

# REPORT of ACTIVITIES 2011

The  
Institute of  
Shipping and  
Trade Law  
Swansea University  
Prifysgol Abertawe

## INSIDE

**BRIDGING ACADEMIA,  
PRACTICE, LAW AND  
POLICY - MISSION  
CRITICAL FOR THE  
IISTL**

Page 2

**PROFESSIONAL  
TRAINING**

Page 2

**RESEARCH  
PUBLICATIONS OF  
MEMBERS**

Page 3

**EXTRAMURAL  
ACTIVITIES**

Page 3

**VISITING LECTURES**

Page 3

**THE IISTL ONCE  
AGAIN ATTRACTS THE  
ATTENTION OF THE  
MARITIME WORLD TO  
SWANSEA**

Page 4

**PERSONNEL**

Page 4



Swansea University  
Prifysgol Abertawe

## Director's Report

**S**ince its foundation in 2000, the main objective of the Institute of International Shipping and Trade Law (IISTL) has been to contribute to research, knowledge exchange and policy development in the realms of international trade and shipping law. 2011 has proven to be yet another productive year in which the IISTL has excelled in all those areas.

The IISTL has continued to be the main driver of the Law School's research agenda throughout 2011.

Its 7th Annual Colloquium, devoted to legal issues relating to pollution at sea, brought together a distinguished team of experts from academia, industry and legal practice and provided a platform for its members to disseminate their research to the public. An advanced version of the papers presented at the event will be published in 2012 by Lloyd's List under the editorship of Professor Andrew Tettenborn and myself.

This event also had considerable sentimental undertones as it was dedicated to Professor D. Rhidian Thomas, the recently-retired Founding Director of the IISTL, in recognition of his contribution to the Institute and the wider School of Law at Swansea.

On a slightly different note, the IISTL was also involved in organising the IP Lecture delivered by Professor Ian Hargreaves, in cooperation with Capital Law, which marked the integration of IP Wales with the IISTL. Mr Andrew Beale OBE, director of IP Wales, has made an immense contribution to the development of IP awareness within Wales and is a well-known figure within the World Intellectual Property Organisation.

It is remarkable that despite the global economic downturn, there has been no decline in the demand for the popular professional training courses offered by the IISTL. This is tribute to the professionalism of the members of the IISTL involved in the delivery of these programmes. Most notably, however, the architect of our success in this venture is Professor Richard Williams, who is a well-known and respected figure both in legal practice and academia.

On individual level, the members of the IISTL remain at the top of their game. Research outputs of highest quality have been published, contributing to the ongoing development of the law. It is now a common

occurrence to see court decisions citing the work of Institute members with approval. Several colleagues have made significant contributions to the work of national and international bodies and agencies, as well as the policies of non-governmental organisations. Moreover, on an academic level, it is a great honour for the IISTL that one of its members, Professor Dennis Patterson, has been appointed to the Law Research Excellence Framework (REF) Panel, which will be shortly entrusted with the task of assessing legal research across the various UK Law Schools.



*From left to right: Mr Charles Anderson (Skuld North America), Mr Patrick Griggs (Past President of the CMI and Consultant to Ince & Co) and Professor Barış Soyer (Director of the IISTL) answering questions from the audience following the delivery of their papers at the IISTL's 7th Annual Colloquium*

**2011 HAS  
PROVEN TO BE  
YET ANOTHER  
PRODUCTIVE  
YEAR IN WHICH  
THE IISTL HAS  
EXCELLED**

It is also reassuring and encouraging to see that the wider university has recognised the key role that the IISTL plays in promoting the Law School, by

facilitating further investment in its personnel through the appointment of two new lecturers. We are confident that these new appointments will have an immense contribution to make to the work of the IISTL for many years to come. With 11 full-time and 3 associated members, the IISTL is one of the largest research centres in Europe working in the field. It is a

privilege for me to lead such an impressive team of experts. I am grateful to each of them for their contribution to the work of the IISTL and I am looking forward to working with them on new projects in 2012.

