Marine & Shipping Law Unit Report 2015-2017

MASLU MEMBERS

Professor Craig Forrest (Director)
Professor Sarah Derrington
Professor Nick Gaskell
Associate Professor Qiao Liu
Dr Vincent Cogliati-Bantz (to 2016)
Adjunct Professor Dr Michael White OAM QC
Adjunct Professor Dr Damien Cremeau

MASLU ACADEMIC VISITORS

Alex Herman (July-December 2015)
Nippon Fellow, Seabed Minerals Authority, Cook Islands

Associate Professor Xuyu Hu (August 2016 – September 2017)
Nankai University Law School, China

Wu Ningbo (September to December 2016)
PhD candidate, Fudan Law School, China

Professor Massimiliano Piras (February 2017)
Ordinario di Diritto della navigazione
Università di Cagliari, Italy

Dr David Goodwin (November 2017)
MBA Director, RMIT University, Melbourne
MASLU HDR SCHOLARS

Ashwin Nair, MPhil Candidate
Thesis title: Maritime liens in 21st century Australia – transferability and conflict

Yan Xuan, PhD candidate
Thesis title: China’s Maritime Arbitration System’s “Selective Adaptation” to International Legal Norms and Practice

MASLU RESEARCH AND ENGAGEMENT EVENTS

TRANSBOUNDARY MARINE POLLUTION RESPONSE WORKSHOP

The central focus for MASLU in 2015 was the organising and convening of a workshop on Transboundary Maritime Environmental Pollution from 20th-22nd May 2015 on behalf of the Department of Foreign Affairs and Trade (DFAT), and in conjunction with the Australian Maritime Safety Authority (AMSA). The Workshop was held as part of Australia’s support for the Expanded ASEAN Maritime Forum (EAMF) Expanded ASEAN Seafarers’ Training (EAST). The workshop was co-chaired by Australia (Mr Jamie Storrie, Acting General Manager, Marine Environment, Australian Maritime Safety Authority) and Vietnam (Mr Le Dai Thang, Deputy Director, Bureau of Marine Resources Control and Marine Island Environment Protection, Ministry of Natural Resources and Environment).
The workshop was designed and delivered by Professor Craig Forrest (MASLU) and Mr Jamie Storrie. It featured a number of keynote speakers, including Ms Colleen O’Hagan, Technical Officer, International Maritime Organisation (IMO); Mr Alex Hunt, Technical Team Manager, International Tanker Owners Pollution Federation (ITOPF) and Mr Said Faisal, Director, ASEAN Coordinating Centre for Humanitarian Assistance on disaster management (AHA Centre). MASLU members Professor Nick Gaskell and Adjunct Professor Michael White QC presented the bulk of the learning material on day 1 of the workshop.

Participating delegations were from Australia, Cambodia, Indonesia, Japan, Laos, Malaysia, Myanmar, New Zealand, Philippines, Vietnam, Korea and United States. The workshop examined existing international, regional and national mechanisms for co-operation in transboundary marine pollution incident and considered other regimes, mechanisms and good practice that may enhance this existing regime and further cooperation in transboundary marine pollution incidents. A number of pollution incidents were examined and reviewed for lessons learned, beginning with the Torrey Canyon spill in 1967 and moving through to more recent spills such as the Prestige, Rena, Deepwater Horizon, Montara and spills caused during Typhoon Haiyan.
The Marine and Shipping Law Unit convened and facilitated a workshop on the implementation of the Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN) on behalf of, and in conjunction with, the Australian Maritime Safety Authority (AMSA) on 1 and 2 September 2016.

