

## THE MAGAZINE OF THE IMO INTERNATIONAL MARITIME LAW INSTITUTE - MALTA. No. 35/2015

### 29<sup>TH</sup> SESSION OF THE IMLI GOVERNING BOARD HELD AT THE IMO HEADQUARTERS; LONDON

The IMLI Governing Board met at the IMO Headquarters in London, on 17 April 2015 to hold its 29<sup>th</sup> Session. This meeting was presided over by H.E. Mr. Koji Sekimizu (Secretary-General, IMO and Chairman, IMLI Governing Board).



*IMLI Governing Board*

The Board commended the Director, faculty and staff of IMLI for their continuous efforts to maintain the Institute's high academic standards and expressed the appreciation to all the visiting lecturers who taught at IMLI in the past academic year.

The Board in particular congratulated the Institute on the publication of Volume I of *The IMLI Manual on International Maritime Law* to commemorate its 25<sup>th</sup> Anniversary.



*IMLI's Financial and Human Resources Committee*

### DIRECTOR OF IMO LEGAL AFFAIRS AND EXTERNAL RELATIONS DIVISION VISITS IMLI

Mr. Frederick J. Kenney Jr. (Director, IMO Legal Affairs and External Relations Division), visited the Institute on 9 February, 2015. During his visit, he delivered a lecture on *"The Development, Entry into Force and Amendment of IMO Conventions"*.



*Mr. Frederick J. Kenney Jr. (Director IMO, Legal Affairs and External Relations Division) lecturing to the IMLI Class of 2014/2015*

Mr. Kenney discussed the general legal structure of IMO conventions and addressed the different methods and rules for amending the main body of a convention, an annex to a convention, or a code developed under the authority of an IMO convention. He explained in detail the tacit acceptance process for amending IMO codes and the annexes to many IMO instruments and the benefits and legal risks to this amendment process. He provided several examples of when and how the tacit acceptance process has been used at IMO, including amendments to the 1995 Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), the International Ship and Port Facility Security (ISPS) Code and the newly adopted Polar Code.

### THE IMO SECRETARY-GENERAL'S GRADUATION MESSAGE, 2015

Over several decades, IMO has developed a detailed and comprehensive framework of international standards that have collectively enhanced the safety, security and efficiency of shipping while progressively reducing the industry's impact on the marine and atmospheric environment.

But, while IMO's efforts are mainly concentrated on developing this international regulatory framework, that is only one side of the equation. The other is the highly specialized task of drafting practicable and enforceable national laws, without which IMO's internationally agreed standards simply could not be put into effect nor enforced.



When a Government becomes Party to an IMO convention, it takes on an obligation to comply with its provisions, and this generally entails incorporating them into its own national legal system. And that is a job that requires trained, expert staff.

IMLI was established by IMO in 1988 to help ensure that sufficient maritime law experts, armed with the appropriate knowledge and skills, would be available – especially within developing countries – to help with the preparation, implementation and enforcement of legislation giving effect to the international instruments to which Governments had become Parties, through IMO.

Since then, the contribution made by IMLI's graduates in taking on this task has been immense.

The increasing number of IMLI graduates, who now form a formidable network of lawyers worldwide, confirms the Institute's success in the pursuit of its objectives and its effective capacity building role within the maritime community and the shipping industry as a whole. Each graduating class adds its knowledge and expertise to an already impressive network of alumni and provides significant benefits to the global maritime community.

It should never be forgotten that effective development and management of national maritime law is not just a paper exercise, it is actually vital in helping to ensure that sub standard elements of the industry have nowhere to hide and that quality shipping prospers – and this depends in a large measure on the knowledge and professional skills of lawyers such as those graduating from IMLI.

May I, therefore, congratulate the class of 2015 and wish them every success in their future endeavours. May I also offer my thanks, once again, to IMLI's faculty, and other staff, and its many supporters and donors, without whom none of this would be possible. I am certain that the graduates of 2015 will prove just as hard-working and successful as their predecessors, and I wish them every success for the future.

