

# REPORT of ACTIVITIES 2010

## DIRECTOR'S REPORT

From the perspective of the Institute of International Shipping and Trade Law (IISTL), 2010 has proved to be yet another progressive period both in terms of academic and professional engagements. In May, the IISTL hosted the Sixth European Colloquium on Maritime Law Research at Swansea in collaboration with the Scandinavian Institute of Maritime Law (Oslo University). The Colloquium evaluated economic, environmental, insurance and commercial implications of the Rotterdam Rules and brought together academics from all parts of Europe to exchange ideas and debate over contemporary and problematic issues of maritime law. That the IISTL has succeeded in bringing this prestigious event to the United Kingdom for only the second time in its history is a clear indication of the international reputation that the Institute has

gained in academic circles over the past decade. Only a few weeks after the European Colloquium, in September the IISTL organised its 6th Annual Colloquium on the theme of "New Uses of the Sea", focusing on a number of issues of emerging importance to shipping and the regulation of the marine environment. The event attracted highly distinguished guests and speakers, including senior members of the International Tribunal for the Law of the Sea, leading academics and practitioners and key figures within national and intergovernmental organisations. The papers that were submitted at the event will be published as a book by Lawtext later in 2011 (more detailed information on these events can be found elsewhere in

**One of the missions of the IISTL is to promote strong links with the legal profession, trading organisations, policy makers and shipping industry.**

the Newsletter). Another significant development this year was the decision of Professor Andrew Tettenborn to join Swansea Law School and the IISTL. Professor Tettenborn has a highly distinguished academic record and he will, undoubtedly, be instrumental in further developing the research capacity of the IISTL particularly in the

areas of international trade, finance and commercial law.

One of the missions of the IISTL is to promote strong links with the legal profession, trading organisations, policy makers and shipping industry. Significant strides have been made both individually and collectively by the members of the IISTL in these respects. For example, throughout 2010 the IISTL was involved in the delivery of professional training courses for

legal firms, shipping and other organisations. Also, Professor Richard Williams has been chosen to serve on the Consultative Committee established by the Department for Transport which is tasked with considering

the impact of the Rotterdam Rules in the United Kingdom. This is yet further evidence of the Institute members' involvement in policy making at the highest order. At the end of September, Professor D. Rhidian Thomas decided to step down from his position as the Director of the IISTL having served in this capacity for 10 years since its foundation. All those who have kept track of the IISTL's progress over the past decade will agree that Professor Thomas has played an instrumental role in the development of the Institute as an internationally recognised centre for maritime law over the years. It is heartening to know that Professor Thomas remains fully committed to the IISTL as a member and will

continue to play a part in its activities particularly in the running of professional development courses. In recognition of his services to the IISTL, Professor Thomas was given the title of 'Founding Director' and I was elected to serve as the new Director of the IISTL. I am under no illusion that this will be an easy task given that the bar set by Professor Thomas is a high one. Professor Thomas will be a difficult act to follow but it is immensely encouraging to see that my colleagues remain committed to the ethos of the IISTL and I have no doubt that they will support me as the Director in the same manner they have supported Professor Thomas over the years. The missions of the IISTL remain the same despite the change in the directorship. We have already started making arrangements for our 7th Annual Colloquium which will be held in September 2011 (13th -14th) on the theme of Pollution at Sea: Law and Liabilities. Similarly, the time table for the professional training courses in 2011 has already been finalised. There is still a strong demand for the services provided by the IISTL despite the financial downturn facing the shipping sector. The School of Law is hoping to make new appointments in the realm of commercial and maritime law with a view to further strengthening the research capacity of the IISTL. There are several reasons for us to be hopeful of 2011 and the future of the IISTL.

Professor Barış Soyer



Professor D. Rhidian Thomas presenting his paper at the Sixth European Colloquium on Maritime Research held at Swansea

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## PROFESSIONAL TRAINING

The members of the Institute continue to serve the training needs of international shipping organizations and companies, and City international law firms in various ways. Members of the Institute participated in the following professional training courses in 2010:

### BIMCO Courses

Professors D. Rhidian Thomas and Richard Williams provided specialist masterclasses for BIMCO (the world's largest shipowners' organisation) in Rotterdam and Geneva on bills of lading and time charter parties. Professor Williams also conducted a specialist Case Study course for BIMCO in Barcelona and participated at the BIMCO Summer School in Copenhagen.

