

LAW OF THE SEA INSTITUTE CONFERENCE

# “INSTITUTIONS AND REGIONS IN OCEAN GOVERNANCE”

OCTOBER 5 - 6, 2010

Site: International Tribunal for the Law of the Sea facility, Hamburg, Germany

Fifth in a series of international conferences jointly organized and principally sponsored by the **Law of the Sea Institute, School of Law, University of California, Berkeley;** and **Inha University, Incheon, Korea.**



LAW OF THE SEA INSTITUTE  
University of California, Berkeley



## Welcome Message

The Law of the Sea Institute at the University of California, Berkeley, is honored to co-organize this important meeting and joins our Inha University colleagues in extending warm thanks to all the scholars and officials who are contributing their time and effort to come together here. This is the fifth occasion on which we have been pleased to act as principal co-sponsors with Inha University of Incheon, Korea, for a LOSI international conference. With our Inha colleagues, LOSI acknowledges with gratitude the additional major co-sponsorships given by the Ocean Policy Research Foundation, in Japan; and Academia Sinica of Taiwan, in addition to the further contributions of many organizations in Korea and at UC Berkeley.

The earliest of the LOSI conferences were held in the first years of negotiation of what would become the UN Convention on the Law of the Sea. From those years, half a century ago, to the present day, the LOSI conferences and publications have addressed important questions facing the global community in the great task of creating a just ordering of ocean affairs on a resource-sustainable basis. In those early days of the UN negotiation, however, a conference on the theme of "Institutions and Regions" would have been of vastly narrower scope and richness than this theme evokes today. None of the several institutions that have emerged in this historic interval is of more importance, of course, than the International Tribunal for the Law of the Sea. Thus it is of special significance that we are meeting in the ITLOS facility in Hamburg, emblematic of the great advances that have marked international ocean law and the crucial enterprise of dispute settlement.

It has been a special honor for me to be associated as co-organizing chairman with Judge Jin-Hyun Paik, and we are both grateful to President Jesus and to the Judges of the Tribunal for their invitation to convene this meeting here. I would like to extend thanks also to Chairman Seung-Yong Hong for his leadership of the Korean sponsorship group; to Professor Seokwoo Lee for his key role in all the collaborations between our universities; and to Professor Doris Koenig for her role in coordination for today's event.

We have been indeed fortunate to obtain consent join us from such a distinguished group of presenters and panelists in what promises to be a conference of enduring importance in advancing our understanding of key issues in the ordering of ocean affairs. Joined by Professor David D. Caron, LOSI Co-Director with myself, and by Professor Jon Van Dyke, a member of our international board who had directed LOSI at his university in previous years, I am pleased to extend greetings to the participants in this 2010 conference.

I also convey a welcome from Christopher Edley, Jr., Dean of the UC School of Law, who has been a generous sponsor of the LOSI and all its scholarly activities.

On behalf of the Conference Organizing Committee Members

### **Harry N. SCHEIBER**

Riesefeld Chair Professor, School of Law;  
Co-Director, Law of the Sea Institute, UC Berkeley, USA

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## Major Cooperating Sponsors

Ocean Policy Research Foundation, Japan  
Academia Sinica, Taiwan

## Additional Cooperating Sponsors

Northeast Asian History Foundation, Korea  
Green-Growth Ocean Forum, Korea  
Korea Ocean Research & Development Institute (KORDI), Korea  
Sea Lanes of Communication (SLOC) Study Group in Korea, Korea  
INHA International Ocean Law Centre, INHA University, Korea  
International Foundation for the Law of the Sea (IFLOS), Germany  
Institute for Legal Research, School of Law, UC Berkeley, USA  
The Miller Institute for Global Challenges & the Law, School of Law, UC Berkeley, USA  
Sho Sato Program in Japanese and U.S. Law, School of Law, UC Berkeley, USA

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## Conference Organizing Committee Members