**Professor B. Soyer**  
Director, IISTL

# Bridging Academia, Practice, Law and Policy - Mission Critical for the IISTL

**A**s one of its core missions, the IISTL has traditionally strived to contribute to the ongoing development of the law, practice and policy of marine affairs. In recent months, the IISTL has exercised a clear impact in these areas, informing deliberations at a variety of policy tiers.

Professor Andrew Tettenborn's *Law of Restitution in England and Ireland* was endorsed by the Court of Appeal in *Sinclair v. Versailles* [2011] EWCA Civ 347, overturning a previously unsatisfactory precedent concerning secret profits made by agents. Likewise, his views were also highly influential in *The Mercini Lady* [2010] EWCA 1145, concerning on the weight accorded to a particular exemption clause by the parties. Meanwhile, Professor D. R. Thomas' work on arbitration awards was endorsed by Hammerschlag, J. (New South Wales Supreme Court) in *Barry Smith Grains Pty Limited (in liquidation) v. Riordan Group Pty Limited* [2010] NSWSC 1291, a key case in Australia. Earlier, Thomas' views were also helpful in determining the effects of withdrawal of fraudulent claims in *Direct Line v. Fox* [2009] EWHC 386.

On the policy front, Professor Barış Soyer's work has significantly informed the ongoing reform of insurance law in England and Wales. Professor Soyer's leading treatise, *Warranties in Marine Insurance*, has had a strong impact on the trajectory of insurance law reform since 2006. The second edition was cited in The Law Commission Consultative Paper No 182, with Soyer's suggestions for statutory reform proving very influential in the final proposals of this body. Further work in the field of the duty of utmost good faith by Professor Soyer has also permeated the thinking of the Law Commission in its deliberations. Professor Richard Williams has participated heavily in a Working Group established by the UK government to deliberate accession to the Rotterdam Rules.

On a more ecological note, Dr Richard Caddell's work has had particular influence on marine conservation. Dr Caddell co-authored a report that informed the reform process of the Convention on Migratory Species at its recent Conference of the Parties in November 2011.



*Dr Caddell at the Senedd of the Welsh Government*

In March 2011, Dr Caddell was invited to present a briefing at the Senedd of the Welsh Government, ascertaining the precise powers transferred to Cardiff under the devolution settlement and the Marine and Coastal Access Act 2009 concerning the conservation of the marine environment in the Welsh territorial sea. He is currently working with the Whale and Dolphin Conservation Society, where a major report on the current state of protection for whales, dolphins and porpoises in UK waters is due for publication in January 2012. Beyond these legislative and judicial considerations, the IISTL continues to play a prominent role in advancing the academic study of a broad range of themes in shipping and trade law. In 2011, Professor Dennis Patterson was appointed to the Law Research Excellence Framework Panel and will play a prominent role in assessing the research work of

academics across the UK in 2014. In September 2011, Dr Caddell was appointed Convener of the Maritime Law Section of the Society of Legal Scholars, a leading society for academic lawyers, while Dr Theodora Nikaki will continue as Deputy Convener. Together they will be responsible for representing maritime interests within the Society and for convening the maritime section of the Society's vibrant Annual Conference. Meanwhile, in conjunction with the IP Wales project formally joining the IISTL, Mr Andrew Beale OBE convened the inaugural IP Wales/Capital Law lecture in October 2011. The lecture series, held in conjunction with leading firm Capital Law, was launched with Professor Ian Hargreaves delivering the maiden address. As well as organising individual events, alongside the long-standing Annual Colloquia, IISTL members are regularly invited to speak at highly prestigious fora. In March 2011, Dr Caddell gave a lecture at the invitation of Gregory Jones, QC examining the maritime application of the EU Habitats Directive at an event to mark the life and achievements of Lord Kingsland, QC. In October 2011 Professor Tettenborn was invited to address the Professional Negligence Bar Association in Gray's Inn, examining the liability of legal practitioners.



