


# REPORT *of* ACTIVITIES 2007

 The  
Institute of  
International  
Shipping and  
Trade Law  
Swansea University  
Prifysgol Abertawe

## DIRECTOR'S REPORT STEADY AHEAD

**In this third report I have prepared for publication in the Institute's annual Report of Activities I have chosen the reassuring title Steady Ahead, for I consider that it accurately describes the period of consolidation which the Institute has experienced over the last twelve months following the hectic growth of the preceding two years.**

The consolidation has extended broadly over all the sectors of the Institute's activities, but at the same time there has been witnessed a measure of

continuing but more modest growth and expansion. In a very competitive and demanding educational world we are increasingly confident that we

are endeavouring to achieve the right goals and that we have in a short time traveled a considerable distance towards their achievement. With regard to the extramural activities of the Institute no ground has been lost. The demand from the shipping

industry and the international legal profession for training courses, master-classes and seminars organised and presented by members of the Institute continues unabated. Members of the Institute are also increasingly in demand to provide professional advice, consultative services and act as expert witnesses. This is all very welcome for it provides one of the avenues by which the Institute attempts to tap the rich rewards that are to be derived from blending academic expertise with professional

The Institute has set down bold and ambitious aspirations. I am sure that they will be achieved...

understanding and experience. The highlight of the year was once again the annual international colloquium organised by the Institute. In this third colloquium the chosen subject was time charterparties. The event attracted an international panel of eminent speakers drawn from shipping, the legal profession and academia, and also an international body of delegates. We are witnessing increasing

support for these colloquia with each passing year and they are quickly establishing themselves as part of the maritime law calendar. The edited papers delivered at the colloquium will be published in

book form by Informa, which will appear in about March 2008. Looking forward to next year, the 2008 colloquium will be held on September 11 and 12th, when the chosen subject will be voyage charterparties. On the intramural scene, the membership of the Institute has been enlarged by the arrival of Richard Caddell from the University of Bangor. Richard's academic interests are international law of the sea, European maritime law and marine environmental law. His arrival will help to expand the range of expertise within the Institute, as well as bolster the existing areas.



*(Professor Richard Williams addressing delegates during the 2007 Colloquium on Time Charterparties)*

The academic engagement and publications of the full membership of the Institute are recorded elsewhere in this Report, as also are their extramural activities. I again take the opportunity provided by this Report to applaud their commitment, industry, enterprise and academic research. The Institute has set down bold and ambitious aspirations. I am sure that they will be achieved and that the Institute will serve the interests of scholarship and the professional demands of shipping and the legal profession at the highest level.

**Professor D Rhidian Thomas**





## PROFESSIONAL TRAINING

The Institute of International Shipping and Trade Law continues to serve the training needs of international shipping organisations and City international law firms. Members of the Institute participated in the following professional training courses in 2007:

### BIMCO Courses

The Director and Professor Richard Williams provided specialist masterclasses for the members of BIMCO (World's largest shipowners' organisation) in Rotterdam, Athens, Oslo, Geneva and Copenhagen on a range of subjects including international sale contracts, insurance and carriage of goods, time charterparties, dry cargo and tanker laytime/demurrage. Professor Williams also lectured on various shipping topics at the two BIMCO Summer Schools held in July in Denmark.

### BP In-House Training

The Director and Professor Richard Williams organised in-house legal training courses on charterparties, bills of lading and related topics for BP personnel in London and Singapore

### Foundation Courses for City Consortium of Law Firms

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 Barış Soyer.

### Lloyds Maritime Academy (Informa London)

Professor Richard Williams chaired and gave lectures on various topics at Masterclasses in London relating to bills of lading and charterparties, and Dr Barış Soyer gave a seminar at the Marine Insurance Summer School.

The Director and Professor Richard Williams authored modules on marine pollution and charterparties respectively for the Post-Graduate Diploma in Maritime Law by distance learning organised by LMA.

The Director authored a module on Marine Reinsurance for the Post-Graduate Diploma in Marine Insurance: Law, Practice and The Markets by distance learning organised by Lloyd's Maritime Academy and the World Maritime University.

### Cambridge Academy of Transport

Professor Richard Williams gave lectures in London on various topics related to bills of Lading and charterparties at specialist courses organised by the CAT for the shipping industry.

