

# CLASS DIARY OF THE 9<sup>TH</sup> IFLOS SUMMER ACADEMY

*Uses and Protection of the Sea – Legal, Economic and Natural Science Perspectives*

26 JULY – 21 AUGUST



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It's that time of the year again, fellows! The 9<sup>th</sup> IFLOS Summer Academy at the seat of the International Tribunal for the Law of the Sea counted 40 participants from a total of 29 countries. Lawyers, scientists and experts from all around the world gathered in beautiful Hamburg to discuss common interests within Law of the Sea and Maritime Law domain.

Through heavy rain and uncommon heat, we have filled these four weeks with as much learning and leisure time as possible. The overall feeling is that we excelled in accomplishing both, let us share with you some of the highlights through this diary. Enjoy!

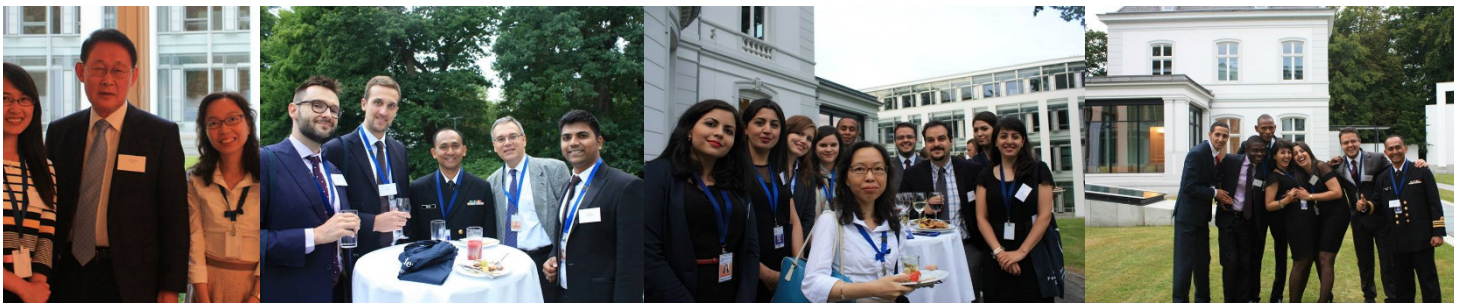


Chances are that if you are reading this, you have either attended or will be attending the IFLOS Summer Academy. Lucky you - congratulations! If you wish to know more about the Academy and what we have been up to in the past month, feel free to read along.

### We are (jet lagged but) here!

The first evening is a big blur to pretty much everyone in this year's class; between delayed flights, wrong buses, detours and power naps, how most of us managed to find our way to the Villa Schröder at ITLOS for the Welcoming Reception is still a mystery. But we did!

Jo König was the first to address the very excited Class of 2015. After providing some background on the Foundation, he kindly introduced us to the Ice Breaker Game which seriously questioned our geographic and cultural knowledge regarding each other's countries. Following the (quite in) formal introductions, we headed to the Villa where ITLOS President Vladimir Golitsyn and IFLOS Chairperson Doris König gave their welcoming speeches and officially kick-started the 9<sup>th</sup> IFLOS Summer Academy.



### Haus Rissen

For most of us, Haus Rissen was our home away from home. Even though we did not spend much time there, our days always started bright and early with breakfast "at home" (who can forget Pat relating to Dr Cleopatra Doumbia-Henry's statement of "Pasta, pasta, pasta everyday"? ) and often ended in the common room before everyone passed out of exhaustion. Dinner time was always an adventure; we got to know a plethora of dining places all over Hamburg and certainly experienced a lot of different cuisines.





One of the first evening events took place at Haus Rissen: the typical barbecue. The sun was still shining and although we were outnumbered by wasps, there was plenty of food and drinks for everyone!



### Hamburg Port Authority

The Hamburg harbour, or should we say, Germany's 'Gateway to the World' is located on the river Elbe and we have to admit that it is quite impressive! We had the pleasure of being taken on a boat tour by the Port Authority and witness the magnitude of their facilities. With the largest German harbour and second busiest in Europe for containerships, Hamburg and its Hafen City (Containers' District) keeps expanding and making their residents proud.