## PROFESSIONAL TRAINING

The members of the Institute continue to serve the training needs of international shipping organisations and companies, and City international law firms in various ways. Members of the Institute participated in the following professional training courses in 2011:



### BIMCO Courses

Professors Barış Soyer, Rhidian Thomas and Richard Williams provided specialist masterclasses for BIMCO (the world's largest shipowners' organisation) in Rotterdam, St Petersburg and Geneva on charter party issues, marine cargo claims and the international sale and carriage of goods and Professor Williams also conducted a specialist course on charter parties for BIMCO in Cairo.

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

Members of the Institute provided Foundation Courses on marine insurance, bills of lading, charter parties 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 Barış Soyer, Andrew Tettenborn, Rhidian Thomas, Richard Williams and by Dr Theodora Nikaki.



*Professor Richard Williams speaking at one of the training events*

### 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 charter parties and conducted a specialist course on charter parties for Informa in Qatar.

### IBC (Asia)

Professor Richard Williams conducted courses on charter party issues, bills of lading and laytime and demurrage for IBC (Asia) on a number of occasions in Hong Kong and Singapore.



# RESEARCH PUBLICATIONS OF MEMBERS

**Dr Richard Caddell** contributed 'Caught in the Net: Driftnet Fishing and European Court of Justice' 23 *Journal of Environmental Law* 301 - 314 and has a number of papers currently in press, including the forthcoming collection of papers from the Institute's Sixth Annual Colloquium.

**Dr Theodora Nikaki** published an article entitled 'Himalaya Clauses and the Rotterdam Rules' (2011) *Journal of International Maritime Law* 20 - 40. She is currently working on an article on carriage of goods by sea and 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 Informa.

**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, 2011). 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 completing his book on *Marine Insurance Fraud*.

**Professor Andrew Tettenborn** has helped to bring out the tenth edition of *Fleming's Law of Torts* and, with Professors Andrews, Clarke and Virgo, produced the major new practitioners' book *Contractual Duties: Performance, Breach, Termination and Remedies*. The book is published by Sweet & Maxwell and is due to be released in January 2012.



**Professor Rhidian Thomas** contributed an article titled 'Perils of the Seas as an Insured Maritime Peril', in *Free on Board: Liber Amicorum* Marc A. Huybrechts, (Intersentia, 2011) pp 571 - 600; and authored the Shipping Law section of *The All England Law Reports, Annual Review 2011*.

**Dr Shuangge Wen** published research in 2011, which has centred on the involvement of corporate objective in the UK, including journal articles 'The Magnitude of Shareholder Value as the Overriding Objective in the UK - The Post-Crisis Perspective' 26(7) *Journal of International Banking Law and Regulation* 325 - 338; 'Exploring the Rationale of Enlightened Shareholder Value (ESV) in the Realm of UK Company Law - The Path Dependence Perspective', vol (XIV) *International Trade and Business Law Review* 153 - 173 (with J Zhao). Her immediate research activity involves an exploration of the changing perspectives of shareholder empowerment in the wake of the crisis.

## Visiting Lectures

Following its well established tradition of visiting lectures, in 2011, the Institute has invited the following distinguished Guest Speakers to deliver lectures to its members, PhD students and LLM students studying commercial, trade and maritime law modules:

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

**Mr Måns Jacobsson** (former Director of the International Oil Pollution Compensation Funds and Visiting Fellow IISTL) - *Making International Conventions*

**Mr John Minton** (Consultant Petroleum Chemist and Marine Surveyor, Minton, Treharne & Davies Ltd) - *Scientific Investigation of Marine Claims*

**Mr Richard Neylon** (Partner, Holman Fenwick Willan LLP) - *Piracy in Somalia - How to Resolve the Hijacking of A Ship: A Maritime Lawyer's Perspective*

**Mr Nick Platt** (Vice President and Special Adviser of the Gard P & I Club (UK) Ltd) - *Work and Practice of P & I Clubs*

