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## Building Capacity in the Law of the Sea: The IMO International Maritime Law Institute's Experience

*Ángeles Jiménez García-Carriazo*

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# Building Capacity in the Law of the Sea: The IMO International Maritime Law Institute’s Experience

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The thoughts and opinions expressed are those of the author and not necessarily those of the U.S. government, the U.S. Department of the Navy, or the U.S. Naval War College.

## I. INTRODUCTION

It has been forty years since the adoption of the United Nations Convention on the Law of the Sea (UNCLOS)<sup>1</sup> and it still stands as a massive achievement in the history of codification efforts in international law.<sup>2</sup> Over the course of those forty years, the world has witnessed technological developments that were not anticipated by the drafters of the Convention. The technical complexities involved in the application of some of its provisions have prevented many States from implementing the legal regime for the oceans as well as a plethora of multilateral agreements and programs that has followed.<sup>3</sup>

One of the central issues in the implementation of UNCLOS is the issue of capacity-building.<sup>4</sup> This term has risen to prominence in the vocabulary of the international community. Practical examples of capacity-building activities cover a wide range of interventions, including training government staff, improving operating procedures, reforming education systems, developing leadership skills, coaching, mentoring, sharing technical solutions between countries, and improving citizen participation and access to information.<sup>5</sup> Capacity-building seeks to promote a bottom-up approach drawing on and strengthening existing local capacities.<sup>6</sup>

The ability of a country to pursue sustainable development paths is determined to a large extent by the capacity of its people and institutions as

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1. United Nations Convention on the Law of the Sea, Dec. 10, 1982, 1833 U.N.T.S. 397.

2. See generally David Freestone, *Restricted Access Capacity Building and the Implementation of the Law of the Sea Convention: A View from the World Bank*, in LAW, SCIENCE & OCEAN MANAGEMENT 313 (Myron Nordquist et al. eds., 2007).

3. Vladimir Golitsyn, *Capacity Building: A View from the United Nations*, in LAW, SCIENCE & OCEAN MANAGEMENT 381 (Myron Nordquist et al. eds., 2007).

4. *Id.*

5. Org. for Econ. Coop. and Dev. [OECD], *The Challenge of Capacity Development: Working Towards Good Practice*, 8 OECD JOURNAL ON DEVELOPMENT 233 (2008); U.N. Dev. Programme, *Capacity Development: Practice Note* 18–19 (2008), [https://www.adaptation-undp.org/sites/default/files/downloads/pn\\_capacity\\_development1.pdf](https://www.adaptation-undp.org/sites/default/files/downloads/pn_capacity_development1.pdf); U.N. Dev. Programme, *Capacity Development: A UNDP Primer* 5 (2009) [https://www.undp.org/sites/g/files/zskgke326/files/publications/CDG\\_PrimerReport\\_final\\_web.pdf](https://www.undp.org/sites/g/files/zskgke326/files/publications/CDG_PrimerReport_final_web.pdf); Mary Venner, *The Concept of “Capacity” in Development Assistance: New Paradigm or More of the Same?*, 27 GLOBAL CHANGE, PEACE & SECURITY 85, 93 (2015).

6. Timothy Edmunds & Ana E. Juncos, *Constructing the Capable State: Contested Discourses and Practices in EU Local Capacity Building*, 55 COOPERATION AND CONFLICT 3 (2019).

well as by its ecological and geographical conditions.<sup>7</sup> Specifically, capacity-building encompasses the country's human, scientific, technological, organizational, institutional, and resource capabilities.<sup>8</sup> Developing States, small island developing States, and States with economies in transition are the most in need of assistance.

This article discusses how building capacity is necessary to implement the law of the sea and effectively comply with the range of obligations under UNCLOS. Part II will examine those conventional obligations that call for effective capacity-building to enable the conservation and sustainable use of the oceans. In Part III a capacity-building experience will be illustrated by the success story of the International Maritime Organization (IMO) International Maritime Law Institute (IMLI). With the final aim of serving the rule of international maritime law, over one thousand graduates showcase how sustainable capacity is built via curricula, women empowerment, research, networks, and partnerships.

## II. CAPACITY-BUILDING IN THE LAW OF THE SEA

UNCLOS does not specifically discuss or define the term capacity-building. However, scientific and technological capacity-building is a centerpiece of the Convention's Part XI (the Area), Part XII (Protection and Preservation of the Marine Environment), Part XIII (Marine Scientific Research), and Part XIV (Development and Transfer of Marine Technology).<sup>9</sup> As was

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7. U.N. Div. for Sustainable Dev., *Agenda 21*, ¶ 37(1) (1992), <https://sustainabledevelopment.un.org/content/documents/Agenda21.pdf>.