### Exploring Hamburg

You will want to move to Hamburg, take our word for it. The city goes from countryside quietness to being amazingly vibrant in a short bus ride. The Blankenese beach is really close to Haus Rissen and crowded with the most beautiful villages and sights. On the other hand, Schanze is the trendy district, there you'll find the hippest cafés and bares where you can definitely have a lot of fun. Certainly, you cannot miss out on trying their delicatessen (the famous *currywurst* will haunt you in every restaurant and pretzels will be served in every reception).





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## Lectures

## Law of the Sea 101

Our first week focused upon the origins of the 1982 UNCLOS regime and the establishment of maritime zones governing all aspects of a State's legal rights and duties to the oceans and the role ITLOS has played on the world's stage. Many of these lectures have been generously provided by active members of the Tribunal, such as President Golitsyn, Judges Attard & Wolfrum and Deputy Registrar Kim. Notwithstanding their time restraints as a result of the extensive workload to address the urgent request of provisional measures for the *MV Enrica Lexie* case; which was greatly appreciated by all the IFLOS candidates. Particularly engaging was Judge Attard's lecture, laced with evocative anecdotes from his wealth of experience on law of the sea.

As part of the study of the UNCLOS regime we were given an appreciation of the two conflicting principles of *mare liberum* and *mare clausum* which still influence the struggle between freedom of navigation and coastal states rights. It has also been fascinating to understand how resources present in maritime zones affect the desire of states to control and regulate these zones. In this respect, learning about hydrocarbon and mineral resource exploration and exploitation from industry experts was particularly valuable to find out what all the fuss is about!

Following the offshore resource lectures Dr. Norman Martinez from the International Maritime Law Institute (IMLI), provided a memorable overview of how states, under the UNCLOS regime, are permitted to conduct themselves inside the maritime zones of other coastal states and on the high seas with respect to marine scientific research.

One of the highlights of the first week was the delimitation workshop. Robin Cleverly, of Marbdy Consulting Limited and John Brown from the United Kingdom Hydrographic Office challenged the class to apply our theoretical understandings of: baselines, maritime zones and international boundaries onto nautical charts.

As ominous as this sounds do not fret! We were generously guided through the nuances of navigational charts during a workshop held on Wednesday evening, in which no one begrudged a late dinner! (A small tip, do **not** refer to nautical charts as maps!).

The next day the class was then divided into four smaller groups, supplied with all the essential cartographic tools, which before the previous evening were alien to most of us, and set about



constructing the baselines and 12NM territorial sea limits in charts. We then progressed to median lines by imitating the judgement from the ITLOS Romania/Ukraine delimitation case.

To wrap up our newly learnt delimitation skills, we were assigned the task of representing two fictitious nations and to compile proposals for the delimitation of their shared and conflicting maritime space. Furthermore we were also made aware of confidential political, social and historical issues from each State which illustrated the requirement of a dextrous understanding of the 1982 convention to satisfy your States goals.

By the end of this session, and with less than 24 hours of cartographic experience under our belts, each group had animatedly and competently proposed and defended what we all deemed to be more than generous settlements!

Being able to follow the entire process, from the genesis and amendments of UNCLOS right through to the practical applications of delineating & delimitating on charts really provided a comprehensive appreciation of how complex a simple line on a chart really is!



## Fisheries, Marine Environment and Ocean Governance

In our second week we were introduced to Rights and Duties of Flag States and Piracy by Andrew Mordoch, who shares his experience while serving in the Royal Navy as a Naval legal adviser in cases relating to piracy. We quickly established that the most important aspect of counter-piracy is: “Do not start an action if you are not completely sure of the outcome”.

During this week another subject was introduced to most lawyers and legal advisers for the first time, Fisheries. In this occasion Dr. Ralf Döring gave a comprehensive explanation on the principles of Maximum Sustainable Yield (MSY) and German fisheries. To complete the marine environment Dr. Erik Franckx provided an overview of the history of fisheries. We gained an insight into the historic exclusive fishing zones, multilateral agreements relating to fisheries and the principal problem of the industry, which is the Illegal, Unreported and Unregulated (IUU) fishing.