**Mr Hugh Shaw** (The Secretary of State's Representative for Maritime Salvage and Intervention (SOSREP)) - *Dealing with Maritime Emergencies in UK Waters: The Role of the UK Secretary of State's Representative (SOSREP)*



## Extramural Activities

**Dr Richard Caddell** presented a briefing paper to the Welsh Assembly, concerning the emergence of devolved powers over the marine environment in Wales. He was also invited by Gregory Jones QC to contribute a paper on the Maritime Application of the Habitats Directive at a conference at King's College London in honour of the late Lord Kingsland QC, and presented a paper on the reform of the Convention on Migratory Species at the University of Granada, Spain.

**Dr George Leloudas** delivered guest lectures on aviation insurance law and international air law for the International Air Transport Association (IATA) in London, Singapore and Tel Aviv.

**Dr Theodora Nikaki** was awarded a Visiting Fellowship at the Institute of Advanced Legal Studies (IALS) of the University of London by the Institute's Research Committee during the 2011 - 2012 academic year. IALS has over the years welcomed large numbers of established scholars, mostly from overseas, to work in its well stocked library. The Fellowships is intended to create close working relationships with scholars from other institutions, from overseas

or in the United Kingdom, who are undertaking work within fields covered by or adjacent to its own research programmes, and who would like to base themselves for a period at the Institute. Dr Nikaki's research at the IALS will further assist in the research and writing of her book on multimodal transport.

**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** has delivered courses in comparative private law in the University of Cambridge summer programme. In addition he is part of a committee composed of senior law professors and judges set up to draft a Restatement of the English law of unjust enrichment.

**Professor Rhidian Thomas** was appointed to the National Franqui Chair of Law at Leuven University, Belgium, for the academic year 2010 - 2011. In September he presented a paper titled 'Multimodalism and Through Transport -

Language, Concepts and Categories' at the OST Seminar held at Tulane University. He also delivered lectures on marine and P & I insurance at the Universities of Lund and Erasmus; and contributed to distance learning programmes on marine pollution and marine reinsurance offered by Informa. He continues to be Editor-in-Chief of the *Journal of International Maritime Law* and contributes editorials, case analyses and book reviews.

**Dr Shuangge Wen** was invited to deliver guest lectures on issues of company law and corporate governance at the University of Salford.

**Professor Richard Williams** delivered a paper on the Rotterdam Rules at a seminar organised by the London Shipping Law Centre in March 2011 for its members in London. The event was held at Thomas Miller & Co and was chaired by Anthony Diamond QC. Professor Williams currently acts 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.



# The IISTL Once Again Attracts the Attention of the Maritime World to Swansea

The IISTL's seventh annual international Colloquium on 13-14 September 2011 focused on issues relating to pollution at sea addressing a range of topics, including the regulation of hazardous and noxious substances; liability for ships' bunkers, offshore installations and crafts; the development of EU law on pollution claims; environmental salvage; P&I cover for pollution; criminalization of seafarers; the regulatory impact of port state control; and the legal liability of a number of unexplored potential defendants. The event brought together a team of experts drawn from legal practice, industry and academia and provided a platform for vigorous and informed debate on significant ongoing and emerging aspects of the subject.

In addition to three IISTL members (Professors Barış Soyer, Andrew Tettenborn and Richard Williams), the following distinguished guests presented papers at the event:

- Mr Charles Anderson** (Skuld North America Inc., USA)
- Mr Simon Baughen** (Bristol University, UK)
- Mr Archie Bishop** (Holman, Fenwick and Willan and the International Salvage Union, UK)
- Mr Colin de la Rue** (Ince & Co, UK)
- Mr Luc Grellet** (Reed Smith, Paris, France)
- Mr Patrick Griggs** (Ince & Co, Former President of the CMI, UK)
- Professor Marc Huybrechts** (University of Leuven, Belgium)
- Mr Måns Jacobsson** (Former Director of the IOPC Funds, Sweden)
- Dr Oya Özçayir** (Director, Law of the Sea Consultants, Turkey)
- Mr Simon Rainey, QC** (Quadrant Chambers, UK)
- Mr Luke Readman** (Thomas Miller P & I Club, UK)
- Dr Henrik Ringbom** (European Maritime Safety Agency, Portugal)

