



**IMLI/WMU SYMPOSIUM ON FLAG STATE RESPONSIBILITIES
AND THE FUTURE OF ARTICLE 91 OF UNCLOS
HELD AT IMO HEADQUARTERS**

The IMO International Maritime Law Institute (IMLI), in collaboration with World Maritime University (WMU) organized on 5 March 2020 a Symposium on Flag State Responsibilities and the Future of Article 91 of the United Nations Convention on the Law of the Sea (UNCLOS). The Symposium was held at the Headquarters of the International Maritime Organization (IMO) and was co-hosted by IMO and the International Tribunal for the Law of the Sea (ITLOS). The Symposium was attended by representatives of IMO Member States, international organizations, maritime lawyers, and academics. IMLI alumni were also in attendance.



Professor David Attard (Director, IMLI), Dr. Cleopatra Doumbia-Henry (President, WMU), Judge Jin-Hyun Paik (President, ITLOS) and Mr. Kitack Lim (IMO Secretary-General)

Mr. Kitack Lim (IMO Secretary-General) delivered opening remarks. He noted that States, in their capacity as flag, port and coastal States have the obligation to comply with IMO rules and regulations. In this respect, it is important to enhance capacity-building for the successful implementation of the Organization's conventions and prescriptions so as to advance the IMO's role and contribute to the achievement of its goals. Mr. Lim observed that there was great value in exploring the relationship between UNCLOS and IMO conventions and that it was his hope that this Symposium will serve as the platform to advance further discussions on the matter.

In his remarks, Judge Jin-Hyun Paik (President, ITLOS), welcomed the opportunity to discuss the issue of flag State responsibilities and emphasized that “it is important for us to step outside the deliberation room in Hamburg and to engage with the shipping community and IMO delegates on areas of concern in relation to the nationality of vessels”. He informed the participants that the Tribunal “wishe[d] to ensure that States Parties to the Convention, and flag States in particular, understand the work of the Tribunal and the possibilities it offers for dispute settlement in relation to disputes involving vessels”.



Participants of the Symposium on Flag State Responsibilities and the Future of Article 91 of the United Nations Convention on the Law of the Sea (UNCLOS)

Dr. Cleopatra Doumbia-Henry (President, WMU) addressed the Symposium and highlighted the importance of the topic to the academic curricula of both institutions and recognized the teaching of flag State obligations as a foundation area of studies. Upon briefly explaining the development of the “genuine link” principle, Dr. Doumbia-Henry emphasized the importance of the subject as one which crosscuts in all activities in shipping.

Professor David Attard (Director, IMLI) recorded his appreciation to IMO and ITLOS for co-hosting the event and joined Dr. Doumbia-Henry in expressing the importance of ship registration as a fundamental subject taught at both institutions. He then discussed the importance of examining the future of Article 91 of UNCLOS, especially in view of the widespread international efforts to strengthen global ocean governance. In fact, in Professor Attard’s opinion, “the granting of nationality to vessels could be considered as one of the earliest manifestations of global ocean governance.” Professor Attard explained that Article 91 establishes the “juridical link between the flag State and a vessels” and “[f]or centuries, it has represented the principal method by which order on the high seas, which are not subject to the sovereignty of any State, is maintained.” However, as he recalled, whereas UNCLOS leaves to the States to fix the conditions for the grant of nationality to ships, it imposes the condition of the existence of a genuine link between the State and the ship. Professor Attard then proceeded to raise a number of issues that may be relevant in considering the future of Article 91, including the due consideration to the ITLOS jurisprudence on the matter.



Professor David Attard (Director, IMLI) delivering his remarks

Professor Attard also moderated the first panel of speakers which was composed by Judge Emeritus David H. Anderson (Former Judge, ITLOS), Judge Tomas Heidar (Judge, ITLOS), Mr. Ed Watt (Addleshaw Goddard LLP) and Dr. Jan Hoffmann (Chief, Trade Logistics Brand, Division of Technology and Logistics, UNCTAD) and deliberated on the development and interpretation of Article 91 of UNCLOS.



The first panel of speakers (moderated by Professor David Attard): Judge Emeritus David Anderson (Former Judge, ITLOS), Judge Tomas Heidar (Judge, ITLOS), Mr. Ed Watt (Addleshaw Goddard LLP) and Dr. Jan Hoffmann (Chief, Trade Logistics Brand, Division of Technology and Logistics, UNCTAD)

Judge James Kateka (Judge, ITLOS), Mr. Frederick J. Kenney (Director, Legal Affairs and External Relations Division, IMO), and Mr. Neville Aquilina (Chair, Sanctions Monitoring Board and Director General, Global Issues, International Development & Economic Affairs, Ministry for Foreign and European Affairs, Malta), speakers of the second panel which was moderated by Professor George Theodoridis (Professor, WMU), addressed current and future challenges on the implementation of Article 91 of UNCLOS by flag States.



Mr. Frederick J. Kenney (Director, Legal Affairs and External Relations Division, IMO) delivering his presentation on “Update on the work of IMO on measures to prevent unlawful practices associated with the fraudulent registration and fraudulent registries of ships”

The third panel was moderated by Ms. Gillian Grant (Vice-Chair, IMO Legal Committee and Alternate Permanent Representative of Canada to IMO) and included as speakers Mrs. Elizabeth Bouchard (Deputy Commissioner, Maritime Affairs, Marshall Islands), Mr. Kostas Ladas (General Manager, Liberia International Ship and Corporate Registry (LISCR), London), Ms. Naomi Burke O'Sullivan (Legal Officer, ITLOS) and Professor George Theocharidis (Professor, WMU). The discussions of the panel focused on the modern ship registry and implementation of IMO instruments as well as future work.



The third panel of speakers (moderated by Ms. Gillian Grant (Vice-Chair, IMO Legal Committee and Alternate Permanent Representative of Canada to IMO): Mr. Kostas Ladas (General Manager, Liberia International Ship and Corporate Registry (LISCR), London), Ms. Naomi Burke O'Sullivan (Legal Officer, ITLOS), Professor George Theocharidis (Professor, WMU) and Mrs. Elizabeth Bouchard (Deputy Commissioner, Maritime Affairs, Marshall Islands)

The closing remarks were delivered by Mr. Kenney who expressed his appreciation to all the speakers and participants for their valuable contributions.

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