Marine pollution is widely recognised as one of the four major threats to the world’s oceans, and particularly in the Pacific. Spills of oil and other chemicals into the marine environment from ships and other sources, is a significant pollution threat. The Secretariat of the Pacific Regional Environment Programme, in partnership with the International Maritime Organization, has responsibility for implementation of the Pacific Ocean Pollution Prevention Program (PACPOL). A primary mechanism for provision of assistance under PACPOL is the Pacific Islands Regional Marine Spill Contingency Plan (PACPLAN) that provides a mechanism for a number of Pacific Island States to seek assistance on a co-operative basis from Australia in the event of a marine pollution incident. This workshop was designed to engage five of these Pacific Islands States and Australia is a discussion of the implementation of PACPLAN. The results of the workshop will allow the participating States to further consider the participation in, and implementation of, International Maritime Organisation’s maritime law conventions that will facilitate the most effective implementation of PACPLAN should a pollution incident occur in the pacific.
Participants attending the workshop were from Solomon Islands, Vanuatu, Nauru, Tuvalu, Kiribati and Australia as well as from the Secretariat of the Pacific Regional Environment Programme and from the Secretariat of the Pacific Community. The workshop was designed by Professors Craig Forrest (MASLU) and Mr Matt Johnstone and Ms Alice Fenwick (AMSA) and delivered by Professor Nick Gaskell and Adjunct Professor Michael White QC (MASLU), together with speakers from AMSA, SPREP and the participating Pacific Island States.

Pacific Islands Regional Marine Spill Contingency Plan Workshop delegates at Emmanuel College UQ

SEMINARS

On 25 February 2015, MASLU hosted a twilight seminar entitled “Maritime Powers Act 2013 and Refugees: Where Next?” The panel of speakers (Adjunct Professor Dr Michael White QC, Professor Nick Gaskell and Associate Professor Peter Billings) considered the implications of the 2015 High Court decision in CPCF v Minister for Immigration and Border Protection on international maritime law and national administrative law powers, and its relationship to the Maritime Powers Act 2013, as recently amended.

On 18 August 2016 a joint MASLU, MLAANZ and ILA Seminar entitled “The South China Sea Decision: A Snapshot of Issues” hosted by Clayton Utz, at their offices in Brisbane. The panel of speakers (professor Anthony Cassimatis, Adjunct Professor Michael White OAM QC and Professor Nick Gaskell) considered the implications of the arbitral decision handed down by the Permanent Court of Arbitration in the Hague (the PCA) in the matte brought by the Philippines against China.


**MASLU Publications**

**BOOKS**


**JOURNAL ARTICLES & BOOK CHAPTERS**


C Forrest, 'The Law and Practice of Piracy at Sea: European and International Perspectives, Edited by Panos Koutrakos and Achilles Skordas' (2016) 30 Ocean Yearbook 594-598


CONFERENCE PAPERS & SEMINARS


N Gaskell, 'The Electronic Bill of Lading', Sala delle Armi’, Faculty of Law, University of Bologna (15 June 2015)


C Forrest, ‘Indemnities and towage contracts’, Global Shipping Forum 2015, Indemnities and Guarantees in Maritime Law, Faculty of Law, National University of Singapore, 7-8 December 2015

N Gaskell, ‘Express and implied indemnities in time charterparties’, Global Shipping Forum 2015, Indemnities and Guarantees in Maritime Law, Faculty of Law, National University of Singapore, 7-8 December 2015


C Forrest, ‘The law of Wreck’ Chinese University of Hong Kong Law School Seminar Series, Hong Kong,21 April 2017


C Forrest, ‘IMO Shipping Conventions’ in The International Maritime Organisation’s (IMO) Conventions, Maritime and Shipping Branch, Department of Infrastructure and Regional Development, 3-5 May 2017, Canberra.

N Gaskell, ‘International Liability and Compensation Conventions’ in The International Maritime Organisation’s (IMO) Conventions, Maritime and Shipping Branch, Department of Infrastructure and Regional Development, 3-5 May 2017, Canberra.


MEDIA

C Forrest, 'Maritime War Graves of World War I', Evenings with Tim Cox, 612 ABC (18 Mar, 2015; Breakfast with Ian Newton, Radio Adelaide (9 Mar, 2015); Weekend Wake-up Rod Tiley, 6PR (8 Mar, 2015); Drive with Louise Saunders, ABC Local Radio (9 Mar, 2015) and Nights with Walter Williams, 4BC News Talk (5 Mar, 2015)

N Gaskell, ‘Pollution fines from Globex’s Regina’ ABC TV interview shown 22 June 2017

C Forrest ‘Australia’s War Wrecks’ Nightlife with Dominic Knight, ABC National 27 December 2017.

SUBMISSIONS

N Gaskell Oral submission with Stuart Hetherington of MLAANZ, at 2016 meetings organised in Canberra with DFID and Treasury about possible accession by Australia to key maritime law conventions, including the Athens Convention 2002 and the Wreck Removal Convention 2007.