### UNITED NATIONS GENERAL ASSEMBLY RECOGNIZES THE WORK OF IMLI

IMLI's contribution to the international maritime community was recognized for the seventh consecutive time by the United Nations General Assembly, through its resolution A/Res/69/245 entitled "Oceans and the law of the sea", adopted on 29 December 2014, which tackles the main aspects of the 1982 United Nations Convention on the Law of the Sea and highlights the need for capacity building to enable States to achieve its aims. Through this Resolution, the United Nations General Assembly "Recognizes the importance of the work of the International Maritime Law Institute of the International Maritime Organization, which celebrated its twenty-fifth anniversary in 2014, as a centre of education and training of government legal advisers, mainly from developing States, confirms its effective capacity-building role in the field of international law, and urges States, intergovernmental organizations and financial institutions to make voluntary financial contributions to the budget of the Institute".

## INTERNATIONAL RELATIONS

### IMO

In addition to the visit of Mr. Frederick J. Kenney Jr. (Director, IMO Legal Affairs and External Relations Division), **Dr. Kofi Mbiah** (Chairman, IMO Legal Committee) also visited the Institute during the academic year and delivered a lecture on *"The Work of the IMO Legal Committee and its Challenges"*. In his lecture, Dr. Mbiah provided a brief overview of the IMO objectives, functions, mission and the manner it is structured. He explained to the students the reasons for the establishment of the IMO Legal Committee, especially in the light of the disaster of the *Torrey Canyon*, and what has been, since its set up, the contribution of the Committee to the work of the Organization.



### ITLOS

In addition to the visits from Judge Tafsir Malick Ndiaye and Judge Albert Hoffmann from ITLOS, the Institute was also proud to welcome **Professor Philippe Gautier** (Registrar, ITLOS), who delivered a lecture to the 26<sup>th</sup> generation of IMLI lawyers on *"Settlement of Disputes under the UNCLOS"*. During the course of his very enlightening lecture Professor Gautier dealt comprehensively with all the relevant provisions on Settlement of Disputes codified in Part XV of UNCLOS.



### CMI

**Dr. Patrick Griggs** CBE (Former President, CMI and Member, IMLI Governing Board) delivered a set of lectures at IMLI on various topics related to international maritime law. Dr. Griggs offered an extremely interesting review of the Nairobi International Convention on Removal of Wrecks, 2007. Dr. Griggs personally contributed and participated throughout the drafting of the Wreck Removal Convention and could therefore bring closer to the IMLI students the background and history of its provisions. Dr. Griggs also delivered a very interesting lecture on *"Making of International Maritime Law: Do Conventions Work?"* He discussed in addition, the 1980s disasters on land, in the air and at sea.



### OXFORD UNIVERSITY

**Professor Francis M. B. Reynolds, Q.C.** (Barrister/Professor Emeritus, University of Oxford) delivered a series of lectures on the core part of the Institute's course on *"Carriage of Goods by Sea"*. Professor Reynolds' comprehensive lectures gave the students the opportunity to gain a detailed understanding of the obligations and rights arising from bills of lading and charterparty contracts. The course examined an extensive list of topics including the nature and functions of bills of lading and other transport documents, rights and liabilities pertaining to different types of charterparties, as well as the relationship between the charter, the bill of lading and other transport documents.



### ICJ

**Dr. Maurice K. Kamga** (Legal Secretary, International Court of Justice (ICJ)) visited the Institute and delivered a lecture on *"The United Nations and the Law of the Sea"*, with special emphasis on the International Court of Justice. He explained the role of the UN as a forum for the international legislative work in the field of the law of the sea, the 1982 Convention (UNCLOS) as the current applicable law elaborated by the UN, with valuable contributions of ICJ's case-law, and ICJ's jurisprudence after UNCLOS III and the clarification of the applicable law for maritime delimitation.



### SWISS GOVERNMENT

**Dr. Reto Dürler** (Head, Swiss Maritime Navigation Office and Member, IMLI Governing Board) delivered a lecture on *"The 2005 Protocols to the International Convention on the Suppression of Unlawful Acts against Safety of Maritime Navigation (SUA Protocols)"*. Dr. Dürler conducted a very interesting lecture during which he discussed the developments leading to the adoption of the new Protocols, their contents and scope of application.



