



# 2020

## Report of Activities

### DIRECTOR'S REPORT

2020 has been a challenge for us in the IISTL. COVID has constrained us to change our working practices, accept serious restrictions on our lives to protect public health, and forgo most eye-to-eye business contact. However, I am delighted to say that even a global pandemic on this scale has not appreciably slowed our progress. This year we marked our twentieth anniversary. From a small but ambitious three-person operation under our founder Professor D Rhidian Thomas in 2000, we have developed into a leading – perhaps the leading – European research centre specialising in commercial and maritime law, with at present 18 academic and practitioner members dedicated to education, training, fostering relations between academics and practitioners worldwide, and simultaneously delivering cutting edge research. I am not surprisingly, very proud to be the Director of this world-leading organisation.

During the year, our members continued to secure substantive research grants and engaged in interesting research projects. Professor Baughen has commenced a research project with UNCTAD and is currently working on a report “Strengthening Capacity to Address Key Commercial Law Implications of the Covid 19 Pandemic”. Dr Leloudas and the Director have launched a research project funded by the Research Wales Innovation Fund elaborating the use of cyber risk insurance as a risk management tool for SMEs. The ultimate aim of this study is to produce guidelines for SMEs as to how to maximise the cyber cover obtainable in the market and thus utilise cyber risk insurance as an effective risk management tool. Professor Tettenborn produced, with input from Prof Francis Rose, a major addition to the Sweet & Maxwell Shipping Law Library in the shape of his *Admiralty Claims*.

We were also delighted and proud to see that research conducted by our members has played a significant role in shaping the development of law. Professor Tettenborn’s article “Creditors and Reflective Loss: A Bar Too Far” (2019) 137 Law Quarterly Review 182 was cited with approval by the Supreme Court in the landmark case of *Sevilleja v. Marex Financial Ltd* [2020] UKSC 31, which then proceeded to decide the case largely as he had suggested.

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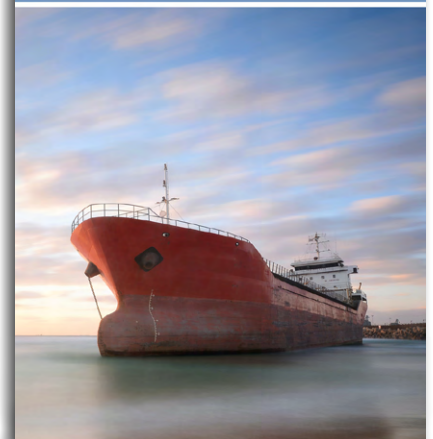
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MEMBERS OF THE  
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Later in the year Professor Tettenborn delivered a webinar to COMBAR on the ramifications of the same case. Meanwhile the original article had formed a cornerstone of the plaintiffs' appeal to the South African Constitutional Court in *Hlumisa Ltd v African Investment Bank Ltd* [2020] ZASCA 83, delivered on 3 July 2020. Professor Simon Baughen's book *Human Rights and Corporate Wrongs: Closing the Governance Gap* (Edward Elgar Ltd, 2015) was cited with approval in the majority opinion of the Supreme Court of Canada in *Nevsun Resources Ltd v Araya* 2020 SCC 5 in connection with corporate liability under customary international law and was noted in the minority decision of Brown and Rowe JJ.

Throughout the year, we continued sharing our expertise and research with academics, practitioners and industry. In collaboration with top-notch law firm HFW we organised a very successful seminar in London in February on *Jurisdiction, Arbitration and Enforcement of Judgments* (a presentation which just scraped under the COVID wire to become our last face-to-face event of the year). In July we organised a couple of very successful webinars discussing the impact of COVID on commercial, shipping, trade and air carriage contracts, and also its effects on the oil and gas sector, and on seafarers. These webinars not only provided the audience with access to numerous IISTL members' expertise, but also made a virtue of the necessity of remote delivery by allowing attendance from all corners of the world (including Asia, Africa, Latin America and Australia). In September, we organised our Annual Colloquium on the subject of Disruptive Technologies and Climate Change in Shipping, though in slimmed-down online form. This two-day event attracted more than 100 delegates and was generally hailed as a great success.

