Muhammed Yar Lak</b> Pakistan	Graduate of 1990	Deputy Judge, Advocate General
<b>Mr Yousif Zainal</b> Bahrain	Graduate of 1990	Secretary General of the Gulf Co-operation Council Commercial Arbitration Centre in Bahrain
<b>Mr Hassan Rajaei</b> Iran	Graduate of 1991	Delegate to the Legal Committee of IMO and to UNCTAD; Director General of Port and Shipping Organisation
<b>Mr Tran Man Ha</b> Vietnam	Graduate of 1991	Vice-General Director, Vietnam Maritime Commercial Stock Bank
<b>Mr Abdnour Sidi Said</b> Algeria	Graduate of 1991	Director, Algerian National Shipping Company
<b>Ms Lucy A. Asuagbor</b> Cameroon	Graduate of 1992	Chief Justice, Court of Appeal
<b>Ms Azuka Ogo</b> Nigeria	Graduate of 1992	Vice-Chairman, Executive Council, IOPC Fund
<b>Mr Gerald Zackios</b> Marshall Islands	Graduate of 1992	Attorney General
<b>Mr Kosi Latu</b> Western Samoa	Graduate of 1992	Assistant Director Legal and Constitutional Affairs Division, Commonwealth Secretariat
<b>Mr Robert D'Alessandro</b> Malta	Graduate of 1993	President, European Law Students Association (ELSA) International
<b>Mr Bashir Abdullahi</b> Nigeria	Graduate of 1993	Senior Manager/Legal Adviser Nigerian Ports PLC
<b>Commander A.A. Zafar</b> Pakistan	Graduate of 1993	Senior Deputy Judge, Advocate General
<b>Mr Amir Badpa</b> Iran	Graduate of 1994	Special Legal Adviser to the Managing Director Ports and Shipping Organisation
<b>Mr Moustapher Marong</b> The Gambia	Graduate of 1994	Minister of Justice

## MEMBERS OF THE IMLI GOVERNING BOARD



IMLI Governors at the October 1995 Meeting, which was held under the Chairmanship of H.E. Dr W.A. O'Neil, IMO Secretary General, at the IMO Headquarters in London

<b>Dr W.A. O'Neil</b>	Secretary-General, IMO
<b>Prince B.A. Ajibola</b>	Judge, International Court of Justice
<b>Mr W.D. Angus, Q.C.</b>	Stikeman Elliott, Barristers and Solicitors
<b>Mr C. Arul</b>	President, Maritime Law Association of Singapore
<b>Professor D.J. Attard</b>	Director, IMLI
<b>Mr Rodolfo Papaioannou</b>	Director for Maritime Transport and Ports of the European Commission
<b>M. Ph. Boisson</b>	Legal Adviser, Bureau Veritas, France
<b>Dr J. Fenech</b>	Former Minister of Justice, Malta
<b>Professor E. Gold</b>	Immediate Past President, Canadian Maritime Law Association
<b>Mr E.N.C. Hare</b>	Deputy Secretary-General, Commonwealth Secretariat
<b>Mr J.W. Hickman</b>	Corporate Secretary and Legal Director, Lloyd's Register of Shipping
<b>Mr J. Hulliger</b>	Director, Swiss Maritime Navigation Office
<b>Mr G.G. Ivanov</b>	Permanent Representative of the Russian Federation to IMO
<b>Professor D.C. Jackson</b>	Deputy Director, Institute of Maritime Law, Southampton University
<b>Judge Sir Robert Jennings</b>	Former President, International Court of Justice
<b>Mr Jean-Marc Schindler</b>	Maritime Counsellor, Permanent Representative of France to IMO
<b>Professor P.K. Mukherjee</b>	Senior Deputy Director, IMLI
<b>Dr W. Muller</b>	Honorary Vice-President, Comite Maritime International
<b>Professor A. Os</b>	Deputy Director-General, Royal Norwegian Ministry of Foreign Affairs
<b>Dr C.P. Srivastava</b>	Secretary-General Emeritus, IMO
<b>Professor F.L. Wiswall</b>	Proctor and Advocate in Admiralty, United States



Professor Richard Falk of Princeton University, with Professor David Attard, Professor P.K. Mukherjee and the 1995 - 1996 Class

## NEW IMLI LIBRARIAN

Mrs Aleksandra Virijevic-Kurbalija is the newest member of staff to join IMLI as full-time Librarian. She is a law graduate and practising lawyer (based in Belgrade) in the field of private and commercial law. Her major task is to re-organise and modernise IMLI's Library. Special attention will be paid to the acquisition of new materials and the use of information technology. In order to assure coordination with central IMO Library, IMLI invited Mrs Miriam Harvey to visit the Institute's Library. Her visit resulted in many useful proposals and suggestions with regard to the organisation and management of our Library and the coordination between IMO's Library and ours.