8. *Id.*

9. Transfer of technology for the purposes of Part XI is not only addressed in Article 144 and other provisions in UNCLOS, but also in Section 5 of the Agreement Relating to the Implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982. Part XII recognizes the need for scientific and technical assistance to developing States, including training, infrastructure, and equipment support and calls for preferential treatment for developing States in this regard. Part XIII requires States to promote the development of the marine scientific and technological capacity of developing States with regard to the exploration, exploitation, conservation, and management of marine resources, the protection of the marine environment, marine scientific research, and other activities in the marine environment compatible with the Convention in order to accelerate the social and economic development of the developing States. Part XIV reflects the importance of marine science, related knowledge and expertise, and marine infrastructure, as well as the need for capacity-building in those areas. U.N. Open-Ended Informal Consultative Process Established by the General Assembly in its Res. 54/33, *Draft Format and Annotated Provisional Agenda*, app. II, ¶ 6, U.N. Doc. A/AC.259/L.3 (Feb. 26, 2002).

pointed out by the co-chairpersons of the consultative process at the third meeting, “[a]lthough UNCLOS does not use the phrase ‘capacity-building’, it contains over 25 references to the need to help developing States and take their concerns into account.”<sup>10</sup>

The United Nations General Assembly has reiterated

the essential need for cooperation, including through capacity-building and transfer of marine technology, to ensure that all States, especially developing countries, in particular the least developed countries, landlocked developing countries and small island developing States, as well as coastal African States, are able both to implement the Convention and to benefit from the sustainable development of the oceans and seas, as well as to participate fully in global and regional forums and processes dealing with oceans and law of the sea issues, while recognizing the need to also address the particular challenges faced by developing middle-income countries.<sup>11</sup>

In relation to fisheries, the General Assembly also encourages States to cooperate closely with a view to enhancing the capacity-building of developing States in that field through education and training.<sup>12</sup>

In “The Future We Want,”<sup>13</sup> States echoed the importance of building the capacity of developing countries to be able to benefit from the conservation and sustainable use of the oceans and seas and their resources. In this sense, the importance of human resource development is highlighted, including training, the exchange of experiences and expertise, knowledge transfer, and technical assistance for capacity-building, which involves strengthening institutional capacity, including planning, management, and monitoring capacities.

Limitations in capacity not only hinder States, in particular developing countries, from benefiting from oceans and seas and their resources pursuant to UNCLOS, but also from effectively complying with the range of obligations under UNCLOS and other international conventions, as well as effectively meeting the challenges of climate change.<sup>14</sup>

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10. *Id.*

11. G.A. Res. 76/72, at 4 (Dec. 9, 2021).

12. G.A. Res. 76/71, ¶ 233 (Dec. 9, 2021).

13. G.A. Res. 66/288 (Sept. 11, 2012) (outcome document of the UN Conference on Sustainable Development, Rio de Janeiro, Brazil, June 2012).

14. U.N. Open-Ended Informal Consultative Process on Oceans and the Law of the Sea, Initial and Unedited Reporting Material on Capacity-Building in Ocean Affairs and the

Churchill highlights a number of varying and persisting examples of non-compliance:

- Some States parties . . . have drawn straight baselines in ways that do not meet the requirements of Article 7, even on the most generous interpretation of the admittedly imprecise provisions of that Article.
- Four States parties . . . still claim a territorial sea with a breadth in excess of the 12 nautical miles permitted by Article 3.
- 12 States parties . . . have included security as one of the matters in respect of which they claim to exercise jurisdiction in their contiguous zones, contrary to Article 33.
- A few States parties . . . have sought to delimit an exclusive economic zone (EEZ) and continental shelf from uninhabitable rocks, contrary to Article 121(3).
- A considerable number of flag State parties are in breach of their obligation under Article 94 to exercise effective jurisdiction and control in respect of the seaworthiness of ships having their nationality . . .
- . . . some coastal States parties . . . are in breach of their obligation under Article 61(2) to ensure that the maintenance of the living resources of their EEZs is not endangered by over-exploitation.<sup>15</sup>

Following Elisabeth Mann Borgese's reasoning, the implementation of the new ocean order includes the need for a comprehensive and multidisciplinary approach firmly rooted in principles of sustainable development. For that purpose, it is imperative to ensure that the necessary capacity is built to accompany these developments.<sup>16</sup> Today, her vision still holds true as the international community has embarked on two major processes that speak directly to the vision. First, the development and implementation of the 2030 Agenda for Sustainable Development.<sup>17</sup> Second, the elaboration of a new legal framework filling a lacuna of UNCLOS, namely the development of an

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Law of the Sea, Including Marine Science, ¶ 13, <http://pemsea.org/sites/default/files/unclos-report2010.pdf> (last visited Apr. 13, 2023).

