

CIL

CENTRE FOR INTERNATIONAL LAW
National University of Singapore

INTERNATIONAL CONFERENCE

High Seas Governance: Gaps and Challenges

24 to 25 April 2017, Singapore

Held in conjunction with:



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INTERNATIONAL CONFERENCE High Seas Governance: Gaps and Challenges Singapore

DATE

24 to 25 April 2017

CONFERENCE VENUE

Orchard Parade Hotel
1 Tanglin Road, S247905
(Level 2, Antica I)

WHO SHOULD ATTEND

Representatives from universities, think tanks, research institutions, international organisations and governments.

BACKGROUND The 1982 United Nations Convention on the Law of the Sea (UNCLOS) is one of the most significant accomplishments of the international community in the 20th century. UNCLOS establishes a comprehensive set of principles and rules that are intended to regulate all uses of the sea and the exploration and exploitation of its resources in all areas of ocean space. UNCLOS is often referred to as “a constitution for the oceans” and has been almost universally accepted. As indicated in its preamble, UNCLOS is based on the fundamental idea that the problems of the oceans are closely interrelated and must be addressed as a whole. In most respects, UNCLOS has met the test of time and is as relevant today as it was when it entered into force in 1994.



Source: d'Amico ship High Endeavour on Singapore Straits

However in the 35 years since its adoption, the significant advances in science and technology, and intensification of human activities in the oceans have raised issues and challenges that the international community was not aware of when UNCLOS was negotiated. The international community has begun to recognise gaps and loopholes in the legal regime established in UNCLOS, particularly the legal regime governing the high seas. The gaps and loopholes in this example are in part due to the fact that the principles and rules governing activities on the high seas in UNCLOS are essentially the same as those set out in the 1958 Convention on the High Seas.

Steps are being taken to address some of the gaps in the legal regime established in UNCLOS. In 2015, the United Nations General Assembly decided to develop an international legally binding instrument (ILBI) under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ). A Preparatory Committee has been established to make substantive recommendations on the elements of a draft text. These negotiations are commonly referred to as the BBNJ negotiations.



Source: Byford Dolphin oil exploration rig in dry dock at Invergordon (Scotland) on 2008 (Josef Pavlik)

OBJECTIVES In this conference we will explore some of the gaps in the governance of the high seas in UNCLOS. We will examine the relationship between UNCLOS and other existing international instruments and mechanisms that protect the sensitive marine environment, and also explore trends in environmental policy and governance. Some of the issues we address in this conference may also be discussed in the BBNJ negotiations. Chatham House Rule applies at the conference.

SPEAKERS

From NUS Centre for International Law

Lucy **REED**, Director

Robert **BECKMAN**, Head, Ocean Law and Policy Programme

J Ashley **ROACH**, Visiting Senior Principal Research Fellow

Youna **LYONS**, Senior Research Fellow

Anthony **WETHERALL**, Senior Research Fellow

From Distinguished Institutions

Eva Bettina **BOSCHEN**, PhD Associate, Netherlands Institute for the Law of the Sea, Utrecht University

Aldo **CHIRCOP**, Professor of Law, Canada Research Chair in Maritime Law & Policy, Schulich School of Law, Dalhousie University

Nick **GASKELL**, Professor of Maritime and Commercial Law, Marine and Shipping Law Unit (MASLU); TC Beirne School of Law; The University of Queensland

Günther **HANDL**, Professor, Tulane University Law School

Nicholas **MAVRIAS**, Senior Claims Executive, The Standard Club Asia Ltd

Nilüfer **ORAL**, Professor, Istanbul Bilgi University

Erik **RØSÆG**, Professor, Scandinavian Institute of Maritime Law, Oslo

David **SANTILLO**, Honorary Research Fellow (Greenpeace), University of Exeter

Karen Nadine **SCOTT**, Head of the School of Law, University of Canterbury

Robin **WARNER**, Professor, Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong

PROGRAMME

24 APRIL 2017, MONDAY	
08:30–09:00	Registration and Networking Coffee
09:00–09:30	Welcome & Introduction – Lucy Reed – Robert Beckman
09:30–10:45	Panel 1: Parallel Mechanisms to Identify and Protect Sensitive Marine Areas on The High Seas <ul style="list-style-type: none"> • Criteria developed under non-shipping instruments for the identification of sensitive marine areas: commonalities and differences • Mechanisms in place to restrict human activities (such as fisheries, deep seabed mining, and dumping) • BBNJ discussions on difficulties in implementation and ways in which the ILBI may improve consistency and protection of the marine environment in areas beyond national jurisdiction <p>Moderator: Robert Beckman</p> <p>Speaker:</p> <ul style="list-style-type: none"> – Youna Lyons <p>Commentator:</p> <ul style="list-style-type: none"> – Nilüfer Oral
10:45–11:15	Coffee Break & Panelists' Group Photograph
11:15–12:30	Panel 2: IMO Instruments to Identify and Protect Marine Sensitive Areas Against Adverse Impacts from Shipping <ul style="list-style-type: none"> • Criteria to identify PSSAs, special areas under MARPOL or routeing measures for environmental protection purposes • Evolution of relevant regulations and guidelines, and discussion of application of measures that may affect international shipping • Assessment of proposal questionnaires from NAV/NCSR (routeing measures) and MEPC (PSSA), process of designation of Special Area • Potential influence/impact of the criteria developed under non-shipping instruments in designing IMO instruments <p>Moderator: Ashley Roach</p> <p>Speaker:</p> <ul style="list-style-type: none"> – Aldo Chircop <p>Commentator:</p> <ul style="list-style-type: none"> – Robert Beckman
12:30–13:30	Lunch