Ocean Governance was next on the schedule, presented by Dr. Carolina Romero Lares, who visited us from the Maritime World University (WMU) and is also an IFLOS alumna. Dr. Romero explained and presented the different multilateral, regional and bilateral agreements relating to ocean governance. During a workshop we were able to discuss and defend positions on which regime is more adequate for ocean governance, whether regional or multilateral.

In a continuous effort to educate the delegates with legal backgrounds on the environment-related issues, Dr. Bimal Patel and Dr. Peter Ehlers presented Marine Environment Protection and Marine Environmental Law Making, respectively. We learnt that oil pollution accounts for only about 1% of the ocean global contamination, with most pollution actually originating from inland anthropogenic activities.

Another favourite was “New Uses for the Oceans” by Dr. Alexander Proelss, who taught us about offshore wind energy parks, sustainable development and conservation of the marine genetic resources located beyond areas of national jurisdiction, marine geoengineering (some crazy scientific stuff), exploration and exploitation of gas hydrates. The underlining theme throughout was the future potential of genetic resources of the hydrothermal vents in contemporary biotechnology. Once again it was very clear why countries fight so strongly to control as much marine space as possible.



## Maritime Law

Week three we were introduced to shipping and maritime law, we were familiarised with the different types of vessels and cargo, also the complexities involving shipping management, carriers and ownership. Professors John Hare and Fillipo Lorenzo had the difficult task of transmitting the peculiarities of maritime law. It was very hard for everybody to try and change the chip in our heads, during two previous weeks heavy emphasis was placed upon the precept of “good faith” regarding the law of the sea, whereas in maritime law there is no such thing! Now we can be very sure that everybody will be reading the minuscule letters on contracts, orders or bill of lading, and to quote our dear Professor Fillipo Lorenzo, we must remember, “We lawyers don’t do front, we do back!”.

The fourth and last week of the Academy was just as intensively productive, busy and fun as the ones before, maybe even more. Not only did we have the Moot Court coming but also because along with our last lectures on Maritime Law, there were also awesome events planned outside the Tribunal. We started the week hearing about ship building and vessel financing, this time from the perspective of classification societies represented by Gesa Heinacher-Lindemann and Sigrid Wettwer from DNV GL.

We concluded our lectures at ITLOS with a flourish, Madame Cleopatra Doumbia-Henry, also known as “the mother of the Maritime Labour Convention of 2006” and current President of the Maritime World University (WMU), generously imparted her unparalleled knowledge on the International Labour Organization (ILO) and its Marine Labour Convention. We were exposed to the difficulties and lack of basic human rights many seafarers have to face in order to obtain a place in a ship, we recognized the efforts governments are undertaking in order to provide decent work conditions to all seafarers, we are now also mindful that because of the nature of the shipping industry these seafarers need special protection.



### Visit to Blohm & Voss Shipyard

On that note, we were able to go behind the scenes of the shipping industry and get a closer look on how ships are built, converted and repaired at Blohm & Voss since 1877. From merchant vessels to yachts, going through some of the technicalities, it was a fun afternoon where we felt like (almost) true engineers.



### Leonhardt & Blumberg Shipowners

Following the theme, we were delighted to spend the rest of the evening with Chairman Frank Leonhardt who warmly invited us for dinner at his company's headquarters overlooking the river (and the ships!) and shared with us his vast experience in the industry. Amazing food and engaging conversation made up the recipe for a great night at Leonhardt & Blumberg Shipowners which has been in the business for more than 110 years!