15. See Robin Churchill, *The Persisting Problem of Non-compliance with the Law of the Sea Convention: Disorder in the Oceans*, 27 INTERNATIONAL JOURNAL OF MARINE AND COASTAL LAW 813, 814–15 (2012) (footnotes omitted).

16. François Bailet, *The Capacity Development Imperative: Elisabeth Mann Borgese's Legacy*, in THE FUTURE OF OCEAN GOVERNANCE AND CAPACITY DEVELOPMENT: ESSAYS IN HONOR OF ELISABETH MANN BORGESE (1918–2002), at 71, 75–76 (Paul R. Boudreau et al. eds., 2018).

17. G.A. Res. A/RES/70/1 (Oct. 21, 2015).

international legally binding instrument under UNCLOS on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction (BBNJ Agreement).<sup>18</sup>

The inclusion of “capacity building and technology transfer” as one of the four elements of the BBNJ Agreement further illustrates the importance of effective capacity-building to enable the conservation and sustainable use of marine biodiversity beyond national jurisdiction.<sup>19</sup>

### III. THE IMO INTERNATIONAL MARITIME LAW INSTITUTE

Training represents an investment in people and so is an important way to put a capacity-building approach to development into practice.<sup>20</sup> The importance of providing ocean-related professionals with opportunities to develop their capacities in a holistic and relevant manner is critical to the sustainable management of the ocean.<sup>21</sup>

Throughout the 1980s, the International Maritime Organization (IMO) realized that although it produced numerous treaties, regulations, and prescriptions to regulate maritime affairs, the treaties adopted under its auspices were not ratified by States. This made the IMO’s chosen legal framework ineffective.

The organization identified two main reasons for this: (1) States did not have the necessary expertise to understand the rights and obligations that were created under the adopted treaties; and (2) even when the said treaty rights and obligations were understood, there was no expertise in maritime legal drafting, especially in the capacity to incorporate and effectively implement international conventions into domestic legislation.

In response to the calls for capacity-building initiatives from the IMO,<sup>22</sup> IMLI was established in 1988 under an agreement concluded between the IMO and the Government of Malta. Its statute was approved by the IMO

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18. G.A. Res. 72/249 (Jan. 19, 2018); Bailet, *supra* note 16, at 75.

19. Harriet Harden-Davies & Paul Snelgrove, *Science Collaboration for Capacity Building: Advancing Technology Transfer Through a Treaty for Biodiversity Beyond National Jurisdiction*, FRONTIERS IN MARINE SCIENCE (Feb. 28, 2020), <https://www.frontiersin.org/articles/10.3389/fmars.2020.00040/full>.

20. DEBORAH EADE, CAPACITY-BUILDING: AN APPROACH TO PEOPLE-CENTRED DEVELOPMENT 77 (1997).

21. Bailet, *supra* note 16, at 75.

22. See Frank Wiswall, *Recollections as to the Early Years of IMLI*, in CELEBRATING 30 YEARS IN THE SERVICE OF THE RULE OF INTERNATIONAL MARITIME LAW 14, 14–16 (Elda Kazara-Belja ed., 2019).

Assembly at its 16th Session. The IMO Council approved the revised statute at its 109th session.

IMLI is at the forefront of teaching, developing, and disseminating knowledge, enabling developing States to generate national legal expertise. This international training institution assists governments, particularly those of developing countries, especially small island developing States and least developed countries, in building up both their human and institutional capacities for the uniform and effective implementation of international maritime law and the general law of the sea. Additionally, IMLI promotes the adherence to the applicable international maritime law conventions and legal instruments, the incorporation and adequate implementation of such conventions and instruments into national law, the effective enforcement of the relevant national laws, and the proper interpretation of those national laws to ensure harmonization with the applicable international regime.