We saw out 2020 in December by hosting a twentieth anniversary celebration public lecture by The Rt Hon Sir Peter Gross entitled *The Judiciary Today – The Least Dangerous Branch*, this was a masterly, wide-ranging and extraordinarily well-informed analysis of the delicate balance between the legislative, executive and judicial branches. It was certainly a major contribution to the ongoing discussion of the place of the English judiciary, not only in the UK polity itself (both before and after Brexit), but in the legal world outside the UK. We are grateful to everybody who joined us virtually at this event.

COVID, once thought a one-season setback, is of course still with us and casts a shadow over 2021. But we remain confident that things will get better. We are looking forward to making more headlines in the coming year.

## Professor B. Soyer



**Sir Gross delivering our 20 Year Anniversary Talk and Professor Evans QC giving the "Vote of Thanks" on behalf of the School.**

## EVENTS

The Institute has continued to organise high-profile events during the course of 2020. These events not only served as a fitting forum for its members to disseminate their cutting-edge research but also offered a productive environment for academics, legal professionals, policy-makers and research students to debate and exchange ideas on contemporary legal developments.

### **Arbitration, Enforcement and Jurisdiction in a Commercial Setting: Anglo, Euro and Chinese Perspectives**

The IISTL in collaboration with HFW and the China-Europe Commercial Collaboration Association organised this seminar on 21 February 2020 at the London offices of HFW. The event, which sold out two weeks in advance, attracted delegates from legal practice, the worlds of P&I and insurance, and academia. The topics covered were topical and varied. They included such matters as the law applicable to arbitration agreements; the approach of English courts to arbitration appeals on jurisdictional grounds under s. 67 of the 1996 Arbitration Act; jurisdiction clauses and third parties; anti-suit Injunctions and their availability extra-contractually; the enforcement of foreign arbitral awards in China, Germany, Greece and Turkey; the enforcement of exclusive jurisdiction clauses; and the impact of BREXIT on maritime disputes generally.

The following speakers either wrote papers or chaired sessions:

- Professor Lia Athanassiou (Professor of Commercial Law, Athens University);
- Professor Simon Baughen (IISTL);
- Simon Croall QC (Head of Quadrant Chambers);
- Mr Paul Dean (Global Head of Shipping, HFW);
- Dr Tobias Eckardt (Partner, Ahlers & Vogel Rechtsanwälte, Hamburg);
- Dr Shengnan Jia (Tahota Law Firm, Chengdu);
- Associate Professor George Leloudas (IISTL);
- The Hon Mr Justice Picken (Judge of the Commercial Court and Presiding Judge of the Wales and Chester Circuit);
- Mr Nicholas Poynder (Partner, HFW);
- Simon Rainey QC (Quadrant Chambers and IISTL);
- Professor Bulent Sozer (Professor of Law, Director of the Maritime Research Centre, Piri Reis University and IISTL);
- Professor Andrew Tettenborn (IISTL);
- Dr Lijie Song (University of Essex);
- Mr Patrick Zheng (Partner, Links' Law, Shanghai).



**The Hon Mr Justice Picken (Judge of the Commercial Court and Presiding Judge of the Wales and Chester Circuit) chairing a session.**



## Summer Webinars

In July, the IISTL held two lunchtime webinars on Contemporary Issues in Trade, Shipping and Air Law. More than 400 participants joined us in the course of two weeks at these webinars. The first event (on 8 July) focused on the contractual aspects of Covid-19 on carriage (sea and air) and trade contracts and was led by Professors Baughen, Soyer, Tettenborn and Dr Leloudas. The second was held on 15 July and this time Professor Baughen, Dr Amaxilati, Dr Kurtz-Shefford and Dr van Logchem discussed the impact of the pandemic on seafarers, oil and gas sectors. There was also a tantalising talk on the legal issues concerning autonomous ships. On both occasions, we got fantastic questions from the participants.

## 16th Annual IISTL Colloquium

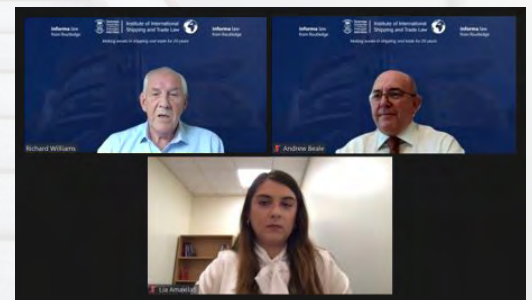
This year we held our 16th Colloquium virtually on 10-11 September. The focus of the event was on two contemporary developments; disruptive technologies and climate change. The objective of the event was to take a close look at the impact of these two vital developments on shipping law and practice. In particular, papers were submitted on: blockchain technology in shipping and marine insurance; drones and autonomous vessels in maritime law; autonomous systems and associated cyber risks; advance encryption as a protection against cyber risks; the human element in autonomous shipping; IP issues with regard to new technologies; international aspects of regulating climate change; shipping in the Arctic; EU and international aspects of climate change and US type law suits against oil majors. The speakers and moderators were:

- Dr Lia Amaxilati, IISTL, Swansea University
- Professor Simon Baughen, IISTL, Swansea University
- Associate Professor Andrew Beale OBE, IISTL, Swansea University
- Professor Olivier Cachard, Emeritus Dean, University of Lorraine
- Dr Michael Chatzipanagiotis, Lecturer, University of Cyprus
- Mr Julian Clark, Senior Partner, Ince & Co
- Mr Paul Dean, Global Head of Shipping, HFW
- Professor Ellen J. Eftestøl, Professor of Civil and Commercial Law, University of Helsinki
- The Rt Hon Sir Peter Gross, Arbitrator, Twenty Essex
- Monica Kohli, Senior Lawyer, Gard
- Associate Professor George Leloudas, IISTL, Swansea University
- Dr Youri van Logchem, IISTL, Swansea University
- Dr Ewan McGaughey, Senior Lecturer, King's College, London
- John Russell QC, Quadrant Chambers
- Professor Barış Soyer, Director, IISTL, Swansea University
- Professor Andrew Tettenborn, IISTL, Swansea University
- Professor Richard Williams, IISTL, Swansea University

The event was hailed as a great success attracting 100 delegates/participants. The speakers are working on the presentations which will form part of a publication which will be published by Informa Law in 2021.



**Professor Elwen Evans QC opening the Colloquium. The first session which was moderated by Sir Peter Gross (Speakers: Professor Andrew Tettenborn (IISTL), John Russell QC (Quadrant Chambers) and Professor Cachard (Lorraine University)).**



**Professor Richard Williams, Associate Professor Andrew Beale and Dr Lia Amaxilati presenting their papers at the event**

## Anniversary Public Lecture

Sir Peter Gross kindly delivered IISTL's Anniversary Public lecture on 7 December. Sir Gross recently retired from the Court of Appeal having previously been a doyen of the commercial Bar. He is now active as an arbitrator at his old chambers Twenty Essex, and has just been appointed to lead the government's commission on the operation of the Human Rights Act.

The subject of the lecture, appropriately and indeed very topical, was *The Judiciary Today – The Least Dangerous Branch*; the result, a masterly, wide-ranging and extraordinarily well-informed analysis of the delicate balance between the legislative, executive and judicial branches. The event, delivered remotely owing to the ongoing contagion, was a major contribution to the ongoing discussion of the place of the English judiciary, not only in the UK polity itself (both pre and post-Brexit), but in the legal world outside the UK.

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## PUBLICATIONS

**Dr Zoumpoulia Amaxilati** published an article entitled "The Legal Rights of Seafarers to Health Protection Measures during the COVID-19 Pandemic" in the *Journal of International Maritime Law*, pp 253-266.

**Professor Simon Baughen** published an article in the *Journal of International Law* "Title to Sue and COGSA 1992: Is There Still A Legal Black Hole for Cargo Claimants?" pp 463-477, and a case note in *Professional Negligence* "Exception Clauses All at Sea: The Elin (Case Comment)" pp 33-36. He also contributed to *Ship Operations: New Risks, Liabilities and Technologies in the Maritime Sector* (Informa Law) with a chapter "Only Following Orders: Time Charters, Compliant Fuel and the Owners' Indemnity" pp 193-205. He has published notes on recent developments in EU Law and International Law for the *Lloyd's Maritime and Commercial Law Yearbook 2020*.

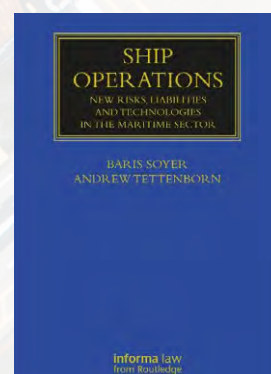
**Associate Professor Andrew Beale OBE** continues to be the main contributor to the IP Wales Articles series, including a joint publication with Jane Foulser McFarlane "[T]he importance of keeping your Company's Trade Secrets, Secret" and his twenty year analytical review, "IP Wales (1999-2019): an international case study in supporting SME entrepreneurship".