### UNIVERSITY OF LJUBLJANA

**Professor Dr. Marko Pavliha** (Head, Law Department, Faculty of Maritime Studies and Transportation, University of Ljubljana and Member IMLI Governing Board) delivered the core part of the course on the *"Law of Marine Insurance"*. The purpose of his lectures was to give the students an overview of marine insurance, its history, functioning of insurance markets and an understanding of the main principles and concepts of marine insurance law, including an analysis of the broadly used standard clauses of marine hull and machinery insurance and cargo insurance. At the end of his lectures Professor Pavliha organized a "case study" exercise which gave the students the possibility to understand the practical aspects of a marine insurance dispute.



## QUEEN MARY UNIVERSITY

**Dr. Miriam Goldby** (Lecturer, Insurance and Commercial Law, Centre for Commercial Law Studies, Queen Mary University of London) enriched IMLI's course in the area of the "Law of Marine Insurance". Dr. Goldby lectured specifically on "Modernisation of the London Subscription Market (Implications for Marine Insurance Law: Marine Policies and Cargo Insurance Certificates)".



## UNIVERSITY OF ATHENS

**Professor Lia I. Athanassiou**, (Associate Professor of Commercial Law, Law School of the University of Athens), visited the Institute on the 12 and 13 March 2015 and lectured on European Law and Shipping. In her lectures, she covered the areas of free access to maritime market, competition in maritime transport and inter-state competition and State aids.

## UNIVERSITY OF ROME "TOR VERGATA"

**Dr. Federica Mucci** (Researcher in International Law, Faculty of Law, University of Rome "Tor Vergata") lectured on "Characteristics and Types of International Organizations: Cooperation and Integration International Organizations". During her lecture Dr. Mucci discussed firstly, the international organizations as "functional" subjects of the international legal order, and then focused on the "law making" powers of such organizations.



**Dr. Fiammetta Borgia** (Lecturer in International Law, Faculty of Law, University of Rome "Tor Vergata") lectured on "The Role of Non-Governmental Organizations and Multinational Corporations in International Law". In her lecture, Dr. Borgia explained that new actors, such as public international organizations established by States, non-governmental organizations

created by individuals, multinational corporations and even individuals, have emerged at the international level which are currently playing a key role in the development of international law.

## IMLI ALUMNI

**Magistrate Dr. Giovanni Grixti** (Malta, class of 1989-1990) has been appointed Judge in the judiciary of Malta.

**Professor Kevin Aquilina** (Malta, class of 1989-1990) has been appointed Dean of the Faculty of Laws and Head of Department of Media, Communications & Technology Law, Faculty of Laws, University of Malta.

**Dr. Francesco Depasquale** (Malta, class of 1994-1995) has been appointed Magistrate in the judiciary of Malta.

**Dr. Christian Cardona** (Malta, class of 1998-1999) has been appointed Minister for the Economy, Investment and Small Business of Malta.

**Dr. Jacqueline Padovani Grima** (Malta, class of 1998-1999) has been appointed Judge in the judiciary of Malta.

**Ms. Dorota Lost-Sieminska** (Poland, class of 2005-2006) has been appointed Head, Treaties and Rules Section, Legal Affairs and External Relations Division, IMO.

**Mrs. Joyce Bawah Mogtari** (Ghana, class of 2009-2010) has been appointed Deputy Minister for Transport of Ghana.

**Mr. Ivane Abashidze** (Georgia, class of 2013-2014) has been appointed Head of Legal and International Relations Department, Maritime Transport Agency, Georgia.

**Mr. Simon Kofe** (Tuvalu, class of 2013-2014) has been appointed Magistrate in the judiciary of Tuvalu.

### FOR INFORMATION ON ADMISSIONS, PLEASE CONTACT

Ms. Elda Belja, Lecturer, Admissions Officer  
IMLI, P.O. Box 31, Msida MSD 1000, Malta  
Tel: (+356) 21 310 816 or (+356) 21 319 343; Fax: (+356) 21 343 092  
E-mail: [admissions@imli.org](mailto:admissions@imli.org)

## SOUTHAMPTON SOLENT UNIVERSITY

The Institute had the pleasure of welcoming for the first time, **Mr. Leif Ollivierre** (former Senior Lecturer in Maritime Law, Southampton Solent University) on 14 November 2014. Mr. Ollivierre delivered a lecture under the rubric



"Global Trade and Shipping: Challenges of the Future." He discussed the United Nations population forecast for 2050, explaining that mega cities will be created as 180,000 persons are moving into cities every day globally. He further discussed emerging global economic giants and changes in trade and shipping patterns, stating that water would become the "Liquid Gold". He concluded by stating that the next 20 years will be nothing like the last 20 years.