### Shipping Foundation Courses for City Consortium of Law Firms

Members of the Institute provided Foundation Courses on marine insurance, bills of lading, charterparties and shipbuilding contracts for a consortium of six City international law firms, attended by trainees and newly qualified solicitors. The lectures were delivered by Professors D. Rhidian Thomas, Richard Williams and Barış Soyer and by Dr Theodora Nikaki.

### Lloyds Maritime Academy (LMA, Informa London)

Professor Richard Williams chaired and gave lectures on various topics at a number of Masterclasses in London relating to bills of lading and charterparties.

### IBC (Asia)

Professor Richard Williams conducted courses on Charterparties and Laytime and Demurrage for IBC (Asia) on a number of occasions in Hong Kong and Singapore.

# THE IISTL'S INTERNATIONAL PEDIGREE RECOGNISED BY THE EUROPEAN ACADEMIC COMMUNITY

**O**n 27 - 28 May 2010, the IISTL hosted the *Sixth European Colloquium on Maritime Law Research*. The Colloquia are a series of biannual conferences organized by leading maritime law centers in Europe, in collaboration with the Scandinavian Institute of Maritime Law (University of Oslo, Norway).

These events date back to 2000 and have quickly established themselves as a premier academic forum within the field. As with its predecessors, the recent Colloquium at Swansea brought together leading academics and specialists from universities and institutions throughout Europe to exchange ideas and debate over one of the most contemporary and problematic issues in modern shipping law, namely the development of the law of the UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea (known as the Rotterdam Rules) and its implications to the industry. In keeping with the ambitious scope of the new legal regime, the Colloquium adopted a multi-dimensional approach, examining both the legal text and the wider environmental, economic, insurance and commercial implications of the Rules. Four members of the Institute: **Dr Richard Caddell**, **Dr Theodora Nikaki**, **Professor D. Rhidian Thomas** and **Professor Richard Williams** delivered papers where they debated a series of key aspects concerning the potential ramifications of the enactment of the Rotterdam Rules.



Professor Richard Williams presenting his paper at the event.

In addition to the members of the Institute, the following distinguished speakers also presented papers at the Colloquium:

- Dr Abhinayan Basu, World Maritime University, Malmo, Sweden
- Professor Maarten Claringbould, University of Leyden, The Netherlands
- Ms Olena Dobyko, University of Lund, Sweden
- Ms Kathleen Goddard, Plymouth University, UK
- Professor Olga Fotinopoulou Basurko, University of the Basque Country, Spain
- Professor Marc Huybrechts, Antwerp University, Belgium
- Ms Anastasiya Kozubovskaya-Pelle, University of Nantes, France
- Professor Heike Lindpere, University Nord, Tallinn, Estonia
- Dr Anders Moellmann, University of Copenhagen, Denmark
- Professor Proshanto Kumar Mukherjee, World Maritime University, Malmo, Sweden
- Professor Francesco Munari, University of Genoa, Italy
- Mr Craig Neame, Partner, Homan Fenwick Willan, London, UK
- Professor Erik Rosaeg, SIML, University of Oslo, Norway
- Mr Frank Stevens, Roosendaal Keyzer Advocaaten, Antwerp, Belgium
- Professor Vibe Ulfbeck, University of Copenhagen, Denmark/University of Oslo, Norway
- Professor Xose Manuel Carril Vasquez, University of Coruna, Spain
- Dr Ellen Eftestøl Wilhelmsson, University of Oslo, Norway
- Mr Richard Zwitter, Erasmus University, The Netherlands

On both an academic and a social level the Colloquium was a great success, bringing together some 64 delegates who participated in very lively discussions and debates over the controversial new regime encompassed in the Rotterdam Rules. In examining some of the wider concepts engaged by the new Convention, the event helped to broaden the general understanding of a number of aspects of the Rotterdam rules at a time of critical importance to the international shipping industry.

