

IMLI^e-News

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MARITIME DELIMITATION EXPERT LECTURES AT IMLI

Mr. Derek Smith, Partner at Foley Hoag LLP, in the United States of America, visited the Institute between the 26 and 27 March 2015 and lectured to the 26th generation of IMLI students on delimitation of maritime boundaries.



Mr. Mr. Derek Smith meeting students of the IMLI Class of 2014/2015

During his lectures, Mr. Smith dealt extensively with delimitation cases by the International Court of Justice (ICJ) and International Tribunal on Law of the Sea (ITLOS), using decided cases, such as the territorial and maritime dispute of *Nicaragua v. Colombia*, where the court addressed the issues of the 3 steps in delimitation process, which are the construction of median line for opposite coasts and relevant baselines; relevant circumstances requiring adjustment of

the median line and the disproportionality test, in which case, the Court held that, taking into account the need to avoid a cut off effect on the entitlements of the Colombian islands, the result is not disproportionate.

In discussing the delimitation of the maritime boundary in the Bay of Bengal (*Bangladesh/Myanmar*), Mr. Smith explained in great lengths the position of the parties with regard to delimitation of the territorial sea, delimitation of the EEZ and the continental shelf within 200nm, continental shelf beyond 200 nm, entitlements generated by an extended continental shelf, and method of delimitation. He then went on to explain the method of delimitation used by the Tribunal, which was the equidistance/relevant circumstances method.

Mr. Smith also discussed the Bay of Bengal Maritime Boundary Arbitration, *Bangladesh v. India* and other maritime disputes, including *Peru v. Chile* and *Nicaragua v. Honduras*.

The other segment of Mr. Smith's lecture covered extensively the area of resolution of maritime boundary disputes under UNCLOS. In this regard, he gave an overview of UNCLOS delimitation, followed by discussions covering determining strategic objectives, negotiation, choosing third party dispute settlement, choice of forum for dispute resolution, the importance of the *compromis*, preparing the case for litigation or arbitration, and the litigation/arbitration process.

Mr. Derek Smith was awarded the degree of Bachelor of Arts in 1984 from the University of Virginia, a Juris Doctorate from the University of Virginia School of Law, *Order of the Coif*, in 1988, Law Degree, Spanish Ministry of Education, in 1996, University of Seville, and a Ph.D., *magna cum laude*, in 1998.

He practices in the areas of international dispute resolution, public international law and petroleum law. He represents governments and state entities in international arbitration and other dispute settlement proceedings, including at the International Court of Justice, ICSID and the ICC.

Mr. Smith represents government clients with regard to the settlement of international boundary disputes that implicate oil and gas development and assists them in establishing unitization agreements and other legal mechanisms for handling trans-boundary resources. He also advises private oil companies on boundary and resource questions. He also works with governments of petroleum producing countries and national oil companies in the full range of matters related to oil and gas exploration, production and monetization, including the resolution of disputes. Mr. Smith has advised clients in liquid natural gas projects.

Prior to joining the firm, Mr. Derek Smith was chair of the Investment Arbitration and Public International Law Practice Group of Dewey & LeBoeuf where he was also a member of the international oil and gas practice group.

He is a member of the American Society of International Law, member of the Association of International Petroleum Negotiators and member of the International Bar Association.

Mr. Smith is also widely published and some of his publications include “The Treaty on Certain Maritime Arrangements in the Timor Sea (Australia-East Timor),” report published in volume VI of the International Maritime Boundaries series (2011); "The Protocol of Agreement Dated 10 September 2001 Approving Offshore Unitization Prospects 14K and A-IMI (Angola-Republic of Congo)," report published in volume VI of the International Maritime Boundaries series (2011); "How to Deal with Maritime Boundary Uncertainty in Oil and Gas Exploration and Production Areas," paper prepared for the Association of International Petroleum Negotiators (May 2007); Petroleum Utilization Agreements: Report Number 4-9(2) Equatorial Guinea-Nigeria; Report Number 6-20(3) Australia-East Timor; Report Number 9-15(2-4) Norway-United Kingdom, V International Maritime Boundaries 3199 (David A. Colson & Robert W. Smith eds. 2005) and "Beyond Indeterminacy and Self-Contradiction in Law: Transnational Abductions and Treaty Interpretation in U.S. v. Alvarez-Machain," European Journal of International Law (1995).

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