Harry N. SCHEIBER (UC Berkeley, USA)  
David D. CARON (UC Berkeley, USA)  
Jon M. VAN DYKE (University of Hawai'i at Manoa, USA)  
Seoung-Yong HONG (Green-Growth Ocean Forum, Korea)  
Seokwoo LEE (Inha University, Korea)  
Masahiro AKIYAMA (Ocean Policy Research Foundation, Japan)  
Yann-huei SONG (Academia Sinica, Taiwan)  
Doris KOENIG (International Foundation for the Law of the Sea, Germany)  
Jin-Hyun PAIK (International Tribunal for the Law of the Sea)  
Philippe GAUTIER (International Tribunal for the Law of the Sea)

## Conference Organizers

Harry N. SCHEIBER (UC Berkeley, USA)  
Jin-Hyun PAIK (International Tribunal for the Law of the Sea)

## Conference Coordinators

Harry N. SCHEIBER (UC Berkeley, USA)  
Seokwoo LEE (Inha University, Korea)  
Doris KOENIG (International Foundation for the Law of the Sea, Germany)

## First Day: Tuesday, October 5

- 09.15-09.35 **Opening Ceremony & Welcoming Remarks:**  
**Harry N. SCHEIBER** (Riesenfeld Chair Professor, School of Law; Co-Director, Law of the Sea Institute, UC Berkeley, USA)  
**Seoung-Yong HONG** (Chairman, Green-Growth Ocean Forum, Korea)  
**Masahiro AKIYAMA** (Chairman, Ocean Policy Research Foundation, Japan)  
**Yann-huei SONG** (Research Fellow, Institute of European and American Studies, Academia Sinica, Taiwan)
- 09.35-10.05 **Keynote Address:**  
**Jose JESUS** (President, Judge (Cape Verde), International Tribunal for the Law of the Sea)  
Introduced by **Seoung-Yong HONG** (Chairman, Green-Growth Ocean Forum, Korea)
- 10.10-11.15 **Panel One: Perspectives on the International Tribunal for the Law of the Sea**  
> Panel Chair:  
**Harry N. SCHEIBER** (Riesenfeld Chair Professor, School of Law; Co-Director, Law of the Sea Institute, UC Berkeley, USA)  
  
> Panelists:  
**Vaughan LOWE** (Chichele Professor of Public International Law and a Fellow of All Souls College, the University of Oxford, UK)  
: **“The ‘Complementary Role’ of ITLOS in Development of Ocean Law”**  
  
**Bernard H. OXMAN** (Richard A. Hausler Professor of Law, University of Miami School of Law, USA)  
: **“Separate and Dissenting Opinions and their Absence: A Window on Decision-Making in the Tribunal”**
- 11.15-11.45 **Break**
- 11.45-12.45 **Panel Two: ITLOS Procedures and Jurisdiction**  
> Panel Chair and Commentator:  
**Alfred SOONS** (Director, Netherlands Institute for the Law of the Sea; Professor, Utrecht University School of Law, The Netherlands)  
  
> Panelists:  
**Carlos D. ESPÓSITO** (Professor of Public International Law, Universidad Autónoma de Madrid, Spain)  
: **“Advisory Opinions and ITLOS Jurisdiction”**  
  
**Philippe GAUTIER** (Registrar (Belgium), International Tribunal for the Law of the Sea; Professor, Universite' Catholique de Louvain, Belgium)  
: **“Two Aspects of ITLOS Proceedings: Non-state Parties; and Costs of Bringing Claims”**
- 12.45-14.15 **Luncheon**

## First Day: Tuesday, October 5

- 14.15-15.50 **Panel Three: Regional Issue and Ocean Law - The Pacific Area**
- > Panel Chair and Commentator:  
**Masahiro AKIYAMA** (Chairman, Ocean Policy Research Foundation, Japan)
  - > Panelists:  
**Moritaka HAYASHI** (Professor Emeritus, Waseda University School of Law, Japan)  
: **“UNCLOS and Japan’s New Anti-piracy Law”**
  