### Max Planck Institute

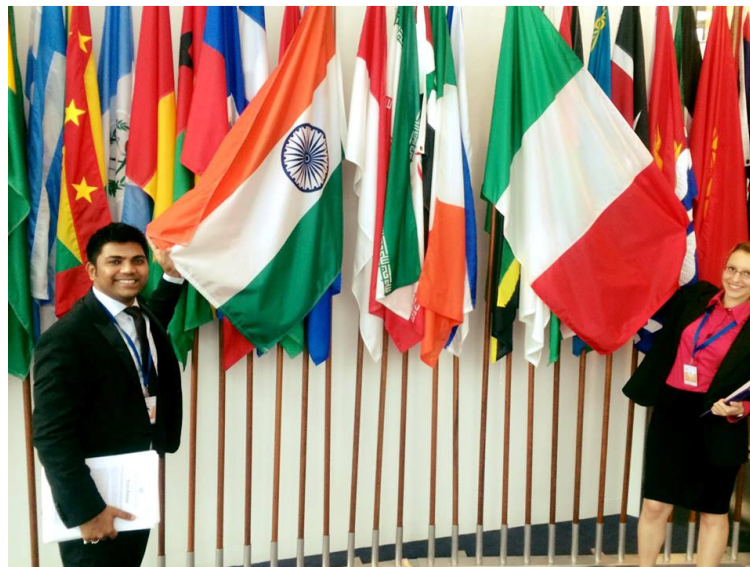
Our last lecture was given by Prof Dr Jürgen Basedow during our visit to the Max Planck Institute for Comparative and International Private Law located in Hamburg. In line with the previous lectures, we heard about limitation of shipowners' liability with a particular focus on its pros and cons followed by a tour of their impressive library, causing many Phd students to drool with envy!

## Special Events

### Case No.24 The “Enrica Lexie” Incident (Italy vs. India), Provisional Measures

For the second time in history of IFLOS, the summer academy coincided with an ITLOS public hearing. The Italian Republic submitted a request to the Tribunal for the prescription of provisional measures under article 290, paragraph 5, of the United Nations Convention on the Law of the Sea (UNCLOS) in a dispute with the Republic of India over an incident involving “MV Enrica Lexie”.

On the morning of 10 August 2015 we had the opportunity of attending the hearing at the main courtroom of ITLOS, which was presided over by President Golitsyn. We were fortunate to hear first round of oral argument lead by Italian Agent H.E. Mr. Francesco Azzarello. Unfortunately we could not stay for the duration of the hearing for respect of our lecturers who were already scheduled and flying from far away shores to share their vast knowledge with us.



### Moot Court

The culmination of the four weeks is the moot court. The moot court is our chance to put (almost) everything we learnt into practice. This year's case included issues such as maritime boundary delimitation, impact of climate change on the status of islands, marine scientific research contracts between states and coastal state rights over their EEZs. These issues are all poignant and contemporary in today's maritime climate therefore it has been a fruitful exercise to be able to argue our positions concerning them from a legal stand point. A

fundamental part of the moot court is learning from experienced litigators in the group who know how to plead their way from what seems a hopeless case into a positive outcome. This year we were fortunate enough to witness world renowned barristers and professors carry out exceptionally eloquent and cunning pleadings before our eyes and those of the 21 ITLOS Judges in the MV Erika Lexi case. Which inspired us all to emulate as best we could!

**2015 Moot Court Winners!**







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## Extra-Curricular Activities

## The Baltic Experience: Lübeck and Timmendorfer Strand



The medieval city of Lübeck was the first stop of our so called 'Baltic Experience'. The weather was schizophrenic as always but that did not stop our bus! The *Holstentor* (in the picture) is the most famous landmark, along with cute windows, doors and backyards that can be discovered all over town. Needless to say that after the guided tour everyone just ran to find Lübeck's famous marzipan (we super recommend it!).

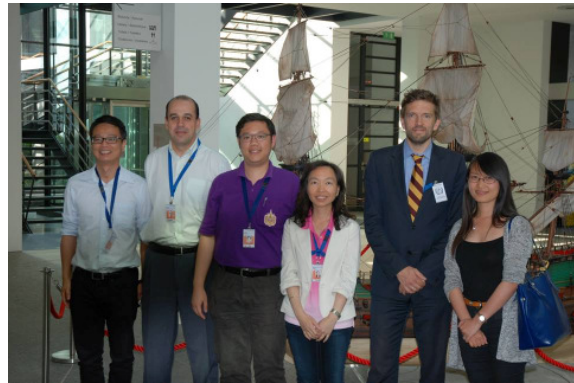


Next stop: Timmendorfer Strand! Yup, we reeeeeeally managed to go to the beach and some courageous colleagues even went for a swim. Crazy people, these lawyers! Most of us sat in the sand enjoying some 'cloud bathing', others played beach soccer, and the models of our group went for a photo session as seen below.