IMLI has been recognized as a center of excellence for training specialists in international maritime law and disseminating knowledge and expertise in the field. The secretary-general of the IMO has stated publicly:

I wish to commend IMLI's constant endeavours to offer high-level maritime education to students, thus supporting IMO's capacity-building goals. IMLI's graduates form a highly skilful cadre of national maritime experts who can duly serve their countries' maritime interests. It is noteworthy that, increasingly, IMLI Graduates represent their countries in international fora . . . . Their success consolidates further IMLI's reputation as a cornerstone of IMO's Integrated Technical Cooperation Programme.<sup>23</sup>

Furthermore, for fifteen consecutive years the United Nations General Assembly has recognized IMLI's contribution to the teaching of international maritime law. Indeed, on December 30, 2022, during its seventy-seventh session, the Assembly adopted Resolution 77/248, entitled "Oceans and the law of the sea," which acknowledged:

the importance of the work of the Malta-based International Maritime Law Institute of the International Maritime Organization, as a centre of education and training of specialists in maritime law, including government legal

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23. Int'l Maritime Org. [IMO], Int'l Maritime Law Inst. Annual Rep. 2020, at 2 (Message from the Chairman of the IMLI Governing Bd., Kitack Lim).



advisers and other high-level officials, mainly from developing States, confirms its effective capacity-building role in the field of international maritime law, shipping law and marine environmental law.<sup>24</sup>

To date, 1,057 students from 151 States and territories around the world have graduated from IMLI.<sup>25</sup>

The main programs offered at IMLI are the ones leading to the award of a master of laws (LL.M.) in international maritime law<sup>26</sup> and of a master of humanities (M.Hum.) in international maritime legislation. The programs are offered annually to participants, most of whom are already senior government advisers in the maritime field. Governments nominate students to the selective programs.

Studying at the Institute is a unique opportunity to embrace the international nature of maritime law in a multicultural environment. Unlike traditional programs, the Institute's programs offer a distinctive cross-national study of maritime law. Major systems of law in the world, including the civil law and common law systems, are comparatively considered in relation to maritime affairs. An international faculty brings to the classroom the legislative and judicial experience of leading maritime jurisdictions. Its international faculty is composed of over one hundred lecturers, drawn from leading international organizations, judicial bodies, universities, and private entities who visit the Institute throughout the program, bringing cutting-edge developments directly to the classroom. The resident faculty provides the day-to-day running of the program and supervision of candidates' progress.

It is a unique feature of both programs that students are required to submit for examination a maritime legislation drafting project that incorporates an international convention into the national law of their respective countries. Local lawyers and legal draftsmen are often unequipped and lack the special skills needed for the effective implementation and enforcement of the large body of international maritime conventions. Recognizing this need, the programs offer unique training and guided practice in the techniques of

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24. G.A. Res. 77/248, ¶ 31 (Dec. 30, 2022).

25. Data obtained from the Institute's admissions officer (on file with author).

26. In May 2020 the National Commission for Further and Higher Education of Malta, after an evaluation carried out by independent academic experts, recognized that the master's of law degree conferred by IMLI has reached Malta's standards for award of a master's degree. Malta Further & Higher Education Authority, *International Courses Comparable to the MQF/EQF*, <https://mfhea.mt/international-courses-comparable-to-the-mqf-eqf-determined-by-comparability-studies/> (last visited Apr. 13, 2023).

maritime legislation drafting so that the students assimilate the *modus operandi* and methods of implementation of international conventions into national law.<sup>27</sup>

IMLI also offers joint two-year programs with the World Maritime University, leading to the award of the degree of master of philosophy (M.Phil.) in international maritime law and ocean policy and degree of master of philosophy in international maritime legislation and ocean policy. The design of both programs is to train expert maritime professionals, immersed in the UN system structure and goals, to advocate sound policies and legislation that will support the sustainable development of the oceans in line with Goal 14 of the UN 2030 Agenda for Sustainable Development.

Furthermore, the advanced diploma in international maritime law is designed to benefit professionals involved in maritime practice both in the private and the public sector who, because of their careers, are unable to be away from their jobs for any length of time in excess of a few months per year. Also, bearing in mind the differences between the public and private dimensions of international maritime law, the program is split into three distinct strands as follows: advanced diploma in international maritime law (public), advanced diploma in international maritime law (private), and advanced diploma in international maritime law (general).

#### A. Women Empowerment

As Deborah Eade explains, “[t]he situation of men may differ sharply from that of women”<sup>28</sup> as “[t]he experiences and life chances of women and men involve inequity.”<sup>29</sup> In a male-dominated sector, women are sometimes “reluctant or unable to participate openly in public or ‘community’ decision-making processes.”<sup>30</sup>

The participation of women in vulnerable countries in the maritime sector remains low, and therefore more efforts are needed to enhance their participation. IMLI, cognizant of the real benefits to development progress by fully including women in maritime affairs, is firmly committed to increasing their participation through reserving 50 percent of admissions for qualified,

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27. It is worth noting that the Institute’s teaching in the master’s programs is based on a modular system that enables a small number of applicants to attend these modules as independent courses.