## BOOK COMPRISING THE PAPERS OF THE 2009 COLLOQUIUM HAS BEEN RELEASED



The Carriage of Goods by Sea under the Rotterdam Rules was released in August 2010 by Lloyd's List Publishing under the editorship of Professor D Rhidian Thomas. This book is

based on papers presented at the Fifth International Colloquium organised by the Institute of International Shipping and Trade Law, Swansea University, in September 2009. The sixteen contributions have been written by a team of international experts who collectively submit the newly proposed Rotterdam Rules to a sustained, penetrative and comprehensive analysis.

1. **The Emergence and Application of the Rotterdam Rules**, Professor D. Rhidian Thomas, IISTL, Swansea University
2. **From Treaty to Trial - The Implementation of the Rotterdam Rules**, Mr Michael Harakis, Solicitor, Hill Dickinson LLP and Advisor to the Dept of Transport
3. **Interpreting International Transport Conventions**, Mr Simon Rainey Q.C., Quadrant Chambers, London
4. **Freedom of Contract within the Province of the International Conventions**, Professor Andrew Tettenborn, IISTL, Swansea University
5. **Multimodal Transport under the Rotterdam Rules**, Professor Ralph de Wit, Van Dooselaere Advocaaten, Antwerp; University of Antwerp
6. **Duties of Carriers - care and seaworthiness**, Mr Andrew Nicholas, Clyde & Co, London
7. **Limitation of Liability**, Professor Marc Huybrechts, University of Antwerp
8. **Exclusion of Liability**, Mr Julian Clark, Holman Fenwick and Willan, London and Jeffrey Thomson, Hardwicke Chambers, London
9. **Duty to Deliver Cargo and Consequences of Misdelivery**, Mr Simon Baughen, University of Bristol
10. **The Division of the Burden of Proof**, Dr Nick Margetson, University of Amsterdam
11. **Duties of Shippers**, Mr Frank Stevens, Roosendaal Keyzer Advocaaten, Antwerp
12. **Deck Cargo**, Dr Susan Hodges and Mr David Glass, Cardiff University
13. **Transport Documents**, Emeritus Professor Francis Reynolds Q.C., University of Oxford
14. **Electronic Documents under the Rotterdam Rules**, Mr David Martin-Clark, Stone Chambers, London
15. **Himalaya Clauses - The Impact of the Rotterdam Rules**, Professor Jason Chuah, Westminster University
16. **Jurisdiction Clauses and Arbitration Agreements**, Professor Yvonne Baatz, Southampton University

The Carriage Of Goods By Sea Under The Rotterdam Rules examines virtually all aspects of the Rules and provides an effective, reliable and readable guide to everyone seeking a complete grasp of the Rules.



# SIXTH IISTL COLLOQUIUM MARKS A NEW RESEARCH DEPARTURE

On 9-10 September 2010 the IISTL convened its Sixth International Colloquium. The previous five annual events have quickly established themselves as a key point in the academic calendar for maritime law research. The Sixth event, following in these traditions, nonetheless marked a new chapter in the research initiatives of the IISTL, engaging for the first time the international law of the sea as its primary focus.

The Sixth Colloquium followed the broad theme of "New Uses of the Sea" and provided a timely opportunity to examine innovative concerns and novel activities within the marine environment. A number of topics were explored within the Colloquium, which opened with an appraisal of the modern law of navigation, examining the regulatory implications of retreating ice coverage, compulsory pilotage programmes, the development of high seas protected areas and security concerns for international shipping. The event then addressed the effects of shipping upon the marine environment, including a discussion on vessel-source noise, ballast water, scraggage and biodiversity considerations. The second day of the Colloquium examined emerging challenges of climate change and alternative energy sources, including analyses of deep-water oil extraction, marine windfarms, underwater electricity provision and carbon storage. New developments in marine resources were also considered, including an appraisal of pipeline activity and the exploitation of underwater cultural heritage. The Colloquium closed with an analysis of responses to ship-source pollution, with discussion on environmental salvage and the role of government intervention in shipping accidents.



