


REPORT *of* ACTIVITIES 2006

 The
Institute of
International
Shipping and
Trade Law

UNIVERSITY OF WALES SWANSEA
PRIFYSGOL CYMRU ABERTAW

ESTABLISHING STURDY FOUNDATIONS



The activities of the Institute in 2006 have witnessed a strengthening of the Institute's foundations and the reaching out, still further, of its range of activities.

This, I believe, has been accompanied by a growing external awareness of the work and goals of the Institute. Two of the Institute's mission goals are the advancement of knowledge and scholarship, and to bridge the divide between academia and practice by making its expertise in teaching and

research available to the shipping and legal fraternities. The record provided by this report is evidence that the Institute is progressing vigorously towards its achievement. The Institute's tentacles are quite clearly penetrating beneficially into the crevices of legal and commercial practice, with the demand for its specialist

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training programmes increasing. In this regard we are justifiably proud to be associated with leading shipping and trading organisations and international law firms. The highlight of 2006 was the second international colloquium on the subject of liabilities in maritime law organised by the Institute and convened at Swansea, which attracted an impressive cluster of international speakers and delegates. The papers presented will again be published as a book by Informa, which will be available in the late spring, 2007. The development of

the international colloquia represents a central strand in the research strategy of the Institute and sits alongside the wider efforts currently

being made to establish the Institute as a national and international

research centre, which includes the continuing development of the new research library. In the final analysis an organisation is only as good as its membership, and I wish to take the opportunity provided by this report to pay tribute to the selfless dedication and industry of the members of the Institute. Their commitment to research and the other activities of the Institute are only partially recorded in this brief report, it has in truth been far greater and the primary reason for the success of the Institute. It is indeed rewarding to read the very favourable responses and comments made by users of the Institute's professional services and participants in the events organised by the Institute. In sum, 2006 has been a very satisfactory year for the Institute. The omens continue to be encouraging and all concerned are enthusiastically looking forward to continuing the development of the role and work of the Institute.

Professor D. Rhidian Thomas
Director

PROFESSIONAL TRAINING • EVENTS • VISITING SPEAKERS
RESEARCH • PUBLIC LECTURES • PUBLICATIONS

PROFESSIONAL TRAINING

The Institute of International Shipping and Trade Law continues to serve the training needs of shipping organisations and City international law firms. The following bespoke professional training courses were organised in 2006:

BIMCO Courses

Throughout 2006 the Director and Professor Richard Williams provided specialist masterclasses for the members of BIMCO (the World's largest organisation representing shipowners) in Rotterdam, Istanbul, Montreal and Copenhagen on a range of subjects including bills of lading, time charterparties, dry cargo and tanker laytime/demurrage. Professor Williams also lectured on various shipping topics at the BIMCO summer school held in July in Denmark.

BP In-House Training

Throughout 2006, the Director and Professor Richard Williams organised in-house legal training courses on charterparties and related topics for BP personnel in London, Singapore, Hong Kong, Cape Town and Chicago.

Foundation Courses for City Consortium of Law Firms

In 2006 the Institute provided Foundation Courses on Marine Insurance, Bills of Lading and Charterparties for a consortium of six City international law firms, attended by trainees and newly qualified solicitors. The lectures were delivered by the Director, Professor Richard Williams and Dr Banş Soyer.

RESEARCH EVENT

In 2006, the Institute held its second International Colloquium devoted to the subject of Maritime Legal Liabilities.

The event provided a forum for debate and scrutiny of contemporary topics, such as liabilities arising out of ship source pollution, liabilities of ports, liabilities of salvors, liabilities of classification societies, the impact of the ISM and ISPS Codes on the evolution of maritime liabilities, passenger liabilities, liabilities for wrongful arrest of ships and limitation of liability.

In addition to three members of the Institute, Prof. Thomas, Prof. Williams and Dr. Soyer, the following distinguished delegates presented papers at the Colloquium:

- Dr Phil Anderson (Managing Director, ConsultISM Ltd, UK)
- Mr Archie Bishop (Legal Adviser, International Salvage Union)
- Professor Martin Davies (Director, Maritime Law Center, Tulane University, USA)
- Mr Nigel Meeson QC (Quadrant Chambers, London, UK)
- Professor Robert Force, (Director Emeritus, Maritime Law Centre, Tulane University, USA)
- Professor Eric van Hooydonk (University of Antwerp, Belgium)
- Mr Måns Jacobsson (Director of the IOPC Funds, London, UK)
- Mr Simon Kverndal QC (Quadrant Chambers, London, UK)
- Professor P K Mukherjee (World Maritime University, Malmö, Sweden)
- Professor Erik Røsæg (Director, Scandinavian Institute of Maritime Law, University of Oslo, Norway)
- Mr Colin de la Rue (Partner, Ince & Co, London, UK)
- Professor Dr Frank Smeele (Erasmus University, The Netherlands)
- Mr Toby Stephens (Solicitor, Holman Fenwick & Willan, London, UK)
- Professor Andrew Tettenborn (Exeter University, UK)



The event was a great success attracting 62 delegates from 10 different countries. Amongst the delegates, in addition to academics, there were solicitors, barristers, consultants and marine surveyors representing a wide spectrum of maritime practice. The Department for Transport was also represented by Mr Andrew Stewart (Marine Legal Division). The papers will be published in book format by Informa International in 2007.