## NATIONAL MARITIME LAW ASSOCIATIONS

**Dr. Philippe Boisson** (President, French Maritime Law Association and Member, IMLI Governing Board) delivered the course on the "Law of Maritime Safety", one of the key subjects within the Shipping Law curriculum of IMLI's LL.M. programme. During his lectures Dr. Boisson presented a holistic approach of the maritime safety laws, including safety of the ship, cargo safety, the human element and international safety, flag State control, port State control and jurisdiction of coastal States.



**Professor Ignacio Arroyo** (Former President, Spanish Maritime Law Association) delivered a set of lectures on the "Unification of Maritime Law through International Conventions". In his lectures Professor Arroyo explained that international conventions are an important tool for the unification of maritime law and maritime law has to be unified to help the development of international trade. Professor Arroyo also reviewed from a critical point of view the Hague-Visby Rules, the Hamburg Rules, the Rotterdam Rules, and the Arrest of Ships Conventions 1952 and 1999.



**Dr. Ann Fenech** (President, Malta Maritime Law Association) lectured on the topics "The Role of a Maritime Law Practitioner in the Shipping Industry" and "The General Characteristics of a Maritime Lawyer". She discussed the area of law where the services of maritime legal practitioners are much sought after, including contracts, registration of vessels, collisions, registration of mortgages, security interest in ships with specific emphasis on arrest and injunctions procedures.



**Dr. Mitja Grbec** (President, Slovenian Maritime Law Association) lectured on the Liability and Compensation Regime for Oil Pollution as regulated by the various international instruments adopted by IMO.



### IMLI NEWS

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Editor: Ms. Ramat Jalloh

All correspondence should be addressed to:

IMLI, P.O. Box 31, Msida MSD 1000, Malta

Tel: (+356) 21 310 816 or (+356) 21 319 343; Fax: (+356) 21 343 092

E-mail: [publications@imli.org](mailto:publications@imli.org)

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

## IMLI'S COURSE ON DELIMITATION OF MARITIME BOUNDARIES



This year, the Institute conducted a comprehensive course on delimitation of maritime boundaries done by experts (academics and non-academics) in this area of maritime law.

**Mr. David Bishopp** (Head of Strategic Business Development, Galp Energia, Lisbon) and **Mr. Robert van de Poll** (International Law of the Sea Manager, Fugro N.V.) conducted a two-day comprehensive seminar on “*The Law of the Sea and Hydrocarbon Resources*”. This was an in depth study covering areas such as the development of gas exploration, offshore tectonics and geology, management of offshore rights, mapping (surveys), management of maritime limits, and extended continental shelf claims.

**Mr. Derek Smith** (Partner, Foley Hoag, LLP, US) lectured on the topic “*Delimitation of Maritime Boundaries*” discussing extensively delimitation decided cases by international tribunals, such as the *Nicaragua v. Colombia*, *Bangladesh v Myanmar*, *Bangladesh v India* and other maritime disputes, including *Peru v. Chile* and *Nicaragua v. Honduras*. His lectures also covered the area of resolution of maritime boundary disputes under UNCLOS.

**Professor David M. Ong** (Professor, International and Environmental Law, Nottingham Law School, Nottingham Trent University, UK), delivered a set of lectures under the rubric “*Delimitation of the Outer Continental Shelf and Prospects for Revenue Sharing Between States and the International Community*.” During his lectures, he explained, amongst others the delineation of continental shelf limits beyond 200nm and the Deep Sea-bed ‘Area’ dealing with the roles of Commission on the Limits of the Continental Shelf (CLCS), International Sea-bed Authority (ISA) and Sea-bed Disputes Chamber of ITLOS.

## PROGRAMMES AND COURSES

IMLI offers a variety of programmes and courses in international maritime law. The Institute’s hallmark programme is the Master of Laws (LL.M.) programme which covers the whole spectrum of international maritime law. The programme consists of numerous modules which include international law, law of the sea, shipping law, marine environmental law, maritime security law and maritime legislative drafting.

This intensive programme is held over one academic year, and features taught courses, research work, and a number of field trips.