Professor Rüdiger Wolfrum, International Tribunal for the Law of the Sea, presenting his paper at the event.

A number of highly distinguished guests and speakers contributed to the Colloquium, including a senior judge of the International Tribunal for the Law of the Sea, (Judge Professor Rüdiger Wolfrum, International Tribunal for the Law of the Sea) leading academics (Dr Richard Caddell, IISTL; Professor Robin Churchill, University of Dundee; Dr Edwin Edege, Cardiff University; Professor Tore Henriksen, Tromsø University; Professor Alexander Proelss, University of Kiel; Professor Tullio Scovazzi, University of Milano-Bicocca; Professor Michael Tsimplis, Southampton University; Professor D. Rhidian Thomas, IISTL) and practitioners (Mr Daniel Owen, Fenners Chambers and Dr Stefan Schmitz, McDermott, Will & Emery LLP) and key figures within national and intergovernmental organisations (Dr Rosalie Balkin, International Maritime Organisation and Mr Hugh Shaw, Secretary of State's Representative (SOSREP)). The excellent and thought-provoking papers presented on a variety of innovative legal topics generated a very lively and enjoyable debate and provided a timely opportunity to examine a number of emerging topics within the modern law of the sea. The conference proceedings will be published as an edited collection by Lawtext Publishing in early 2011.

One of the panels during deliberations: (from left to right) Mr Daniel Owen, Fenners Chambers, Professor Alexander Proelss, University of Kiel and Dr Richard Caddell, IISTL, Swansea University.

## EXTRAMURAL ACTIVITIES

Dr Richard Caddell continued as one of the four members of a review team appointed to assess the Future Shape of the Convention on the Conservation of Migratory Species of Wild Animals 1979. Dr Caddell also served on the fisheries interactions committee of ASCOBANS (Agreement on the Conservation of Small Cetaceans of the Baltic, North-East Atlantic, Irish and North Seas) under the auspices of UNEP and has also advised the Whale and Dolphin Conservation Society on legal aspects of cetacean conservation. He presented papers on the protection of the Baltic harbour porpoise at the European Cetacean Society's Annual Meeting and on the protection of marine mammals from ship-strikes at the Society of Legal Scholars' Annual Conference.

Professor Barış Soyer delivered guest lectures on various aspects of insurance law in a number of universities in PR China including Dalian Maritime University and Shanghai Maritime University.

Professor Andrew Tettenborn was involved in the teaching of English commercial law at the University of Geneva in Switzerland and also teaching of comparative law at the Law Faculty of Cambridge University.

Professor D. Rhidian Thomas presented over the course of the year the following conference papers: Special liability regimes under the international conventions for the carriage of goods by sea - dangerous cargo and deck cargo (NTHR Symposium Knelpunten In Het Vervoer, Amsterdam); The English Perspective on the Rotterdam Rules (Congreso Internacional De Derecho Marítimo, Universidad Externado de Colombia, Colombia); The Identity of the Carrier under the International Conventions - From The Hague to the Rotterdam Rules (International Congress of Maritime and Admiralty Law, Istanbul) and A Critical Analysis of the Rotterdam Rules (Jornadas Internacionales de Derecho Marítimo, University of Buenos Aires, Argentina). He also delivered lectures to postgraduate students at the Universities of Lund (Sweden) and Buenos Aires (Argentina) on marine insurance and international transportation respectively. He also participated and chaired a session in the Maritime Conflict of Laws Colloquium, Institute of Maritime Law, Southampton University, and the Comité Maritime International Colloquium, held at Buenos Aires.

Professor Richard Williams is currently acting as a member of the Consultative Committee established by the Department for Transport to consider the impact of the Rotterdam Rules in the United Kingdom. He also delivered guest lectures in various universities in China.