RESEARCH ACTIVITIES

It has been an extremely productive year for **Professor D Rhidian Thomas**. He contributed to *Marine Insurance: The Law in Transition* (edited by himself and published by Informa) with a chapter entitled 'Insurable interest - Accelerating the liberal spirit', pp.15-47. He also published in the Lloyd's Maritime and Commercial Law Quarterly (2006) LMCLQ 485-516 an article: 'Fraudulent insurance claims: Questions of definition, consequences and limitations'. This article intends to shed light on the meaning of fraudulent claims in insurance law and considers the remedies available. Furthermore, Professor Thomas contributed to a special issue on shipping law of the Singapore Academy Law Journal (Vol. 2, 2006) with an article (2006) 18 SAJL 1-33 evaluating "The safe port promise of charterers from the perspective of the English common law." Last, but not least, his paper delivered at the 4th European Research Seminar on Maritime Law held at Nantes in September 2006: 'The right of ship arrest with regard to ship-source marine pollution' was published in the Yearbook on Maritime and Ocean Law, Institute of Maritime Law and Oceanographic Studies, University of Nantes, France.

In 2006 **Professor Richard Williams** jointly with Patrick Griggs and Jeremy Farr authored the 4th edition of *Limitation of Liability for Maritime Claims*. The book, which is published by Informa Law, is the leading text in the area.

Beyond from contributing to various case analyses in the *Journal of International Maritime Law*, **Dr Banş Soyer** also contributed to the *Marine Insurance: The Law in Transition* edited by Professor Thomas with a chapter titled 'Classification of Terms in Marine Insurance Contracts in the Context of Contemporary Developments' pp. 107-130. The chapter attempts to offer a comprehensive analysis of the legal nature of terms adopted in marine insurance contracts in the light of recent judicial and market developments. It argues that recent developments have had an impact on the drafting of the new standard International Hull Clauses 2003 and attempts to predict the approach courts might take in the years to come when construing the legal nature of these terms.

Dr Theodora Nikaki published an article entitled 'Conflicting Laws in "Wet" Multimodal Carriage of Goods: The UNCITRAL Draft Convention on the Carriage of Goods [Wholly or Partly] [by Sea]' in the *Journal of Maritime Law and Commerce*, pp. 521-544. The article discusses proposed solutions to possible conflicts between the UNCITRAL Draft Convention and international conventions on inland/air transport with a view to assessing their effectiveness in resolving practical difficulties connected with multimodal transport. It argues that the proposed solutions do not resolve all potential conflicts and, in the end, it proposes alternative conflict-of-conventions provisions.

Professor Iwan Davies published in the *Oxford Journal of Legal Studies* an article on 'Secured Financing of Intellectual Property Assets and the Reform of English Personal Property Security Law' (2006) OJLS 559-583, which considers the proper goals for an effective credit and security regime in IP. It examines the significance of the availability of collateral to the lending decision and also considers whether the reluctance to maximise the use of IP as security reflects inherent difficulties which arise out of the nature of the IP as economic assets. This has implications for the reform of English personal property security law and the development of bright line priority rules similar to that in Article 9 of the US Uniform Commercial Code, which is often cited as a model for reform of English law.

VISITING SPEAKERS IN 2006

In the course of the year, the following visiting speakers delivered guest lectures at the Institute:

Richard Caddell
(Lecturer, University of Bangor)
- Salvage of Historic Wrecks

Michael Harakis
(Department for Transport)
- Litigation or Arbitration? A Roadmap to Dispute Resolution

Måns Jacobsson (Director of the International Oil Pollution Funds)
- The International Regime on Liability and Compensation for ship-source Oil Pollution damage: The Legal and Political Aspects

Professor Lynn Mainwaring
- Law and Economics

Captain David Thomas (Master and Surveyor)
- The Collision Regulations

INSTITUTE RESEARCH LIBRARY

The year witnessed the opening of the Institute's Research Library. The Library is currently based in the Law School (Richard Price Building) and holds monographs, law reports, journals and other primary and secondary materials in maritime, commercial and international trade law. The facilities of the Institute library are available to members of the Institute, visiting lecturers and scholars and also research students. It is funded mainly by the Institute's external activities, and has also been generously sponsored by Informa.

Journal of International Maritime Law



The Institute continues to make a significant editorial contribution to the *Journal of International*

Maritime Law (www.lawtext.com) which also serves as an outlet for some of the research carried out within the Institute.