**Mr Måns Jacobsson** published a book chapter entitled "What Challenges Lie Ahead for Maritime Law?" in *Maritime Law in Motion* (WMU Studies in Maritime Affairs Vol. 8). He also published an article entitled "Compensation for Non-economic Damage Caused by Pollution of the Marine Environment" in the *Journal of International Maritime Law* pp 32-59. He also contributed to *Libro Homenaje al doctor Luis Cova Arria* (Academia de Ciencias Políticas y Sociales, Caracas, Venezuela, Vol. II with a paper "Is There a Future for the Unification of Maritime Law?". In addition, he published an article on the subject of "Places of Refuge" in *The Legal 500, Shipping Country Comparative Guide 2020*.

**Associate Professor George Leloudas** published with Dr M Chatzipanagiotis a peer-reviewed article on “Automated Vehicles and Third-Party Liability: A European Perspective” (2020) *Journal of Law, Technology & Policy* 101-191 and with Dan Soffin on “International Air Cargo in Time of Crisis: Global Challenges and Modal Shift Provide Transformational Opportunity in Commerce and Law” 45 *Air & Space Law* (2020), 563–610. He also contributed to *Ship Operations: New Risks, Liabilities and Technologies in the Maritime Sector* (Informa Law) with a chapter “The Role of Insurance in Sanctions Regimes” pp 3-24.

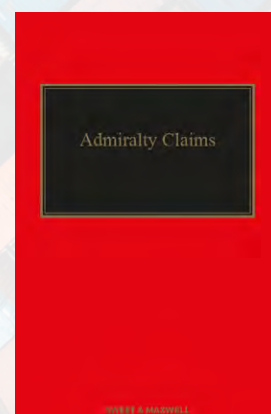
**Dr. Yuri van Logchem** completed a paper on “Lawful Responses to Unilateral Activities in Maritime Areas of Overlapping EEZ or Continental Shelf Claims”, as part of a research project dealing with *The Scope and Limit of Law Enforcement Activities by Coastal States under UNCLOS*, which is jointly run by the Center for Korean Legal Studies at Columbia Law School (CKLS) at Columbia University and the Ocean Policy Institute at the Korea Institute for Ocean Science and Technology (KIOST). He also completed his monograph entitled *The Rights and Obligations of States in Disputed Maritime Areas* which will be published by Cambridge University Press in 2021.

**Professor Barış Soyer** contributed to *Ship Operations: New Risks, Liabilities and Technologies in the Maritime Sector* (Informa Law) with a chapter “Cyber-Risk Insurance - developing A New Cover in the Market” pp 111- 124. He also authored the “Marine Insurance and General Average” section of the Lloyd’s Maritime and Commercial Law Quarterly Yearbook 2020.



**Dr. iur Bülent Sözer** wrote an article for the International Edition of the Galatasaray University Law School Journal titled: “Self-steering Ships: Legal Status of the Control Centre and of the Personnel Employed There – Vicarious Liability for the Independent Contractors”. He also contributed to *Ship Operations: New Risks, Liabilities and Technologies in the Maritime Sector* (Informa Law) with a chapter “Seaworthiness in the Context of Cyber-Risks or ‘Cyberworthiness’” pp 99- 110.

**Professor Andrew Tettenborn** took over the general editorship of *Clerk & Lindsell on Torts* and authored a new book *Admiralty Claims* published by Sweet & Maxwell. He contributed to the publication of the sixth edition of *Sealy & Hooley’s Commercial Law* (Oxford University Press) and the third edition of *Contractual Duties: Performance, Breach, Termination and Remedies* (Sweet & Maxwell) and also contributed to *Ship Operations: New Risks, Liabilities and Technologies in the Maritime Sector* (Informa Law) with a chapter “Actions in Rem, Arrest and Insolvency” pp 125-133.



**Professor Richard Williams** contributed to *Ship Operations: New Risks, Liabilities and Technologies in the Maritime Sector* (Informa Law) with a chapter “Unmanned Ships- A Challenge to the Current International regime Regulating the Carriage of Goods?” pp 221-237.