# RESEARCH PUBLICATIONS

Dr Richard Caddell was awarded a doctorate in International Law from Cardiff University in summer 2010. His thesis, entitled *International Law and the Regulation of Cetaceans: An Analysis of the Role of Global and Regional Instruments in the Conservation of Marine Living Resources*, examined the international protection of marine mammals and the difficulties in uniting a disparate group of treaties to this end. He is currently developing his thesis into a monograph. Dr Caddell also published 'Caught in the Net: Driftnet Fishing Restrictions and the European Court of Justice' (2010) 22 *Journal of Environmental Law* pp 301-314 and contributed Chapter 3 (pp 28-54) entitled 'Nature Conservation in Estonia: From Soviet Union to European Union' to David J. Galbreath (ed.) *Contemporary Environmentalism in the Baltic States: From Phosphate Springs to Nordstream* (Routledge, 2010).

Dr Caddell is currently working on a number of projects addressing the conservation of marine mammals and the implementation of the Habitats Directive in the marine environment.

Dr Arwel Davies published an article entitled 'The DSU Article 3.8 Presumption that an Infringement Constitutes a Prima Facie Case of Nullification or Impairment: When Does it Operate and Why?' (2010) 13 *Journal of International Economic Law* pp 181-204. He is currently working on several articles considering the impact of WTO regime on international trade.

Dr Theodora Nikaki published an article entitled 'The Carrier's Duties under the Rotterdam Rules: Better the Devil You Know?' (2010) *Tulane Maritime Law Journal* 1-44. She is currently working on her book on 'The Legal Context of International Multimodal Transport: From the UN Multimodal Transport Convention 1980 to the Rotterdam Rules 2009 and beyond' to be published by Routledge in 2012.

Professor Barış Soyer contributed Chapter 6 (pp 97-109) titled 'Funds' Admissibility Criteria for Pure Economic Loss Claims versus British Judicial Stand: Complimentary or Contradictory?' in the book titled *Maritime Pollution Liability and Policy* (Kluwer, 2010). He also wrote several case analyses and reviews published in the *Lloyd's Maritime and Commercial Law Quarterly* and *Journal of International Maritime Law*.

Professor Soyer is currently working on various aspects of insurance law and insurance implications of the Rotterdam Rules.

Professor Andrew Tettenborn contributed Chapter 4 titled 'Freedom of Contract within the Province of the International Conventions' in the book titled *The Carriage of Goods by Sea under the Rotterdam Rules* (Lloyd's List, 2010). He also contributed Chapter 9 titled 'Problems in Assignment Law' in the book *Contract Formation and Parties* (Oxford University Press, 2010). In addition he has brought out new edition of his 'The Law of Damages' (with David Wilby QC) (Butterworths) and contributed to the twentieth edition of *Clerk & Lindsell on Torts* (Thomson Reuters) with 5 chapters. He is currently working on part of a new book on contractual remedies; on contractual remedies generally; and on a new edition of *Marsden's Collisions at Sea*.

Professor D. Rhidian Thomas edited *The Carriage of Goods by Sea Under The Rotterdam Rules* (Lloyd's List, 2010), and contributed Chapter 1, 'The Emergence and Application of the Rotterdam Rules' (pp 1-25). He contributed an article 'The Carriage of Dangerous Cargo by Sea - A Modern Day Legal Conundrum', in *Scritti in Onore di Francesco Berlingieri* (ed. Georgio Berlingieri et al), Vol II, pp. 1042 - 1065 (*Il Diritto Marittimo*, 2010). His journal articles include 'The Position of Shippers under the Rotterdam Rules' (2010) 2 *European Journal of Commercial Contract Law*, 22 - 27; and 'Special Liability Regimes under the International Conventions for the Carriage of Goods by Sea - Dangerous Cargo and Deck Cargo' [2010] *Dutch Journal of Commercial Law* (*Nederlands Tijdschrift voor Handrecht* [NTHR]) 197 - 202. He also authored the Shipping Law section of the *All England Law Reports Annual Review 2010*. Prof Thomas' immediate research activity is focused on an analysis of the right of control in relation to goods transported under international contracts of carriage. His research for a book on ship arrest is continuing.