Commenting on the Colloquium, Professor Barış Soyer, Director of the IISTL, said "it is very pleasing to see that our annual colloquia have become firmly established as a key fixture in the international maritime law calendar, attracting not only academic lawyers but also leading legal practitioners and industry experts. One of the primary objectives of the IISTL is to bridge the gap between academia and practice and this event goes a long way in achieving that goal. I would like to take this opportunity to thank all the speakers, delegates and particularly the members of the IISTL for their support in making this another highly successful event."

This year, the Colloquium dinner was held at the Swansea Maritime Museum, presenting a great opportunity for the delegates to enjoy the picturesque view of Swansea marina and its coastline, as well as the unique collection held at the Museum. The event was kindly sponsored by the Informa Publishing. A book comprising an advanced version of the papers presented at the event will also be published by Informa in the spring of 2012 with the title 'Pollution at Sea: Law and Liability.'



*Professor Andrew Tettenborn presenting his paper at the Colloquium*

## PERSONNEL

The membership of the IISTL has increased significantly in the course of 2011. In January, Professor Dennis Patterson joined the IISTL. Professor Patterson has an impeccable academic reputation and will assist the IISTL in expanding its remit towards the public law dimensions of international trade. At the same time, Mr Andrew Beale OBE, a leading IP Lawyer, also joined the IISTL.

In October, two early career scholars, Dr George Leloudas and Dr Shuangge Wen, also joined the ranks of the IISTL. Dr Leloudas holds a PhD degree from Cambridge University and has also worked in legal practice for several years. He is the author of a monograph published by Informa Publishing, *Risk and Liability in Air Law*, and is an expert in air law and multimodal transport. Dr Wen is an expert in company law and conflict of laws and holds a PhD degree from Manchester University. Prior to joining the IISTL, she was a lecturer at the University of Liverpool and is the author of a growing list of articles.

Last but not least, we all welcome Ms April Adanah who returns as the IISTL administrator after a period of secondment within the University. April takes over from Ms Michelle Meacham, who has done a sterling job in the course of the past year. We would also like to thank Ms Helen Sumner, Marketing Officer of the Law School, for her assistance in the preparation of our promotional materials and the IISTL's Annual Colloquium.

## 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

### **Mr Andrew Beale**

IP, asset management and trade

### **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 George Leloudas**

Multimodal transport and air law

### **Dr Theodora Nikaki**

Carriage of goods by sea, multimodal transport, international trade law and conflict of laws

### **Professor Dennis Patterson**

International trade and world trade law

### **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

### **Dr Shuangge Wen**

Corporate law and conflict of laws

### **Professor Richard Williams**

Carriage of goods and maritime liabilities

### **Mr Rui Zheng**

Research Assistant

### **Visiting Fellows**

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

Insurance and reinsurance law, commercial law

#### **Mr Måns Jacobsson**

Oil pollution, environmental law

#### **Mr Simon Rainey QC**

Admiralty law, maritime law, arbitration

### **Administration**

**Ms April Adanah** - Administrator

## Contact Details

### **Professor Barış Soyer**, Director

Institute of International Shipping and Trade Law  
Swansea University  
School of Law  
Singleton Park  
Swansea University  
SA2 8PP

Tel: + (44) (0) 1792 295831

Fax: + (44) (0) 1792 295855

e-mail: [B.Soyer@swansea.ac.uk](mailto:B.Soyer@swansea.ac.uk)

[istl@swansea.ac.uk](mailto:istl@swansea.ac.uk)

[www.swansea.ac.uk/law/istl](http://www.swansea.ac.uk/law/istl)

The IISTL is a Research Centre within the College of Business, Economics and Law, Swansea University.