13:30–15:00	<p>Panel 3: Gaps with respect to Oil & HNS Pollution of the High Seas</p> <ul style="list-style-type: none"> • Transboundary oil and/or HNS pollution from areas under national jurisdiction into the high seas (from offshore activities and shipping) • Accidental oil and/or HNS pollution from shipping on the high seas • OPRC & HNS Conventions, OPRC-HNS Protocol, and regional and subregional cooperative mechanisms • Description of regulatory gaps including reparation for environmental damage • Liability and compensation regime <p>Moderator: Aldo Chircop</p> <p>Speakers:</p> <ul style="list-style-type: none"> – Nick Gaskell – Erik Røsæg <p>Commentator:</p> <ul style="list-style-type: none"> – Nicholas Mavrias
15:00–15:30	Coffee Break
15:30–16:45	<p>Panel 4: Gaps with respect to Nuclear Pollution of the High Seas</p> <ul style="list-style-type: none"> • Damage to the high seas from nuclear materials • Description of regulatory gaps in Nuclear Conventions <p>Moderator: Robert Beckman</p> <p>Speaker:</p> <ul style="list-style-type: none"> – Günther Handl <p>Commentator:</p> <ul style="list-style-type: none"> – Anthony Wetherall
18:00	Conference Dinner
25 APRIL 2017, TUESDAY	
09:00–10:15	<p>Panel 5: Jurisdiction and Control Over Activities by Non-State Entities on the High Seas</p> <ul style="list-style-type: none"> • Activities concerned: marine scientific research, submarine cables, pipelines, installation, survey vessels • Extent of flag State responsibility • Regulation and assessment of impact • Interference with other activities • Extent of BBNJ discussions on these gaps <p>Moderator: Robert Beckman</p> <p>Speaker:</p> <ul style="list-style-type: none"> – Nilüfer Oral <p>Commentator:</p> <ul style="list-style-type: none"> – Bettina Boschen
10:15–10:45	Coffee Break

10:45–12:00	<p>Panel 6: New Activity: Geo-Engineering</p> <ul style="list-style-type: none"> • Legal framework for geo-engineering in the ocean, including ocean fertilisation (Amendment to the London Protocol and COP CBD Resolution) • Extent of BBNJ discussions on these gaps and possible solutions <p>Moderator: Ashley Roach</p> <p>Speaker:</p> <ul style="list-style-type: none"> – Karen Scott <p>Commentator:</p> <ul style="list-style-type: none"> – Youna Lyons
12:00–13:00	Lunch
13:00–14:30	<p>Panel 7: Marine Debris</p> <ul style="list-style-type: none"> • Description of marine debris, source, sources, types, quantity, impacts, issues raised • Ocean clean-up initiative: stationary installations on the high seas (interference with international shipping and other activities) • Extent of BBNJ discussions on these gaps and possible avenues for solutions <p>Moderator: Youna Lyons</p> <p>Speakers:</p> <ul style="list-style-type: none"> – David Santillo – Bettina Boschen
14:30–15:00	Coffee Break
15:00–16:15	<p>Panel 8: Protection of Living Marine Resources in the Area and in Adjacent Waters beyond National Jurisdiction</p> <ul style="list-style-type: none"> • Description of the gap • Freedom of the high seas vs. common heritage of mankind • Competence of regional fisheries management organisations/arrangements • Extent of BBNJ discussions on this gap and avenues for solution <p>Moderator: Nilüfer Oral</p> <p>Speaker:</p> <ul style="list-style-type: none"> – Robin Warner <p>Commentator:</p> <ul style="list-style-type: none"> – Ashley Roach
16:15–17:00	<p>Closing of the Conference: How to Move Forward to Address the Gaps and Challenges</p> <ul style="list-style-type: none"> • Gaps and challenges being addressed in BBNJ negotiations • Other mechanisms or steps to address the gaps and challenges <p>Moderator: Robert Beckman</p> <p>Speakers:</p> <ul style="list-style-type: none"> – Aldo Chircop – Ashley Roach – Nilüfer Oral – Youna Lyons