## EXTRAMURAL ACTIVITIES

**Dr Tabetha Kurtz-Shefford** delivered a talk online on “Renewable Energy and Maritime Law” at the 5th Conference on Ocean Law and Policy organised by Taiwan Ocean University on 17-18 December.

**Associate Professor George Leloudas** delivered two keynote speeches, the first one for the Colombian Insurance Law Association on aviation insurance law and the second one in Brazil for the Law School of Dom Helder University on transport law studies. He also delivered a paper on air cargo law at the International Aviation Conference of the School of Legal Studies of CMR University in India

**Dr. Yuri van Logchem** was invited by the Registrar of the International Tribunal for the Law of the Sea to conduct a training session on “Activities in Disputed Maritime Areas” for the IT-LOS - Nippon Foundation Capacity Building and Training Programme on 22 November 2020. Further, he gave a presentation on ‘Lawful Responses to Unilateral Activities in Maritime Areas of Overlapping EEZ or Continental Shelf Claims’ at a workshop that addressed ‘Coastal State Jurisdiction & Law Enforcement: From Sovereign Rights to Disputed Zones’, which was organised by Columbia University, on 13 November 2020. Dr. Van Logchem contributed to an IISTL webinar dealing with contemporary issues in energy and maritime law, speaking on ‘Cargo Ships of the Future and the Law of the Sea Convention’ on 15 July 2020.

**Professor Barış Soyer** delivered several talks online at various events in the course of the year, most notably: “Impact of Covid-19 on Charterparties” organised by DEHUKAM and Istanbul Law Association on 10 April; “Crewing Warranties under the IA 2015” organised by British Insurance Law Association on 22 July; “Cyber Risks in Shipping and Insurance” organised by University of Colombia on 4 December and “MASS and Liability Rules” organised by York University on 16 December. He also attended a Conference in 29 January organised at IMO by MLA College on AI in the Marine and Maritime Environment and delivered a talk on “Insurability of Cyber Risks in Shipping Context”.

**Dr. iur Bülent Sözer** delivered the keynote speech at a symposium, Legal and Political Problems of the Arctic Region, held at Piri Reis University on 4 January 2020. He was appointed as a member to the Comite Maritime International – International Working Group on Unmanned Ships (now re-named as IWG on Maritime Autonomous Surface Ships) and submitted to memos involving the compatibility or adaptability of the STCW and the Hague/Visby Rules to self-steering ships (respectively February and November 2020).

**Professor Andrew Tettenborn** went on a panel on the Big Voice, encouraging young people from disadvantaged backgrounds to go into the law; assisted the Law Commission in its project on the digitisation of commercial law; and addressed Combar on the subject of reflective loss. He also delivered a paper “Emerging Technologies and the law of the Sea” at the virtual event organised by US Navy War College in November.



**Professor Soyer and Alicia McKenzie at IMO in January attending AI in the Marine and Maritime Environment Event**

**IISTL members and Swansea ALUMNI at HFW in February during our last face to face event of the year**



# PROFESSIONAL TRAINING

## BIMCO Courses

Professors Barış Soyer and Richard Williams provided specialist masterclasses for BIMCO (the world's largest shipowners' organisation) in Bremen and Athens.

## London Law Firms

Members of the Institute also provided Foundation Courses on charter parties, bills of lading, marine insurance, and shipbuilding contracts for a consortium of six London City international law firms. The lectures were delivered by Professors Barış Soyer, Andrew Tettenborn, and Richard Williams and Associate Professor George Leloudas.

## Other Professional Assistance

Professor Williams is a member of two BIMCO documentary sub-committees that are charged with drafting amendments to the flagship GENCON charter and GENCOA Contract of Affreightment. He also continued his annual review of the Guidance to the Rules of the Gard P&I Club and is currently assisting Gard in producing a Guidance to their Rules for Mobile Offshore Units (MOU).