28. EADE, *supra* note 20, at 25.

29. *Id.* at 52.

30. *Id.* at 25.

deserving women. Visionary for its time, this policy was introduced in 1988 and has ensured that quality education is accessible equally to qualified men and women. Empowering female professionals to become part of the maritime industry contributes to the promotion of gender equality.<sup>31</sup>

The IMO Assembly acknowledged IMLI's efforts towards gender equality through its Resolution A.1147(31), entitled "Preserving the Legacy of the World Maritime Day Theme for 2019 and Achieving a Barrier-Free Working Environment for Women," which stated:

as far back as 1988, the Organization was in the vanguard of United Nations specialized agencies, as it put in place an institutional framework to incorporate a gender dimension into the Organization's policies and procedures, including a 50% quota for women for one of its educational institutes, through the adoption of resolutions aimed at ensuring access to maritime training and employment opportunities for women in the maritime sector.<sup>32</sup>

#### B. Networks

In a capacity-building context, networks are promoted to share new ideas and information and learn from others with similar interests. They are cost-effective and efficient mechanisms for maintaining and building capacity. They foster the creation of learning communities on the basis of trust and mutual respect.<sup>33</sup> Furthermore, participants' experience and energy are pooled to enhance their collective and individual impact. Participation in international networks can enable people to make the links between the global level and what is going on in their own lives.<sup>34</sup>

This global linkage is particularly true at IMLI. Upon graduation, new batches of students join a vast alumni network of over one thousand maritime experts serving the rule of international maritime law through the development of international maritime instruments, their incorporation into national legislation, and eventual implementation and enforcement. These

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31. IMO, *supra* note 23, at 2.

32. IMO Res. A.1147(31) (Dec. 4, 2019) (Agenda item 19(d), Preserving the Legacy of the World Maritime Day Theme for 2019 and Achieving a Barrier-Free Working Environment for Women).

33. NAT'L RSCH. COUNCIL OF THE NAT'L ACADEMIES, INCREASING CAPACITY FOR STEWARDSHIP OF OCEANS AND COASTS: A PRIORITY FOR THE 21ST CENTURY 7 (2008).

34. EADE, *supra* note 20, at 146.

networks have been created and maintained at IMLI, thus allowing for substantive exchanges, learning, and networking. Many of these graduates are serving their States, holding decision-making positions and, thus, helping to fill the gap in countries' maritime legal frameworks.

### C. Research

Strengthening capacity involves creating an enabling environment for research. Research capacity-building improves the institution's potential in producing and publishing scientific research that contributes to development. Advanced research undertaken by scholars has been recorded in the book series "IMLI Studies in International Maritime Law," which is dedicated to publishing original contributions that analyze key issues in international maritime law, including law and governance of the ocean.

The *IMLI Manual on International Maritime Law*<sup>35</sup> has also become a reliable source of international maritime law used by government officials, academics, and practitioners. In its three volumes the manual deals with all major branches of international maritime law covering the law of the sea, shipping law, marine environmental law, and maritime security law, respectively.

The *IMLI Treatise on Global Ocean Governance*<sup>36</sup> is the product of the fruitful collaboration between IMLI and the Nippon Foundation. In its three volumes the treatise deals with "The UN and Global Ocean Governance," "The UN Specialized Agencies and Global Ocean Governance," and "IMO and Global Ocean Governance," respectively. The publication contains studies by fifty-eight leading experts who published contributions assessing the current state of the international regime regulating the use of the oceans to ensure that proposals for a new framework are based on reliable information.

### D. Donors

IMLI, by itself, cannot build all the capacity required. Capacity grows through the cumulative efforts of doers and donors to develop self-sustaining programs.<sup>37</sup> Since its founding, the Institute has received generous donor

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35. *See* THE IMLI MANUAL ON INTERNATIONAL MARITIME LAW (David Attard et al. eds., 2014).

36. *See* THE IMLI TREATISE ON GLOBAL OCEAN GOVERNANCE (David Attard et al. eds., 2018).

37. NAT'L RSCH. COUNCIL OF THE NAT'L ACADEMIES, *supra* note 33, at 6.

support and has created partnerships to develop its various capacity-building initiatives.

