



JUDGE OF THE INTERNATIONAL TRIBUNAL FOR THE LAW OF THE SEA (ITLOS) VISITS IMLI

The Director, staff and students of the IMLI Class of 2014/2015 had the pleasure of welcoming Judge Albert Hoffmann, (Judge, ITLOS), who visited the Institute recently. During his visit, Judge Hoffman also delivered a lecture to the students on the exclusive economic zone (EEZ).



Judge Albert Hoffmann meeting the students of the IMLI Class of 2014/2015

In his introduction, Judge Hoffmann paid tribute to Ambassador Arvid Pardo who introduced a "revolutionary concept" in 1967 namely that the seabed and ocean floor beyond national jurisdiction and its resources constitute the Common Heritage of Mankind and should be exclusively exploited for peaceful purposes. This idea received overwhelming support from the international community and was a 'game changer' in the development of the law of the sea during

the Third United Nations Conference on the Law of the Sea and the 1982 Convention as we know it today.

Judge Hoffmann affirmed that the Convention not only brought order and stability to the world's oceans but continues to exert immense influence on State practice today. He stated that there is a general convergence towards the Convention regime even among States that have not yet become party to the Convention. As States Parties number 166 with the latest accession by the State of Palestine, the Convention can be considered truly universal. It provides a predictable framework for all the uses of the oceans and its resources and for universally recognized limits for areas under national jurisdiction. One of the main features of the Convention is that it allows for the expansion of coastal States' rights and jurisdiction over marine resources. The prospect of economic benefits over the EEZ and extended maritime zones became one of the most compelling factors for coastal States' support for the Convention.

In the post-codification era, Judge Hoffman explained that States are confronted with tasks concerning the implementation of the codification results and with challenges deriving from new activities and developments. As such, they are faced with two tasks: the completion of the process of delimitation of maritime boundaries between States either by agreement or judicial process and the process of determining or delineating the continental shelf beyond 200 miles. Other challenges to States include climate change and the rise in sea levels, Over-fishing and Illegal, Unreported and Unregulated Fishing (IUU Fishing), pollution and a new regime for the conservation and sustainable use of marine biodiversity in areas beyond national jurisdiction including the regulation of marine biological resources in the Area, maritime safety and security challenges from terrorist acts against shipping, offshore installations and other maritime interests and piracy and armed robbery as well as other illegal activities at sea.

By highlighting the key provisions of the Convention relating to the EEZ regime namely articles 56 and 58, Judge Hoffmann examined some of the issues and challenges faced by third States when exercising their rights and freedoms in the EEZ such as navigation, laying of submarine cables and pipelines, ship-source pollution, maritime security and some of the more controversial aspects such as military activities and surveys. The tendency of coastal States through national legislation and other measures to restrict the rights and freedoms of other States in their EEZ seem to pose a threat to the substantive balance between coastal State rights and jurisdiction and the rights and freedoms of other States recognized under the Convention.

With the use of decided cases such as the *Libya v Malta* case, the *Saiga* Case (*St Vincent v Guinea*), and the *MV Virginia G* Case and Part V of UNCLOS dealing with the EEZ and Part XV dealing with dispute settlement, Judge Hoffmann delved into greater detail in discussing these challenges.

In conclusion, Judge Hoffmann stated that there are still many issues and challenges faced by coastal States and in particular developing countries in their quest for economic and social advancement and although challenges are inevitable, the Convention continues to provide for mechanisms and a predictable framework within which to deal with them.



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

Judge Hoffmann has been a judge of the International Tribunal for the Law of the Sea since 2005 and served as Vice-President from 2011 to 2014. In June last year he was re-elected as judge of the Tribunal for another nine year term. Judge Hoffmann holds both an LL.B. and LL.M. degrees from the University of Johannesburg in South Africa and also took postgraduate studies in international law at the University of Pretoria and the United Nations Institute for Training and Research/Columbia University.

Prior to his election to ITLOS, Judge Hoffmann served in the South African Ministry of Foreign Affairs from 1983 to 2005, including as the Legal Adviser of the Ministry from 1992 to 1999 and as Legal Counsellor of the South African Permanent Mission to the United Nations in New York from 1999 to 2004. In these capacities he represented South Africa at various international meetings, including on the law of the sea, boundary delimitations and the establishment of the International Criminal Court.

Judge Hoffmann also participated in the negotiations on the drafting of the Constitution of the Republic of South Africa.

He has also lectured and written on various aspects of international law and the law of the sea.

Judge Hoffmann is a contributor to the Max Plank Encyclopaedia for Public International Law and is also a regular lecturer at the Rhodes Academy of Oceans Law and Policy.'

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*** For further information please contact Ms. Ramat Jalloh (Editor, IMLI e-News) at publications@imli.org*