

FORMER DIRECTOR OF THE INTERNATIONAL OIL POLLUTION COMPENSATION FUNDS LECTURES AT IMLI

Dr. Måns Jacobsson (Former Director and Chief Executive Officer of the International Oil Pollution Compensation Funds) visited the IMO International Maritime Law Institute on 1 and 2 April 2019 and delivered a set of lectures on “Global Ocean Governance and the IMO Liability Conventions”, and another lecture on “Law-Making Through Intergovernmental Organisations; Implementation and Application of Treaties” to the IMLI Class of 2018-2019.



*Dr. Måns Jacobsson (Former Director and CEO of the IOPC Funds) meeting
the IMLI Class of 2018-2019*

On the topic of Global Ocean Governance and the IMO Liability Conventions, Dr. Jacobsson discussed the relevant treaty framework and referred to the IMLI Treatise (the latest publication of the Institute) that gave a comprehensive overview of the ocean governance treaty system. He

pointed out that since UNCLOS contained no substantive provisions on issues of liability and compensation, such issues were governed by other relevant treaties such as the Civil Liability and Fund Conventions, Bunkers Convention, HNS Convention, Nairobi Wreck Removal Convention and the Athens Convention (carriage of passengers))

Dr. Jacobsson set out the historical background to the IMO liability regimes which had been developed as a result of an IMO Council Resolution of 1967 (adopted shortly after the *Torrey Canyon* tanker oil spill), under which IMO should study matters relating to liability for damage caused by oil or other hazardous substances. He said that the development of these regimes had been a long process, the last leg of which had been the adoption by a Diplomatic Conference held in 2010 of a Protocol to the 1996 HNS Convention, the purpose of which was to remove the obstacles that had prevented the entry into force of that Convention.

Dr Jacobsson then discussed the major principles underlying the CLC/Fund regime and the Bunkers Convention and gave some examples of how these principles had been applied by national courts in cases under the CLC/Fund regime.

With respect to the HNS Convention, Dr. Jacobsson drew attention to the fact that it to a large extent was modelled on the provisions of the 1992 Civil Liability Convention and the 1992 Fund Convention, but emphasized that there were nevertheless important differences between the two regimes. He mentioned that instead of giving a definition of the concept of hazardous and noxious substances in the HNS Convention, that Convention referred to various lists of substances in IMO treaty instruments, in particular, MARPOL 73/78. He explained that the substances covered by that Convention included bulk cargoes, both solids and bulk liquids, as well as packaged goods. He also said that the HNS Convention did not cover pollution damage caused by persistent oil (already covered by CLC/Fund regime) and that it did not apply to damage caused by bunker oil. He pointed out that, as was the case under the CLC/Fund regime and the Bunkers Convention, no compensation was payable under the HNS Convention for non-economic damage or damage of a punitive character. He finally discussed the obstacles that had prevented the HNS Convention from entering into force and the prospect for the Convention coming into force in the near future.



Dr. Måns Jacobsson with the IMLI Class of 2018-2019

Other topics discussed by Dr. Jacobsson included the law-making processes through intergovernmental organisations and the implementation and application of treaties, with particular emphasis on the IMO processes, as well as the interrelationship between the IMO Maritime Liability Conventions.

Dr. Måns Jacobsson was from 1985 to 2006 Director and Chief Executive Officer of the International Oil Pollution Compensation Funds (IOPC Funds). Since his retirement from the IOPC Funds, he is working as a lecturer and a consultant in maritime and environmental matters.

He studied law at Lund University in Sweden and served as a judge at the district court and appellate court level in Sweden. He was Head of the Department for International Civil Law of the Swedish Ministry of Justice from 1982-1984. He has also held the post of President of Division of the Stockholm Court of Appeal.

Dr. Jacobsson is a member of the Board of Governors of the World Maritime University (WMU) and a Visiting Professor at WMU and the Maritime Universities in Dalian and Shanghai (People's Republic of China). He is a member of the Institute of International Shipping and Trade Law at the University of Swansea (United Kingdom). He was a member of the Executive Council of the Comité Maritime International (CMI) from 2007-2014.

Dr. Måns Jacobsson has published three books and numerous articles in various fields of law, such as maritime law, torts, patent law, nuclear law and treaty law. In 2007 the University of Southampton conferred upon him the Degree of Doctor of Laws *honoris causa*. In 2010 he was awarded the King of Sweden's Gold Medal for significant achievements in the field of marine environment and shipping.

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