### Piraeus Marine Club

Professor Richard Williams delivered lectures by invitation on the topics of Dangerous Goods and Limitation of Liability to members of the Club and the Piraeus shipping community.

### Business Centre of Athens (BCA)

Professor Richard Williams delivered lectures on charterparties and bills of lading on the LLM programme run by the BCA at their campuses in Glyfada and Piraeus, Greece.

## THIRD INTERNATIONAL COLLOQUIUM (2007) - TIME CHARTERPARTIES

The Institute held its third international colloquium on Time Charterparties on July 12th and 13th 2007. The two-day event attracted 65 delegates from 11 different countries.

In addition to two full days of papers and discussion the delegates were presented with the opportunity to relax and socialise at the colloquium dinner held on the first evening.



Professor D Rhidian Thomas welcoming the delegates to the Colloquium dinner held at Sketty Hall

The object underlying the Colloquium was to encourage vigorous and informed debate on time charterparties, a category of contract which occupies a central position in contemporary shipping activities.

The following distinguished speakers presented papers addressing the titles which appear against their names:

**Professor Yvonne Baatz** (University of Southampton, UK) - *Clauses paramount in time charters*

**Professor Howard Bennett** (University of Nottingham, UK) - *Safe ports and places*

**Mr David Foxton QC** (Barrister, Essex Court Chambers, UK) - *Indemnities in time charters*

**Mr Christopher Hancock QC** (Barrister, Essex Street Chambers, UK) - *Containerisation, slot charters and the law*

**Mr Mark Hamsher** (Maritime Arbitrator, UK) - *Seaworthiness and the 'Hong Kong Fir' decision*

**Mr Paul Herring** (Partner, Ince & Co, UK) - *Ascertaining the charter period*

**Mr Grant Hunter** (BIMCO, Denmark) - *Standard charter forms - the BIMCO experience*

**Mr John D Kimball** (Partner, Blank Rome LLP, USA) - *Termination of rights under time charters in U.S. law*

**Professor Keith Michel** (University College London, UK) - *War, terror, piracy and frustration in a time charter context*

**Dr Theodora Nikaki** (Swansea University, IISTL, UK) - *Cargo claims and the Inter-Club New York Produce Exchange Agreement 1996*

**Professor Francis Reynolds QC** (University of Oxford, UK) - *Time charterparties and bills of lading*  
**Dr Barış Soyer** (Swansea University, IISTL, UK) - *Construing terms in time charterparties-beginning a new era or business as usual?*

**Mr Andrew Taylor** (Partner, Reed Smith Richards Butler, UK) - *Damages for breach of time charter: some recent developments*

**Professor Andrew Tettenborn** (University of Exeter, UK) - *The insulation of assignees of hire from charterers' claims*

**Professor Rhidian Thomas** (Swansea University, Director of IISTL, UK) - *Time charterparty hire- issues relating to contractual remedies for default and off hire clauses*

**Professor Richard Williams** (Swansea University, IISTL, UK) - *The effectiveness of liens as a self-help remedy*



Dr Soyer presenting his paper on Construction of Time Charterparties at the Colloquium

Sir Anthony Evans, retired Lord Justice of the Court of Appeal and maritime arbitrator, was a distinguished guest and chaired one of the sessions.



From Left to Right: Mr Paul Herring (Partner, Ince & Co, UK), Sir Anthony Evans, Professor Howard Bennett (University of Nottingham, UK)

Informa International (London), a sponsor of the event, will publish the papers delivered in book format, which will appear in early 2008.

### FOURTH INTERNATIONAL COLLOQUIUM (2008) VOYAGE CHARTERPARTIES

Next year's international colloquium is devoted to voyage charterparties and will be held on September 11th and 12th. Details of the colloquium will appear on the Institute website early in 2008.

## RESEARCH PUBLICATIONS AND CONTEMPORARY RESEARCH

**Professor D Rhidian Thomas** is Editor-in-Chief of the Journal of International Maritime Law (JIML) and over the course of 2007 contributed several editorials and many case analyses. His editorials addressed *Changes to the P&I insurance system*, *Conclusive evidence clauses* and *The New Jason Clause-the puzzle of the familiar*. The cases analysed included *The Convenience Container* [2006] 2 Lloyd's Rep 556 (ship arrest in Hong Kong); *The Achilleas* [2007] 1 Lloyd's Rep 19 (damages for late redelivery of time chartered ship); *The Kriti Palm* [2007] 1 Lloyd's Rep 555 (tort liability of inspectors and certifiers of goods); *The MSC Amsterdam* [2007] EWCA 794 (liability of carriers for post-discharge misdelivery) and *HIH Casualty & General Insurance v JLT Risk Solutions Ltd* [2007] 2 Lloyd's Rep 278 (duties of reinsurance brokers).

