



HEAD OF IMO LEGAL AFFAIRS OFFICE LECTURES AT IMLI

Dr. Dorota Lost-Sieminska (the Head, Office of Legal Affairs of the International Maritime Organization) visited the IMO International Maritime Law Institute (IMLI) and delivered lectures on “the IMO Treaty-Making Process” and on drafting national legislation implementing IMO conventions on 10 and 11 November 2016 to the IMLI Class of 2016-2017.



Dr. Dorota Lost- Sieminska with the IMLI Class of 2016 – 2017

Before the Class of 2016-2017, Dr. Lost-Sieminska expressed her joy at coming back to IMLI, an institution she once attended as a student. She advised the current batch to be persistent,

especially when it comes to their responsibility as legal advisers, as the role of legal advisers are sometimes relegated when it comes to certain technical matters concerning shipping.

Dr. Lost-Sieminska divided her topic into two segments.

The first segment, delivered on 10 November, looked at “Implementing IMO Instruments: Turning International Conventions into National Law.” In this segment, the students were reminded that the drafting of conventions is a very crucial component in the functions of the IMO. This drafting function is undertaken either by formulating new conventions or amending the existing ones. On how conventions come into operation, Dr. Lost-Sieminska explained, to the understanding of the students, that the work of a relevant committee on a convention is submitted to the Council, consisting of 40 elected members. The Council, in turn, submits the draft to the Assembly who will decide whether to opt for a convention or whether to constitute a diplomatic conference. When the negotiating States agree on the text and adopt it, the Final Act concluding the conference is signed. Thereafter the treaty is opened for signature in the Headquarters of the Organization. The signature may be without reservation as to the ratification, in which case it is binding, or subject to ratification. Instruments of ratification from member States deposited with the IMO are duly examined in accordance with the Vienna Convention on the Law of Treaties, the UN and the IMO practice.

The second segment of Dr. Lost-Sieminska’s lecture, delivered on 11 November, looked at “Understanding IMO Conventions: What the Legislative Drafter needs to know.” In this segment, Dr. Lost-Sieminska underscored the pivotal role of a draftsman in the implementation of IMO conventions at the national level. However, she pointed out that a drafter needs to appreciate that the implementation of the conventions is significantly influenced by the legal relationship between international law and national law. This understanding would require a drafter to determine whether his/her legal system is a dualist, monist or a hybrid system. She emphasised that a drafter needs to further determine whether the Convention will be implemented as a primary legislation (usually passed by the legislature) or as a secondary or subsidiary legislation (usually made by a Minister or head of government agency). The latter is most appropriate for technical matters, such as the incorporation of IMO codes and guidelines. Dr. Lost-Sieminska’s lectures build on the students’ understanding of how IMO conventions are developed and implemented at national level.

Prior to joining the IMO in 2011, Dr. Dorota Lost-Sieminska was the Director of the Maritime Transport and Inland Navigation Department of the Ministry of Transport of Poland. In that capacity, she attended many international meetings, conferences, and bilateral negotiations (as head of Polish delegation), at the IMO, EU, and UN. Dr. Lost-Sieminska is an IMLI alumni and holds a Ph.D. degree in International Maritime Law from the University of Gdansk, Poland. She is a member of the Polish Bar Association, the Polish Maritime Law Association and the Polish Academy of Science.

In an exclusive interview with the editor of the IMLI e-News, hereunder reproduced, Dr. Dorota Lost-Sieminska admitted that she still treasures the very good memories of IMLI and that it is a great honour and a sense of fulfillment to come back to share her experience with IMLI students.

How would you describe the role of IMLI, regarding the mandate of the IMO and particularly the work of the Legal Committee?

The main role of IMO is the adoption of rules governing the safety of shipping and the marine environment. The adoption of a treaty is just the beginning of a long process. To achieve a desired goal, international regulations need to be effectively implemented into domestic legislation. This is where the role of lawyers, often underestimated in shipping, come into play. IMO is a global Organization and the rules it adopted are globally applicable. Therefore, we need globally trained lawyers in international maritime law. IMLI's role is great in this aspect. It trains lawyers to understand the international maritime law, but above all, IMLI teaches them on how to implement international treaties into domestic legislation. The core of the role of the Organization is to adopt the rules, the core role of IMLI is the training of lawyers who then implement the international rules and draft domestic legislation.

What is your impression about IMLI? You were a student of IMLI and now a visiting fellow, and in between, you worked in your country. How has your education at IMLI helped you map a career path for yourself?

I simply love IMLI. It is a great institution and a beautiful idea, first launched by the Secretary General at the time, CP Srivastava in 1988. Since then IMLI continues to be successful and very helpful in training, thus the right-hand institution of the IMO. IMLI graduates contribute to the work of the IMO and national maritime administrations, by bringing people together and educating them to keep the story alive. 'I hope this will last forever.' Of course, my education at IMLI has helped me in my career. Before IMLI I was already a maritime lawyer and had a Ph.D. in International Maritime Law. However, I was very much on the national level. IMLI gave me the global dimension and the feeling that what I studied is indeed a global field and discipline. The teaching of international maritime law from a global point of view, rather than national laws or national point of view, is the unique opportunity offered by IMLI. IMO is a global Organization, shipping is a global industry and IMLI helps to understand this aspect. I have very good memories of IMLI and of Malta, many friends and professional and private contacts. I am happy that I have now the opportunity to share my experience with the students. This is very fulfilling.

Is the alumni network of any help to you?

The alumni network is very beneficial, we share contacts, ideas, meet at the IMO meetings. IMLI continues to be in our blood, it is not just one year of experience, but an experience that remains in you and will be there forever.

What is your impression of the class?

Very enthusiastic, motivated, curious and hardworking. Some of them are very experienced. My interaction with the students reveals to me that more than half of them will be involved in the drafting of national legislations, and even where they will not be so involved, the knowledge acquired from IMLI will be beneficial to their countries.

What do you think needs to be done at IMLI to enhance capacity building?

With the new challenges and the need for new subjects, there is no doubt that IMLI should take up the new challenges. However, the role of IMLI in educating maritime lawyers and future drafters will remain valid as the main area of activity. I would like to see a bigger class because the more students we have, the more people in the administration who have maritime background and knowledge. At the IMO, we are trying to find mechanisms to ensure that the students who are educated at IMLI remain in the Maritime Administration of their respective countries and we would like to see them at IMO meetings as delegates. This is to avoid a situation where an IMLI graduate moves quickly to the private sector or other areas. Both IMLI and the IMO should work together to expand IMLI's capacity to take more students and to ensure that they are retained in the governments. As far as the emerging issues are concerned, we need to take on new challenges. We are currently working with Professor Attard on an arrangement whereby the best-selected legislation drafting projects submitted by students will be collated and made available and accessible on the IMO and IMLI websites, on a yearly basis, to the wider public. The long term benefit here is that member States may find them relevant and useful when drafting national legislation. Our experience shows that this is a better option rather than providing a general model legislation. The students' dissertation should also be included in this arrangement.

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