In the period from April till September 1995, Mrs Aleksandra Virijevic-Kurbalija was IMLI's consultant in the field of communications - working on the digitalization of all major international maritime law conventions and documents. Future plans are to connect the IMLI Library to Internet. This will enable IMLI to provide worldwide references on international maritime law matters and to create an international network among IMLI Graduates (now over 100 in 55 States) and other interested lawyers and organisations.



Mrs Aleksandra Virijevic-Kurbalija showing H.E. Mr Yu Wuzhen, Chinese Ambassador to Malta, and Professor David Attard around the IMLI Library

## IMLI NEWS

Published by IMO International Maritime Law Institute

Editor - Lorraine Napier

All correspondence should be addressed to IMLI News, IMO International Maritime Law Institute, P.O. Box 31, Msida MSD 01, Malta.

Tel: (356) 319343  
(356) 310810

Fax: (356) 343092

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





Commander Tim Harris invited IMLI students on board HMS Illustrious

## ARE YOU INTERESTED IN SPECIALISING IN INTERNATIONAL MARITIME LAW?

IMLI offers a unique opportunity to be trained in one of the growth areas of International Law. Its one academic year programme, leading to the degree of Master of Laws, consists of highly specialized education in International Law, Law of the Sea, Shipping Law, Marine Environmental Law and Drafting of Maritime Legislation. Its full-time staff is supplemented by regular visits from eminent lawyers.

### Visiting Fellows for Academic Year 1995-1996:

**MR. W. BIRCH REYNARDSON** (U.K., Titulary Member, Comite Maritime International); **MR. A. BISHOP** (U.K., Partner, Holman, Fenwick & Willan); **M. PH. BOISSON** (France, Legal Adviser, Bureau Veritas); **PROF. R. FALK** (U.S., Professor of International Law, Princeton University); **MR. C. GOLDIE** (U.K., Senior Partner, Thos. R. Miller); **MR. P. GRIGGS** (U.K., Secretary, British Maritime Law Association); **COMMANDER N. HARRIS** (HMS Illustrious); **DR. R. HERBER** (Germany, Law of the Sea and Maritime Law Institute, Hamburg); **DR. W. MULLER** (Switzerland, Titulary Member, CMI); **DR. G. PLANT** (U.K., London School of Economics); **PROF. F.M.B. REYNOLDS** (U.K., Professor of Law, University of Oxford); **MR. R. SHAW** (U.K., Research Fellow, University of Southampton); **PROF. F.L. WISWALL (Jr.)** (U.S., Titulary Member, Comite Maritime International).

This unique course is most suitable for law graduates working in the maritime field such as with a relevant Government department, a shipping company, port authority or other organisation concerned with shipping and maritime affairs. Law graduates who wish to pursue their careers in the field of international maritime law, will also benefit immensely from this course.

Applications are now invited for the eighth course which is scheduled to commence on 16th September, 1996. The course is limited to 20 students in any academic year thereby ensuring personal intensive guidance and supervision. Partial scholarships are available. A processing fee of US \$ 15 is required. For further information contact:

**Prof. D.J. Attard, Director**  
**IMO IMLI, P.O. Box 31, Msida MSD 01, MALTA**  
**Fax No: (356) 343092; Tel. No: (356) 310816/319343**



H.E. Mr Joseph Paolino, US Ambassador, Professor Frank Wiswall, Dr Joseph Fenech and Professor Attard with the 1995-1996 Class



Dr W. Muller, Titulary Member of CMI and IMLI Visiting Fellow, with the Hon Dr. M. Frendo, Minister of Transport of Malta and Professor D.J. Attard



H.E. Mr Giorgio Boggio, Ambassador of the Commission of the European Communities to Malta, with Professor Francis Reynolds, Professor of Law, University of Oxford, Professor David Attard, Professor P.K. Mukherjee and the 1995-1996 Class