He edited *Liability Regimes in Contemporary Maritime Law* (2007, Informa, London) and contributed chapter 13 (pp 233-253), titled: *'Damages for Wrongful Arrest of Ships in the English Admiralty Jurisdiction'*.

Prof Thomas is currently engaged on researching the law and practice relating to the arrest of ships for a new book on the subject. He is also committed to researching contemporary issues relating to time charterparties. At the Institute's third international colloquium on time charterparties held in July 2007 he delivered a paper titled *'Time charterparty hire - issues relating to contractual remedies for default and off hire clauses'*, which will be published in the forthcoming book of the proceedings.

**Professor Richard Williams** contributed Chapter 13 (pp 279-299) titled, *'Problematical areas in the current limitation regime'* to *Liability Regimes in Contemporary Maritime Law*' (see above). He also reviewed for the JIML *Commencement of Laytime* (4th ed), Davies (2006, Informa, London); *Bills of Lading*, Aikens, Lord & Bools (2006, Informa, London) and *Carver on Bills of Lading* (2nd ed) Treitel and Reynolds (2006, Sweet & Maxwell, London).

**Dr Barış Soyer** contributed Chapter 11 (pp 183 - 205) titled, *'Boundaries of the Athens Convention: What you see is not always what you get!'*, in *Liability Regimes in Contemporary Maritime Law* (see above). He also published an article titled *'Liability of Tour Operators: Cruising in Muddy Waters'* in (2007) 13 JIML 194- 205.

He is an editor of the JIML and during 2007 wrote an editorial and several case analyses. His editorial addressed *Marine Insurance and the Reform of English insurance law* (pp 221-222); his case analyses included *Michael David Stemson v AMP General Insurance (NZ) Ltd* [2006] Lloyd's Rep IR 852 (wilful misconduct and fraudulent claims in insurance) and *Marina Offshore Pte Ltd v China Insurance Co (Singapore) Pte Ltd and Another* [2006] SGCA 28 (Supreme Court of Singapore, Court of Appeal - marine insurance - breach of warranty, seaworthiness and 'perils of the sea').

Dr Soyer is currently completing research sponsored by the Nuffield Foundation on reforming various aspects of insurance law. His paper presented at the Institute's third international colloquium on construction of time charterparties will be published in the forthcoming book of the colloquium proceedings.

**Dr Theodora Nikaki** published an article *'The effect of the FIOS clause of NYPE 1946 charterparties on owners' duty to provide a seaworthy vessel'*, (2007) 13 JIML 29 - 41. She also wrote a case analysis in (2007) 13 JIML on *CTI Group Inc v. Transclear SA (The Mary Nour)* [2007] EWHC 2070 (Frustration of FOB Contracts).

Dr Nikaki is currently researching in the area of private international law, and in particular the applicable law of contracts under the Rome Convention and the Rome 1 Regulation.

**Mr Richard Caddell** published an article titled *'The prohibition of driftnet fishing in European Community waters: problems, progress and prospects'* in (2007) 13 JIML 265 - 288.

Mr Caddell is currently researching the international and regional law addressing the regulation of whaling and protection of marine mammals. He has also been commissioned by the Advisory Committee of a major regional treaty organisation to provide legal advice on the operation of marine mammal conservation law in EC waters.

**Mr Måns Jacobsson** contributed Chapter 1 (pp 3 - 18) titled *'Ship source pollution - Oil and Hazardous and noxious substances to Liability Regimes in Contemporary Maritime Law'* (see above).

**Dr Arwel Davies** published an article titled *'Connecting or Compartmentalizing the WTO and United States Legal Systems'* in Journal of International Economic Law.