### INCE & Co. International Law Firm

Following Dr Volker Lücke's lecture on the details of ships' arrest, INCE & Co. hosted a get together at the Haifischbar, an old sailors' pub by the river known for its yummy fish sandwiches. It turned out to be a very entertaining and relaxed Thursday evening.



### Trip to Berlin

The German capital would play host to our last weekend of the Academy, Berlin was calling and everyone was ecstatic! We had barely stepped out of the train in Berlin Hauptbahnhof when we were pushed into a bus tour. We would not dare to say that we were all over Berlin, but the area covered just during the morning was pretty impressive, especially given the chaos and acceleration of a city emanates with such eminence. With a warning about pickpockets, our tour guide finally let us out of the bus in order to see the Berlin Wall and the East Side Gallery.



Those coming to the Academy and will eventually go to Berlin, be aware of your wallet and please do not engage in street games of luck or whatever they are. You will most likely lose your money or get it stolen in the process. Ask Pat. Also, mind your step. Ask Jo. ☺

Moving on, after a quick lunch break, we resumed our tour by visiting the Memorial to the Murdered Jews of Europe, the Brandenburg Gate and other important landmarks on our way to the German Bundestag.

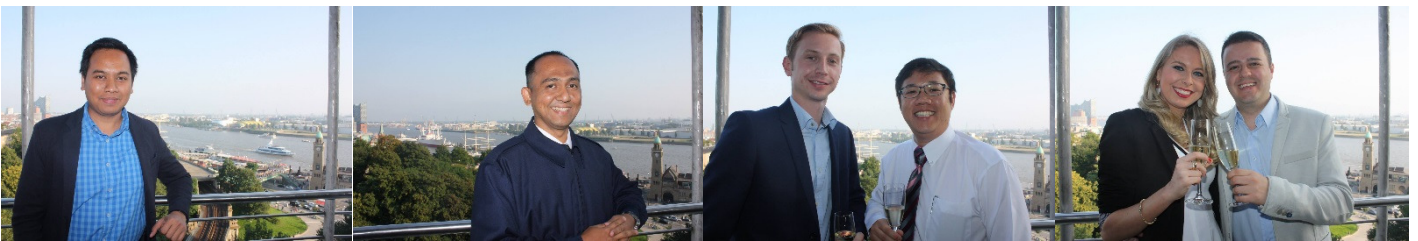




A few of us stayed overnight and were extremely happy to enjoy Berlin by night. They serve amazing cocktails in Alexanderplatz by the way, just saying.

### Farewell Party

Our farewell party was host at the Hafen Hamburg Hotel, where we could enjoy the great vistas of Hamburg and its night-lights. Our dear Christine McPichel (IFLOS Alumna and current intern) delighted us with a Celtic musical, it was a great way to end four weeks of class! After the farewell party, some of us went to see Hamburg nightlife rounded off with a memorable karaoke club.





## Senate Reception

We graduated, yey!

Our Certificates ceremony was held at Hamburg Rathaus or City Hall, and it was host by none other than Ms. Katharina Fegebank, Second Mayor of the Free and Hanseatic City of Hamburg. This impressive venue's architecture and ample refreshments, along with the company of dignified guests and faculty members made this event very special to all of us. We would like to thank IFLOS treasurer Mr. Thilo Scholl who arranged with the Rathaus management a visit to Simon Bolivar's Bust.



We wish all future IFLOS alumni a great stay in Hamburg and hope that you enjoy the Academy as much as we did. For our dear colleagues from the 9<sup>th</sup> IFLOS Summer Academy: it was awesome to spend this last month with you! We'll meet again in Thailand, right? ☺

Thank you!