N Gaskell, Submission dated 8/12/2016 (6788 words) on “Unfair Contract Terms and the Maritime Provisions in s.28(1)-(2) of the ACL” to Consumer Affairs Australia and New Zealand’s (CAANZ) Australian Consumer Law (ACL) Review, based on the Interim Report of 14 October 2016. Submission consisted of an analysis of potential defects in the ACL relevant to the maritime law exceptions in Part 2-3 of the ACL. The Final Report in March 2017 noted that it would be necessary to examine exemptions generally in future (see Chapter 4).

N Gaskell, Submission to UK Department for Transport Consultation on changes to domestic legislation implementing certain international maritime liability conventions (in particular, revision of the LLMC 1996). 27 January 2016.

N Gaskell, Response (22 December 2017) to Department of Infrastructure and Regional Development Consultation document 30 November 2017 “Carriage of Passengers and their Luggage by Sea: the Athens Convention 2002”.

CONSULTANCIES

2017 Australian Department of Infrastructure and Regional Development – Workshop on IMO Maritime Conventions (Craig Forrest and Nick Gaskell)
2016 Australian Maritime Safety Authority (AMSA) – Consultancy/workshop Pacific Pollution Plan (PACPLAN) Implementation (Craig Forrest and Nick Gaskell)
2015 Department of Foreign Affairs and Trade, Government of Vietnam, Australian Maritime Safety Authority and ASEAN Maritime Forum consultancy/workshop: Co-
operation in responding to Trans-boundary Marine Pollution incidents (Craig Forrest, Michael White and Nick Gaskell)

2015 Australian Maritime Safety Authority (AMSA) – national interest analysis of IMO Wreck Removal Convention (Nick Gaskell and Craig Forrest)

MASLU MARITIME COURSES

Maritime Law Courses

In addition to the research and conference presentations by the members of MASLU, those members also contribute to the teaching of maritime law subjects in the undergraduate and postgraduate degrees in the law School.

2015 courses
Marine Insurance Law (LAWS7951). Professor Rob Merkin

Shipping Law (LAWS7865). The Hon James L B Allsop AO (Chief Justice, Federal Court), Peter McQueen and Drew James

Carriage of Goods by Sea Law (LAWS7876), Professor Nick Gaskell

Maritime Law (LAWS5160). Professors Craig Forrest and Nick Gaskell

2016 courses
Admiralty Jurisdiction and Practice (LAWS7863), Professor Sarah Derrington

Marine Insurance Law (LAWS7951). Professor Rob Merkin

Maritime Law (LAWS7865). The Hon James L B Allsop AO (Chief Justice, Federal Court), Peter McQueen and Drew James

Carriage of Goods by Sea Law (LAWS7876), Professor Nick Gaskell

2017 courses
Maritime Law (LAWS7865). The Hon James L B Allsop AO (Chief Justice, Federal Court), Peter McQueen and Drew James

Carriage of Goods by Sea Law (LAWS7876), Professor Nick Gaskell

Maritime Law (LAWS5160). Professors Sarah Derrington and Nick Gaskell
COMBINING MARITIME LAW PRACTICE AND THEORY

Port of Brisbane Visit

A small group of LLM maritime Law students was able to visit the Port of Brisbane on 23 October 2015, along with Professor Nick Gaskell and Dr Alan Davidson. After a presentation about the port by Tim Cope (Trade Development executive), the party observed operations at the bulk coal terminal, the crude oil wharf, the grain and woodchip facilities and the Patrick Container Terminal. From the Patrick Tower, they were able to view the movement of containers by robot carriers, as explained by Matt Hollamby (Manager - Patrick Terminals Division).

Queensland Recreational boat licence course

In February 2015, Professors Nick Gaskell and Craig Forrest, together with three LLM maritime law students, Rosemary Gibson, Alistair Sullivan and Michael Krakat, completed a Queensland Recreational boat licence offered through Allstate Boat Licencing and Training.