Dr Davies' research is currently focusing on various aspects of the extent to which WTO disciplines infiltrate and impose demands on the legal systems of its Members

## EXTRAMURAL ENGAGEMENTS

**Professor D. Rhidian Thomas** presented a paper titled: *The Pros and Cons of Ratifying the International Arrest of Ships Convention 1999 from the Perspective of National Policy*, at an International Seminar on Maritime Law and Policy organised by the World Maritime University and held at Malmo, Sweden, on 14th-16th, May 2007. He also gave a series of three lectures and a seminar on developments in Marine Insurance Law at the University of Lund, Sweden, 11th - 13th December 2007.

**Dr Barış Soyer** presented a paper titled: *Reforming the Pre-contractual Duty of Utmost Good Faith in Insurance Contracts - An Economic Perspective* at the Annual Conference of the Canadian Law and Economics Association held at Toronto University, Canada, on 29th - 30th September 2007.

**Dr Theodora Nikaki** presented a paper titled *New Technologies and Carriage of Passengers by Sea* at a Colloquium on New Technologies and Maritime Law, organised by the Department of Shipping, Trade and Transport, Aegean University, Greece on 11th - 12th May 2007.

**Mr Richard Caddell** delivered a lecture at the 9th Annual International Wildlife Law Conference on *Trade in Endangered Species under EU Law* in Florida in January. He also is a legal adviser to the Advisory Committee of ASCOBANS (Agreement on the Conservation of Small Cetaceans of the Baltic and North Seas) on the conservation of dolphins under international and EC law.

## VISITING SPEAKERS IN 2007

In the course of the year, the Institute organised a series of guest lectures, which were delivered by the following distinguished speakers:

**Ian Derrick**  
(Deputy Agent of the Bank of England - Agency for Wales)  
- *The Work of the Bank of England*

**Professor Michael Furmston**  
(Emeritus Professor and Senior Research Fellow, University of Bristol, Dean of Law, Singapore Management University)  
- *The Golden Victory on the Road to the House of Lords*

**Peter MacDonald-Eggers**  
(Barrister, 7 King's Bench Walk)  
- *Reforming Insurance Law*

**Professor Lynn Mainwaring**  
- *Law and Economics*

**Professor Erik Rosaeg**  
(Scandinavian Institute of Maritime Law, University of Oslo)  
- *The Athens Convention- from idea to...*

**David Thomas**  
(Master Mariner, Consultant, Marine Surveyor)  
- *The Collision Regulations*



# Liability Regimes in Contemporary Maritime Law was published in July 2007 by Informa

This book, edited by Professor D Rhidian Thomas, is a product of the International Colloquium on Maritime Legal Liabilities organised by the Institute in September 2006. It addresses topical and significant issues relating to liabilities as they manifest themselves in various sectors of maritime law.

The book is an anthology of speakers' papers, finalised in the months following the colloquium, together with relevant source materials set out in the Appendices. The Foreword of the book was written by the Admiralty Judge, Mr Justice David Steel who commented:

*"As both the Admiralty Judge in Charge of the Commercial Court, I am better placed than most to recognise the enormous contribution to international commercial law derived from our leading universities. The Institute of International Shipping and Trade Law at Swansea, under its director, D. Rhidian Thomas, has shot to the forefront of this academic contribution, made all the more worthwhile by the care taken to absorb and incorporate ideas from practitioners and a wide range of shipping and commercial interests.*

*The present volume represents the work product of the second international colloquium organised by the Institute. The first, which was devoted to marine insurance law, was a notable success. The content of this new volume reveals that the second was equally worthwhile. No doubt the third, on time charters, which will be imminent at the time of publication, will be equally valuable."*

The book, published by Informa, London, contains the following chapters:

## **Chapter 1 - Ship Source Pollution-Oil and Hazardous and Noxious Substances**

Mr Måns Jacobsson, Visiting Fellow of the Institute of International Shipping and Trade Law, Swansea University

## **Chapter 2 - Pollution from Ships: EU Directive on Criminal Sanctions for Ship-Source Pollution**

Mr Colin de la Rue, Ince & Co, London.

## **Chapter 3 - Marine Pollution Liabilities under US Law**

Professor Robert Force, Maritime Law Centre, Tulane University, USA

## **Chapter 4 - Liabilities of Ports in respect of Marine Pollution and related matters.**

Professor P K Mukherjee, World Maritime University, Malmö, Sweden

## **Chapter 5 - Liabilities of Salvors**

Professor Stephen Girvin, Birmingham University and Mr Toby Stephens, Holman Fenwick & Willan, London.