SPEAKING / PUBLIC ENGAGEMENTS

Professor D. Rhidian Thomas addressed the plenary meeting of the CMI Conference held at Cape Town, South Africa, in February 2006, on problem areas in the English system of marine insurance law.

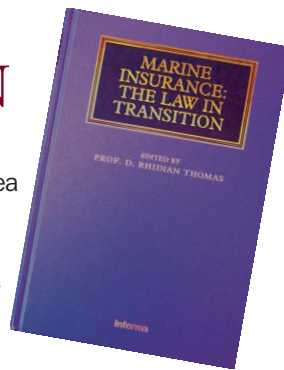
Professor Richard Williams acted as chairman and gave lectures at a number of Masterclasses and seminars organised by the Lloyds Maritime Training Programme in London. He also gave lectures on a variety of topics at courses run by the Cambridge Academy of Transport in London and Cambridge, and by the Business College of Athens in Greece.

Dr. Theodora Nikaki delivered a guest staff seminar and an LLM guest lecture at the Law School of the University of Birmingham. Her lecture focused on the scope of application of the UNCITRAL Draft Convention on the Carriage of Goods [Wholly or Partly] [by Sea].

Professor Jukka Snell acted as a panellist at the British Institute of International and comparative Law for the European Law Programme Expert's Meeting on "The Cross-Border Use of Public Documents" on 26 June, commenting on the papers by Peter Beaton of the European Commission and Dr Christophe Bernasconi of the Hague Conference on Private International Law.

MARINE INSURANCE: THE LAW IN TRANSITION

This book, edited by Professor D Rhidian Thomas, is a product of the Colloquium on International Marine Insurance held at Swansea in 2005. It consists of an anthology of the speakers' papers, as developed in the months following the colloquium, together with an Introduction written by the editor and source materials set out in the Appendices. The book was published by Informa Law in 2006 and contains the following chapters:



Chapter 1 - Trends in the interpretation of marine insurance contracts

Professor Malcolm Clarke, University of Cambridge

Chapter 2 - Insurable interest - Accelerating the liberal spirit

Professor D. Rhidian Thomas, IISTL

Chapter 3 - Pre-contractual Duty of Utmost Good Faith - Materiality and remedies

Mr Peter MacDonald Eggers, 7 Kings Bench Walk

Chapter 4 - The post-contractual duties of good faith in marine insurance policies - The search for elusive principles.

Mr David Foxton Essex Court Chambers

Chapter 5 - Classification of Terms in Marine Insurance Contracts in the Context of Contemporary Developments

Dr Barış Soyer, IISTL

Chapter 6 - The New London Market Principles's Slip

Mr Peter Rogan Senior Partner Ince & Co

Chapter 7 - International Hull Clauses 2003

Mr Chris Zavos, Partner Richards Butler

Chapter 8 - Comparative Marine Insurance Law: Highlighting the Significant Features of Marine Insurance Law in Belgium and other selected European Legal Systems

Professor Marc Huybrechts, Leuven, Partner Elegis

Chapter 9 - Comparative Lessons derivable from the Norwegian Insurance Plan 1996.

Mr Haakon Stang Lund, Partner Wikborg, Rein & Co

Chapter 10 - The Marine Insurance Act 1906 - Judicial Attitudes and Innovation: Time for Reform?

Mr Peter MacDonald Eggers

Personnel

The Institute is delighted to welcome **Måns Jacobsson**, recently retired from his position as Director of the International Oil Pollution Compensation Fund, as a Visiting Fellow.

Måns Jacobsson became Director of the International Oil Pollution Compensation Fund on 1 January 1985, following a career in Sweden where he served as a judge and thereafter was appointed Assistant Under Secretary and Head of Department for International Affairs in the Swedish Ministry of Justice. He was later appointed President of Division of the Stockholm Court of Appeal.

In 2006, **Dr. Barış Soyer** was promoted to Reader in Commercial and Maritime Law.

Paul Todd left the Institute in September 2006 to take up a Chair at Plymouth University.

2007 Colloquium on Time Charterparties

The Institute will convene its third International Colloquium at Swansea on 12 and 13 July 2007. The Programme will focus on time charterparties, and seek to highlight contemporary issues of important and broad interest. The format will follow that of previous colloquia with an international and expert panel of speakers drawn from practice and academia. Details of the programme and speakers will be circulated by early March.

Members of the Institute of International Shipping and Trade Law

Professor Rhidian Thomas *Director*

International trade and payments, carriage of goods, marine insurance, reinsurance and arbitration

Professor Richard Williams Carriage of goods and maritime liabilities

Professor Iwan Davies Personal property, finance and security

Professor Jukka Snell EU law, movement of goods and competition law

Dr Barış Soyer Admiralty law, marine and non-marine insurance and carriage of goods by sea

Dr Arwel Davies International trade law and world trade law

Dr Theodora Nikaki Carriage of goods by sea, multimodal transport and conflict of laws

Jinlei Zhang Research Assistant

Visiting Fellow

Mr Måns Jacobsson Oil pollution, environmental law

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