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## GUEST LECTURES

In the course of 2020, the Institute organised the following guest lectures for its members, PhD and LLM students:

- **Richard Neylon**, Partner, HFW, "A Maritime Lawyer's Role in Responding to a Major Marine Casualty".
- **John Minton**, Managing Director, Minton, Treharne & Davies Ltd "Forensic Evidence in Shipping Litigation"
- **Konstantinos Bachevanis**, Partner, Reed Smith, "Seaworthiness and CMA CGM Libra Ruling"
- **Arpad Szakal**, "Career Management Strategies in Commercial and Shipping World"
- **Matt Hannaford and Rasha Jassim**, Hannaford Turner LLP, "Ship Finance in Practice"

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## IISTL NEWS

### The IISTL Blog Grows Immensely

The blog has gone from strength to strength in 2020 and now has more than 1000 subscribers. It has been supplemented by video podcasts on the IISTL's [new youtube channel](#), and by two webinars in July 2020 on the implications of the current pandemic on maritime and commercial law. The year has seen a diverse range of up to the minute commentary on topics from: demurrage (*Priminds v K Line*), enforcement of judgments (the 'Prestige' litigation against the London P&I Club); proposed new EU Regulations on inclusion of international shipping in the emissions trading scheme, and a civil liability regime for operators of artificial intelligence; collisions *The Panamax Alexander*, Sir Nigel Teare's last case; the Supreme Court decision on vicarious liability in *Barclays Bank v Various Claimants* – and, of course, the latest on matters 'Brexit'.



## Recognition from Chartered Institute of Arbitrators (CI Arb)

The **International Commercial Arbitration** (LACM17) module offered as part of our LLM degrees has been recognised by the **Chartered Institute of Arbitrators (CI Arb)**. This effectively means that Swansea LLM students who manage to successfully complete the International Commercial Arbitration module at Swansea will be eligible to apply to be awarded the level of Associate Member of the CI Arb.

The CI Arb, with 16,000 members active in various form of alternative dispute resolution in 149 countries, is the foremost professional institution working for the global promotion, facilitation and development of all forms of private dispute resolution through an international network. Membership of the CI Arb is available at three levels of Associate, Member and Fellow. This is yet another recognition of the reputation that Swansea LLM degrees enjoy in practice as well as in academia. There is no doubt that this accreditation will make the International Commercial Arbitration module even more popular amongst students studying at Swansea as part of their LLM degrees.

Speaking after hearing about the recognition, Associate Professor George Leloudas, the co-ordinator of the International Commercial Arbitration module, said: "We are very pleased with the renewal of our RCP status with the Institute, which is a testament to the quality of the course. We look forward to continue delivering it to our enthusiastic cohort in the years to come".



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## STAFF NEWS

**Associate Professor Andrew Beale OBE** has retired after 38 years of teaching and has been appointed in an honorary capacity in recognition of his continued work as the Director of IP Wales (part of IISTL). IP Wales has partnered with Protect2020 to develop a new online training module for Trade Secrets, following the coming into force of the Trade Secrets (Enforcement, etc.) Regulations 2018 [TSR]. Andrew remains affiliated with the IISTL.

It gives us great pleasure to announce that our previous research assistant **Ms Stella Kounakou** has successfully completed her PhD in 2020. Stella's PhD focuses on "Charterers' Liability Insurance". She currently works as a Claims Executive at Shipowners Club in London. We would like to thank Stella for her contribution to the IISTL throughout the last 4 years.

# MEMBERS OF THE INSTITUTE OF INTERNATIONAL SHIPPING AND TRADE LAW

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

Dr Zoumpoulia Amaxilati  
Admiralty law, carriage of goods by sea and seafarers' rights

Associate Professor Andrew Beale OBE  
IP, asset management and trade

Professor Simon Baughen  
Shipping law, carriage of goods by sea and trade law

Professor Iwan Davies (Vice-Chancellor, Bangor University)  
Finance and security

Mr Måns Jacobsson  
Marine environmental law and compensation

Mr Peter MacDonald-Eggers QC  
Insurance and reinsurance, shipping and transport, energy, commodities and international trade, financial services and professional negligence

Dr Tabetha Kurtz-Shefford  
Admiralty law, trade law and law relating to oil and gas

Dr George Leloudas  
Multimodal transport, carriage by air and road, insurance law, arbitration law and aircraft finance

Dr Youri van Logchem  
Law of the sea, regulation, oil, gas and renewable energy law

Honorary Professor Simon Rainey QC  
International commerce, embracing particularly shipping, commodities, insurance and the carriage and sale of goods, and energy.

Dr. Iur. Bülent Sözer  
Carriage of goods, trade and shipping law liabilities

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

## RESEARCH ASSISTANT

Ms Alicia Mckenzie

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The IISTL is a research centre within the Hillary Rodham Clinton School of Law.



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