## **Chapter 6 - The Liability of Salvors for Pollution**

Mr Archie Bishop, International Salvage Union.

## **Chapter 7 - The Liabilities of Classification Societies-More Ackward than it looks?**

Professor Andrew Tettenborn, University of Exeter

## **Chapter 8 - Classification Society Liability in the United States**

Professor Martin Davies, Maritime Law Centre, Tulane University, USA

## **Chapter 9 - The ISM and ISPS Codes: Influence on the Evolution of Liabilities**

Mr Simon Kverndal QC, Quadrant Chambers, London

## **Chapter 10 - The ISM and ISPS Codes: A Critical Analysis of Content, Philosophy and Legal Implications**

Dr Phil Anderson, ConsultISM Ltd, London.

## **Chapter 11 - Boundaries of Athens Convention: What you see is not always what you get.**

Dr Barış Soyer, Institute of International Shipping and Trade Law, Swansea University

## **Chapter 12 - Passenger Liabilities and Insurance: Terrorism and War Risks**

Professor Erik Røsæg, Scandinavian Institute of Maritime Law, University of Oslo, Norway

## **Chapter 13 - Damages for Wrongful Arrest of Ships in the English Admiralty Jurisdiction**

Professor Rhidian Thomas, Director of the Institute of International Shipping and Trade Law, Swansea University

## **Chapter 14 - Liability for Wrongful Arrest of Ships from a Civil Law Perspective**

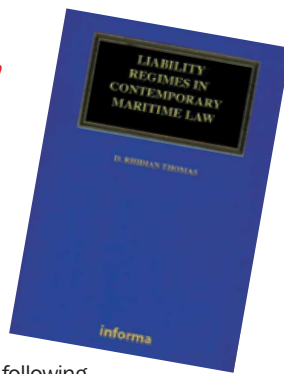
Professor Dr Frank Smeele, Erasmus University, The Netherlands

## **Chapter 15 - Problematical Areas in the Current Global Limitation Regime**

Professor Richard Williams, Institute of International Shipping and Trade Law, Swansea University

## **Chapter 16 - Jurisdictional Aspects of Limitation of Liability for Maritime Claims**

Mr Nigel Meeson QC, Quadrant Chambers, London



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

### **Professor Rhidian Thomas Director**

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

### **Professor Richard Williams**

Carriage of goods and maritime liabilities

### **Professor Iwan Davies**

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

### **Mr Richard Caddell**

Law of the sea, marine pollution, European 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

### **Jinlei Zhang**

Research Assistant

### *Visiting Fellows*

#### **Mr Peter Macdonald-Eggers**

Insurance and reinsurance law, commercial law

#### **Mr Måns Jacobsson**

Oil pollution, environmental law

### *Administration*

**Gaynor Paterson** Administrator

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## Personnel

The Institute is delighted to welcome **Mr Richard Caddell** who joined us from the University of Wales, Bangor. Richard specialises in the law of the sea, European maritime law and marine environmental law and has many publications to his name. He will be involved in teaching existing LLM courses and in developing new modules that reflect his specialist interests.

Also, **Peter MacDonald-Eggers** has joined the Institute as a Visiting Fellow. Peter is a barrister practicing at 7 King's Bench Walk. He specialises in all aspects of commercial law, with particular emphasis on insurance and reinsurance. He is co-author of *Good Faith and Insurance Contracts, 2nd edn*, (LLP, 2004) and is a Contributing Editor of *Chitty on Contracts*.

## Success for PhD Researchers

In the course of the year 2 postgraduate students supervised by the members of the Institute were awarded PhD degrees. Dr Hussam Kassem defended his PhD thesis, which analysed the seaworthiness obligation in contracts of carriage of goods by sea, in a viva examination held in March. Dr Kassem was jointly supervised by **Professor Richard Williams** and **Dr Barış Soyer**. Dr Obina Okere was also successful in defending his thesis analysing the liabilities of classification societies in June. Dr Okere studied under the supervision of **Professor Rhidian Thomas**.

## Strengthening links with other Academic institutions

The Institute takes pleasure in recording its growing academic links with the World Maritime University, Centre de Droit Maritime et Oceanique, Université de Nantes and Scandinavian Institute of Maritime Law, University of Oslo.