Australian and New Zealand Maritime Law Journal

The Australian and New Zealand Maritime Law Journal is published by MASLU under the general editorship of Professor Craig Forrest. The table of contents for the past three years is as follows:

2015 Volume 29(1)
General Editor: Professor Craig Forrest
Student Editor: Mr Samuel Walpole
Frank Dethridge Memorial Address

Limitation of Liability as a Risk Allocation Mechanism in Maritime Law
The Honourable Justice Alan MacKenzie 1-7

Australian Coastal Shipping: Navigating Regulatory Reform
Jennifer Porter 8-17

Does the Maritime Transport Act 1994 (NZ) Effectively Inhibit Marine Pollution?
Luke Knights 18-35

In the Wake of the Montreal Convention: Why Maritime Law Should Abolish Limited Liability for Personal Injury and Death Claims
Maxwell Smith 36-52

Trans-Tasman Ship Arrests: A Missed Opportunity
Luke Strom 53-69

Alistair Sullivan 70-74

Fair Work Ombudsman v Pocomwell Ltd [2013] FCA 250; [2013] FCA 1139
R. E. Lindsay 75-82

Book Reviews: Maritime Law Evolving: Thirty Years at Southampton
Dr Damien J Cremeen 83-84

2015 Volume 29(2)

General Editor: Professor Craig Forrest
Student Editor: Mr Samuel Walpole

The Owner’s Vulnerability to the Liabilities of the Demise Charterer
Angus Stewart SC 85-92

Cruise Ship Operators, Their Passengers, Australian Consumer Law and State Civil Liability Acts - Part 1
Kate Lewins 93-110

Can You Arrest Bunkers in Australia?
Quintin Alexander Rares 111-121

Book Review: Australian Maritime Law
Yvonne Baatz 122-123

Book Review: The South China Sea Arbitration: A Chinese Perspective
Timothy Stephens 124-126

2016 Volume 30(1)

General Editor: Professor Craig Forrest
Guest Editor: Dr Bevan Marten
Student Editors: Mr Zackary George and Miss Erin Gourlay

Frank Dethridge Memorial Address

Charting Our Own Courses: The Australia, New Zealand, and Singapore Journeys in Maritime Law
The Honourable Justice Steven Chong 1-11

Cruise Ship Operators, Their Passengers, Australian Consumer Law and Civil Liability Acts - Part Two
Kate Lewins 12-27

Reviewing Knock for Knock Indemnities: Risk Allocation in Maritime and Offshore Oil and Gas Contracts
Pat Saraceni, Nicholas James Summers 28-43
Oil and Water - Can the Offshore Minerals Industry and Environmental Protection Ever Mix? Brendan Patrick Coll Abley 44-63
Conference proceedings
Maritime Law in the Asia-Pacific Region Bevan Marten 64-66
The European Union and International Maritime Law - Lessons for the Asia-Pacific Region? Henrik Ringbom 67-77
State Cooperation in Combating Transboundary Marine Pollution in South East Asia Craig Forrest 78-89
Shipping and Air Pollution: New Zealand’s Failure to Ratify MARPOL Annex VI Bevan Marten 90-98
The Tokyo Mou: Its Implications for Taiwan Chen-Ju Chen 99-106
Openness and Inclusiveness: Nature of Chinese Maritime Law and Legal Practices Hong Jun Shan, Yun Liang 107-113
Japan’s Maritime Law Reform in an International and Regional Context Souichirou Kozuka 125-133
Recent Admiralty Decisions in Hong Kong - Are the Courts Ready to Deviate from Their English Predecessors? Poomintr Sooksripaisarnkit 134-146
Book Review: Admiralty Jurisdiction Law and Practice Australia, New Zealand, Singapore, Hong Kong and Malaysia Nigel Meeson 147-148

2016 Volume 30(2)
General Editor: Professor Craig Forrest
Student Editors: Mr Zackary George and Miss Erin Gourlay
Safe Port Promise By Charterers: Rethinking Outstanding Complications Choi Wai Bridget Yim 1-12

2017 Volume 31(1)
General Editor: Professor Craig Forrest
Student Editors: Mr Zackary George and Miss Erin Gourlay
Frank Dethridge Memorial Address
Of reefs and men: When the best laid plans go awry, have we an acceptable way forward? Sarah Catherine Derrington 1-13
A "sea change" in Queensland's marine safety laws - Recent marine safety reforms in Queensland Shane Bosma 37-44
Book review: The International Law of the Sea Patrick H Vrancken 45-56