The Institute's donors have acknowledged the importance of enhancing national expertise for the relevance and sustainability of the ocean order. Building capacity would not have been viable nor sustainable without the goodwill and determination of the Institute's donors.

Donors provide fellowships for deserving candidates to pursue studies in international maritime law within the LL.M. and M.Hum. programs offered at the Institute. Consequently, they enable the environment for the effectiveness and sustainability of IMLI's global maritime and ocean capacity-building mission.

The Nippon Foundation, through its joint project with IMLI known as the "Human Resources Development Project for the Advancement of a More Effective Legal Order for the Oceans," supports deserving government-nominated fellows, encouraging greater participation by developing States, particularly Asian States, in the major international maritime law conventions and legal instruments. The project also contributes by sponsoring four teaching positions at the Institute. In 2010, the Nippon Foundation established the Professorship on Marine Environmental Law at IMLI with the objective to participate in the general instruction of the protection of the marine environment and to contribute to the promotion of research in the law of the protection of the marine environment. Recognizing the need of the hour, the Institute established the post of the Nippon Foundation Lectureship on International Maritime Security Law to promote the international rule of law by strengthening the legal capacity of States and promoting a shared understanding of maritime security law. Bearing in mind the Institute's global mission of enhancing capacity-building for the sustainable use of the oceans and in line with Sustainable Development Goal 14, IMLI launched the Nippon Foundation Lectureship on Global Ocean Governance in 2016 with the aspiration of promoting a harmonized and integrated approach to ocean affairs. Building on the outstanding success of the already existing three Nippon Foundation teaching posts at IMLI, the foundation decided to extend further its support in 2018 by establishing a fourth teaching position, namely the Nippon Foundation Lectureship on International Maritime Law. The Nippon professor and lecturers have been instrumental in the organization of IMLI capacity-building activities in international maritime law.

As Yohei Sasakawa, chairman of the Nippon Foundation, has stated:

We think it is our responsibility to prepare a platform that is conducive to increasing the number of people who understand maritime law and that can sufficiently satisfy their intellectual curiosity. It is also our responsibility to establish a global network of maritime experts and to address maritime issues that are constantly changing.<sup>38</sup>

IMO supports IMLI's funding requirements by annually providing fellowships intended for deserving government-nominated candidates who wish to pursue post-graduate studies in the Institute's LL.M. and M.Hum. programs. The Organization also contributes to the Institute's teaching activities through lectures delivered by IMO officers within the IMO work operational aspects program. This program equips the participants with the necessary knowledge and skills to contribute effectively to the realization of IMO's goals.

The Lloyd's Register Foundation established a fund for education, training, and research in the fields of transportation, science, engineering, and technology. It has generously contributed to funding three nominated candidates each year since 2002.

The International Transport Workers' Federation Seafarers' Trust has provided fellowships for candidates to pursue studies at IMLI. In 2019 the Trust signed a cooperation agreement with IMLI wherein it committed to provide five fellowships each year from 2019 to 2024 to deserving candidates applying to IMLI's LL.M. and M.Hum. programs. In addition, the Trust has supported the teaching activities of the Institute through visits of Trust officials, who lecture on important aspects of seafarers law.

The International Group of P&I Clubs, the association of the thirteen principal underwriting protection and indemnity clubs, has joined this donor base by establishing a fellowship for the academic year 2021–2022 for a student pursuing LL.M. studies.

National governments also support the Institute through the provision of fellowships and financial contributions. Other governments sponsor the studies of their national officers at IMLI.

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38. *Commemorative Interview with Dr. Yohei Sasakawa*, THE NIPPON FOUNDATION—IMLI COOPERATION: SUPPORTING HUMAN RESOURCES DEVELOPMENT FOR THE ADVANCEMENT OF A MORE EFFECTIVE GLOBAL LEGAL ORDER FOR THE OCEANS 2bis (2021), <https://fliphtml5.com/hlmkf/jmnu/basic>.

*E. Partnership*

Strong institutional links with national and international organizations in the maritime industry are important to ensure continued professional development and partnership building. Various international institutions provide valuable support to the Institute, such as the International Tribunal for the Law of the Sea (ITLOS), the International Court of Justice, the Comité Maritime International, the International Chamber of Shipping, and the International Oil Pollution Compensation Funds.

The Food and Agriculture Organization has recognized the Institute's unique capacity-building expertise in maritime legislation drafting, which led the organization to designate IMLI as a training partner. In this sense, IMLI holds an annual international fisheries law course to enhance capacity building in terms of knowledge in international fisheries law and governance.