IMLI also offers a Research Degree programme leading to the award of the Degree of Magister Juris (M.Jur.) in International Maritime Law and the Degree of Doctor of Philosophy (Ph.D.) in International Maritime Law. Candidates are expected to undergo their studies in IMLI’s Research Degree programme with a high degree of independence; thus, the programme can be largely undertaken from abroad. Candidates are assigned individual academic supervisors drawn from a list of internationally-recognized experts.

The Advanced Diploma programme in International Maritime Law is designed to benefit professionals involved in maritime practice both in the private and public sector (including at the most senior levels) who, because of their careers, are unable to be away from their jobs for any length of time in excess of a few weeks per year. The programme is also suited for those candidates who do not possess a degree in law but are still very much interested in the field. The programme can be undertaken between one and five years during which candidates must earn a total of 25 credits in order to satisfy the requirements for the award of the Advanced Diploma.

Teaching at IMLI on the LL.M. programme is based on the modular system. It is therefore possible for a small number of applicants to attend these modules as self contained courses. Short courses are delivered by panels of internationally recognized lawyers and academics. A certificate of attendance is issued by the Institute.

IMLI intends, with Kühne Logistics University (KLU), to launch a 2 year Joint Master of Science (M.Sc.) in International Law and Maritime Logistics. KLU is a private educational institution founded in Hamburg, Germany. Its aim is ‘to educate the leaders of tomorrow in logistics and management.’ The university offers a bachelor’s degree in Management, two master’s degrees in Global Logistics and Supply Chain Management and an EMBA. KLU also offers a Ph.D. programme.

## JUDGES FROM THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA (ITLOS) LECTURE AT IMLI

The Institute had the pleasure of welcoming Judge Tafsir Malick Ndiaye (President, Chamber for Fisheries Disputes, ITLOS) and Judge Albert Hoffmann (Judge, ITLOS) who visited the Institute in March 2015. Judge Ndiaye lectured on “*Illegal, Unreported and Unregulated (IUU) Fishing*”, whilst Judge Hoffman lectured on “*The Issues and Challenges relating to the Exclusive Economic Zone (EEZ)*”.



Judge Tafsir Malick Ndiaye (Judge, and President of the Chamber for Fisheries Disputes, ITLOS)



Professor David Attard (Director, IMLI), Judge Albert Hoffman (Judge, ITLOS) with the IMLI Class of 2014/2015

## IMLI ACTIVITIES

Taking into consideration the multicultural background of the IMLI class, the Institute organizes different competitions each year to enable the students to share with their classmates diverse traditions, culture and background. There are also, apart from these, several other activities some of which are described below. In all competitions, a panel of judges decides the winner.

### THE ANNUAL COUNTRY PROFILE PRESENTATION COMPETITION

All students prepare a 20-25 minute presentation which provides the audience with the information about their country, such as geographical, cultural, social and touristic aspects. Through this presentation, it is hoped participants will promote their country’s national and cultural profile and enhance inter-cultural dialogue. The presentations are assessed based on originality, creativity, presentation and information provided.



### THE ANNUAL CUISINE COMPETITION

In this competition, participants prepare a main course meal from their home countries which allow everyone to taste different dishes from around the world.



### THE ANNUAL PHOTO COMPETITION

For the purpose of the Competition each participant is invited to present a portfolio, or even video/slideshow of photos representing life at IMLI over the academic year. Participants may team up in groups consisting of no more than 2 persons.

### GIFT EXCHANGE CEREMONY

At this Ceremony the Director of the Institute, Professor David Attard, presents to each student a souvenir to remember his/her stay in Malta.

It is also traditional for IMLI students to bring with them a souvenir from their country which reflects their local (possibly maritime) art or heritage. During this ceremony, such souvenirs are presented by the students to the Institute, to adorn the IMLI premises for time in memorial.



### FIELD VISITS

These field visits help bring to life the day to day area of training of the students. The trips include visits to the Malta Freeport, a major transshipment hub in the Mediterranean, equipped to handle about 18,000 TEU containership and larger, and visits on board vessels calling at the port. This year, the students visited the Jules Verne vessel (the premier flag ship vessel of CMA CGM). Further, for the first time this year, students had the opportunity to visit the Centre for Simulator Training, followed by a visit to the M.V. EURO CARGO MALTA an Italian flagged Grimaldi vessel.