Professor Richard Williams published an article entitled 'The Rotterdam Rules: Winners and Losers' (2010) the *Journal of International Maritime Law* pp 191-209. He also continued to work on a Gard publication relating to maritime claims and on various features of charterparties and the New UNCITRAL Convention.

# VISITING SPEAKERS

Every year distinguished Visiting Speakers from both the academia and practice deliver lectures to the Institute's members, PhD students, as well as LLM students studying trade and maritime law modules.

In the course of 2010, the Institute organised the following Visiting Lectures:

- Mrs Ruth Hosking (Barrister Quadrant Chambers) - *The remoteness of damage following the Achilles*
- Ms Nicola McNeely (Capital Law Solicitors) - *Protecting eBrands*
- Mr Richard Neylon (Holman Fenwick Willan LLP) - *Piracy in Somalia - How to resolve the hijacking of a ship: a maritime lawyer's perspective*
- Professor Dennis Patterson (European University Institute, Rutgers University, Swansea University) - *Challenges for Global Trade in the New Millennium*
- Mr Nick Platt (Vice President and Special Adviser of the Gard P & I Club (UK) Ltd) - *P&I Clubs: Law and Practice*
- Mr Hugh Shaw (SOSREP) - *Dealing with Maritime Emergencies in UK Waters: The role of the UK Secretary of State's Representative (SOSREP)*

# PERSONNEL

Professor Andrew Tettenborn joined the IISTL in September 2010. Professor Tettenborn is well-known both in common law and continental European jurisdictions. He is author, co-author and editor of a number of books on torts, damages and maritime law, notably *Clerk & Lindsell on Torts*, *Marsden on Collisions at Sea*, *The Law of Damages in the Butterworths Common Law Series*, and *Fleming on Torts*. He has in addition published numerous journal articles and book chapters on aspects of common law, commercial law and restitution (some of which have been cited by the highest courts) which establish him as a leading authority in the private and commercial field. His recruitment will strengthen the research capacity of the IISTL extensively.

Also this year Mr Simon Rainey QC, Quadrant Chambers, joined the IISTL as a visiting fellow. Simon is the joint head of Quadrant Chambers and practices widely in international commerce. He is frequently appointed as arbitrator (LCIA, ICC, LMAA and ad hoc, sitting both sole and as co-arbitrator) and also sits as a Recorder and as a Deputy High Court Judge in the Queen's Bench Division.

In October 2010 Professor Beiping arrived from the Dalian Maritime University as a visiting professor. We all welcome Professor Beiping to Swansea and hope that his one year stay will be a productive one both from himself and the Institute.

After 4 years of dedicated service Mrs April Adanah has been promoted to a different role within the School. Ms Michelle Meacham was appointed as the IISTL's new administrator in September. We would wish to thank April for her services and welcome Michelle to the IISTL.

## Members of the Institute of International Shipping and Trade Law

**Professor Barış Soyer** - Director  
Admiralty law, marine and non-marine insurance and carriage of goods by sea

**Dr Richard Caddell**  
Law of the sea, marine environmental conservation, fisheries, EU maritime law

**Dr Arwel Davies**  
International trade law and world trade law

**Dr Theodora Nikaki**  
Carriage of goods by sea, multimodal transport, international trade law and conflict of laws

**Professor Andrew Tettenborn**  
International trade law, payments and finance, commercial law

**Professor D. Rhidian Thomas**  
International trade and payments, carriage of goods, marine insurance, reinsurance, admiralty and arbitration

**Professor Richard Williams**  
Carriage of goods and maritime liabilities

**Professor Volker Roeben**  
International law and law of the sea

**Mr Rui Zheng**  
Research Assistant

## Visiting Fellows

**Mr Peter Macdonald-Eggers**  
Insurance and reinsurance law, commercial law

**Mr Mans Jacobsson**  
Oil pollution, environmental law

**Mr Simon Rainey QC**  
Admiralty law, maritime law, arbitration

## Administration

**Ms Michelle Meacham** - Administrator

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