The Institute has also established strong cooperation relations with academic institutions, including the Universities of Ankara, Oxford, Ljubljana, Malta, Queen Mary, and World Maritime University. Further, IMLI has concluded successful cooperation agreements with reputable institutions in the field of international maritime institutions, such as Ankara University Research Center of the Sea and Maritime Law (Turkey), the International Foundation for the Law of the Sea (Germany), the International Ocean Institute (Malta), and the Stockton Center for International Law of the U.S. Naval War College (United States).

*F. Capacity-Building in Times of Pandemic*

The global COVID-19 pandemic has changed capacity-building initiatives forever. The pandemic has resulted in education and capacity-building institutions limiting their operations all across the world. As a result, training has transformed dramatically, with the distinctive rise of e-learning, whereby lecturing is undertaken remotely and on digital platforms.

The academic community has responded quickly to the challenges of delivering remote lecturing. Despite the lockdown measures across the world, the Institute remained committed to deliver its capacity-building mission. IMLI moved all its teaching online in March 2020. The global health situation and strict travel requirements obliged the Institute to continue virtual learning during the academic years 2020–2021 and 2021–2022.

With the aim to face the challenges and to maintain its high-quality standards, the Institute had to adapt across three dimensions: behavioral, structural, and technical.<sup>39</sup> Behavioral adaptation covered the strategic amendments implemented to optimize interpersonal communication and engagement. This includes the establishment of personal connections between faculty and students in order to build a community and create an inclusive academic atmosphere. Such an environment is necessary to promote interaction, student tracking, and the combination of prompt information transfer, discussions, and breaks. All these elements would allow all participants to actively engage using the various channels of communication, and to efficiently switch between individual listening, individual responding, joint practicing, and social discussing.<sup>40</sup> Furthermore, to ensure the student's academic success, the Institute pays great attention to their personal well-being throughout the academic year. The permanent faculty remains in constant communication with the students so they do not feel isolated.

Structural and technical adaptation encompasses the consideration of different time zones, internet connectivity, and additional equipment.<sup>41</sup> IMLI adjusted its weekly schedule to deliver lectures between 1200 and 1700 in the GMT+1 time zone to accommodate students in multiple time zones. To identify areas with a poor internet connection, IMLI conducted a survey to determine where to upgrade internet services. As a result, an IT room was built and equipped for the smooth delivery of virtual lectures.

The Institute continues to offer library services to its students to allow them to continue uninterruptedly with their studies and research so they may complete their projects. Where possible, the Institute makes the materials available online. Library users have electronic access to some of the journals subscribed by the Institute, as well as to comparative and external databases such as IMO documents, IMO virtual publications (called IMO Vega), the IMO Bookshelf (internet-based access to IMO publications), and the Max Planck Encyclopedias of International Law. As a result of the cooperation between the IMLI and ITLOS libraries, IMLI faculty and students can search the ITLOS library catalog and review what is available in its collection. In addition, the Institute facilitates the access of all students to the University

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39. Isabel Richter et al., *Virtual Capacity Building for International Research Collaborations in Times of COVID-19 and #Flyskam*, FRONTIERS IN COMMUNICATION (2021), <https://www.frontiersin.org/articles/10.3389/fcomm.2020.562828/full>.

40. *Id.*

41. *Id.*



of Malta's online resources, including online access to various periodicals, the LexisNexis database, and HeinOnline databases.

IMLI has been able to meet the appetite of the audience for skills development during these uncertain times. The situation also allowed the Institute to reach out to those who would not have had the opportunity to participate otherwise. To ensure it continues to render valuable services to the international community, the Institute launched numerous training initiatives that increased IMLI's global outreach while simultaneously consolidating its status as a renowned center of training and education in international maritime law.

Virtual training had an unprecedented impact with over 750 external participants trained in specialized courses. The design of the courses responds to the needs of the international maritime community and hones the skills of government officers in niche areas of international maritime law.

IMLI launched an extensive program that focuses on the operational aspects of the IMO. The program's design is to provide participants with insights into the work of the organization to equip them with the necessary knowledge and skills to contribute effectively to the realization of IMO's goals for the benefit of the international community. For the first time since the inception of the Institute, all the directors of the IMO divisions and the director of the department for Member State Audit and Implementation Support addressed the Class of 2020–2021, sharing details of the work of their respective divisions and department. Other senior IMO officers and technical experts imparted their extensive wealth of knowledge and expertise, including the latest developments taking place at IMO.

IMLI launched a unique program on the law of treaties. This program provided an overview of the law of treaties by analyzing the provisions of the 1969 Vienna Convention on the Law of Treaties and developments in jurisprudence and doctrine. The course started with the examination of the value of treaties as a source of international law and thereafter analyzed the most essential features of treaties, such as the adoption and authentication of text, States' expression of consent to be bound by treaties, entry into force, treaty interpretation, third States and treaties, methods of amendment, the role of the depositary, duration and termination, invalidity of treaties, treaties with international organizations, and the relationship of treaties with domestic law. Eminent scholars delivered lectures within this program.

The Institute launched the second annual IMLI course on the law of ports, delivered entirely online. The course emphasized the importance of the work of the IMO for the efficient management of ports and the effective

implementation by States of their obligations acquired under international treaties. It also addressed many aspects of port operations vital to the law of ports, particularly to enhance security, safety, environmental protection, and facilitation. The course also covered the role of ports in the development of infrastructure, which is vital to the economic growth of developing countries, especially small island developing States.

The IMLI course on seafarers' rights addressed many aspects of maritime labor law, including the characteristics of international maritime labor law, the functions of organizations committed to the protection of seafarers' rights, and the different international instruments dealing with seafarers' rights and duties, with particular emphasis on the Maritime Labour Convention. The IMLI course on seafarers' rights reiterated the Institute's commitment to the protection of seafarers in line with international efforts spearheaded by the IMO and International Labour Organization.

The Institute contributes to the realization of the sustainable development goals (SDGs) through its training and research. One of the most important academic activities within this framework is the IMLI course on the protection of the marine environment and ocean governance. The course focused on the protection of the marine environment within the integrated global governance of various maritime activities. The course thus expanded further the Institute's mission in enhancing capacity-building for sustainable use of the oceans, in line with all SDGs, particularly SDG 14 (Life below water).<sup>42</sup> IMO officers and leading experts in the field delivered lectures on cutting-edge issues that pushed the dialogue further for a sustainable and inclusive approach to ocean affairs.

The IMLI course on international maritime security law covered the various critical maritime security threats to the international rule of law at sea and the freedom of navigation. The course addressed the gravity of these threats and the existing international laws and State practices deterring the same. It focused on the current legal developments ensuring the safe navigation of ships and the protection of offshore installations and coasts. It also covered the contribution of international organizations and of regional cooperation in overcoming such threats, the special status of warships, and the jurisprudential contribution of international courts and tribunals.

Another unique initiative of IMLI for the pandemic academic years is the IMLI course on the peaceful settlement of maritime disputes. The course

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42. SDG 14's mission statement is "Conserve and sustainably use the oceans, seas and marine resources for sustainable development." G.A. Res. A/RES/70/1 (Oct. 21, 2015).

discussed the development of specific maritime dispute settlement procedures within the UNCLOS system and addressed the interaction between these mechanisms. It answered questions on whether there is a fragmentation or cross-fertilization of international courts and tribunals and whether the doctrine of stare decisis has a place in international law. This course further examined the role of ITLOS in the peaceful settlement of maritime disputes and the substantial jurisprudence the tribunal has developed in the field. The course brought together world experts in the field who provided practical perspectives and experiences.

The IMLI course on the delimitation of maritime boundaries provided a comprehensive introduction to and analysis of the boundary-making process and the alternatives available to States, including provisional arrangements. Distinguished academics and practitioners who have assisted in the delimitation of boundaries worldwide addressed the course. Judges from ITLOS informed the students of the applicable rules of delimitation followed by international courts and tribunals and the crucial role the decisions of these bodies have played in developing the law on the delimitation of maritime boundaries.

These virtual specialized courses have been well received and positively assessed, and they will continue to be an integral part of the Institute's capacity-building pursuit.

#### IV. CONCLUSIONS

Forty years ago, UNCLOS established a comprehensive legal framework for ocean-related activities with a latent and inexorable link to capacity-building through the transfer of technology, scientific and technical assistance, knowledge sharing, and cooperation and collaboration.

Seven years later, IMLI was established as a training, education, and research center to provide necessary opportunities for qualified candidates, particularly those hailing from developing countries, to understand the intricacies of the law of the sea and to return home with all the tools to adapt and apply best practices to their organizations.

Training is a long-term process nurtured over time. The establishment of the Institute has meant that States can rely on a firm institution that is playing an instrumental role in the understanding and development of the law of the sea by building legal capacity in States globally, primarily in developing States. IMLI's mission for the last thirty-four years has been to build sustainable capacity via improved curricula and degree programs to enable

current and future generations of maritime professionals to serve the rule of international maritime law.