  - Yann-huei SONG** (Research Fellow, Institute of European and American Studies, Academia Sinica, Taiwan)  
: **“Taiwan’s Participation in Regional and Global Ocean Governance”**
  
  - Suk-Kyoon KIM** (Director General, Korean Coast Guard, Korea) and  
**Seokwoo LEE** (Professor, Inha University Law School, Korea)  
: **“Maritime Security Initiatives in East Asia: Assessment and the Way Forward”**
- 15.50-16.05 **Break**
- 16.05-18.15 **Panel Four: Regional Issues and Ocean Law - The African, Latin American, & Indian Ocean Areas**
- > Panel Chair and Commentator:  
**Thomas MENSAH** (Former President and Judge (Ghana), International Tribunal for the Law of the Sea)
  - > Panelists:  
**Ximena HINRICHS** (Legal Officer, International Tribunal for the Law of the Sea)  
: **“The Indian Ocean Region”**
  
  - Helmut TUERK** (Vice President, Judge (Austria), International Tribunal for the Law of the Sea)  
: **“Piracy and the Law of the Sea”**
  
  - Erik FRANCKX** (Professor, Free University of Brussels, Belgium)  
: **“The African Ocean Region”**
  
  - Eduardo FERRERO COSTA** (Partner, Ehecopar Law Firm, Lima; Former Ambassador to the United States, Peru)  
: **“The Latin American Region”**
- 18.15-19.00 **Wine reception for panelists and registered audience**  
Venue: The ITLOS facility

## Second Day: Wednesday, October 6

09.15-11.10

### Panel Five: Institutions Governing Ocean Activities

> Panel Chair:

**Doo-Young KIM** (Deputy Registrar (Korea), International Tribunal for the Law of the Sea)

> Panelists:

**Jon M. VAN DYKE** (Professor, School of Law, University of Hawai'i at Manoa, USA)

: **"The UNEP Regional Seas Programme"**

**Moon-Sang KWON** (Executive Director, Office of Policy Research, Korea Ocean Research & Development Institute (KORDI), Korea) and **Chang Hoon SHIN** (Research Fellow, Korea Ocean Research & Development Institute (KORDI), Korea)

: **"IMO Debates: The Principle of Common but Differentiated Responsibility (CBDR) and No More Favorable Treatment (NMFT)"**

**Alexander PROELSS** (Professor, University of Kiel, Germany)

: **"The Role of the Authority in Ocean Governance"**

**Jean-Francois PULVENIS** (Director (Venezuela), Fisheries and Aquaculture Policy and Economics Division (FIP), Fisheries and Aquaculture Department, Food and Agriculture Organization of the United Nations (FAO))

: **"The FAO, Ocean Governance, and the Law of the Sea"**

11.10-11.20

### Break

11:20-12:40

### Panel Six: Ocean Issues in the Polar Regions

> Panel Chair and Commentator:

**Vladimir GOLITSYN** (Judge (Russian Federation), International Tribunal for the Law of the Sea)

> Panelists:

**Clive SCHOFIELD** (Director of Research and QEII Research Fellow at ANCORS, University of Wollongong, Australia) and **Tavis POTTS** (Lecturer in Marine Policy, Ecology Department, Scottish Association for Marine Science, Scotland, UK)

: **"Climate Change and Evolving Regional Ocean Governance in the Arctic"**

**John K.T. CHAO** (Professor, National Chengchi University, Taiwan)

: **"China's Emerging Interest in the Arctic Area"**

**Michael Sheng-Ti GAU** (Associate Professor of International Law, Institute of Law of the Sea, National Taiwan Ocean University, Taiwan)

: **"Mechanisms for Settlement of Disputes concerning Encroachment upon the Area by Excessive Continental Shelf Claims"**

12.40-14.00

### Luncheon

## Second Day: **Wednesday, October 6**

- 14.00-15.25 **Panel Seven: Europe and the Mediterranean**
- > Panel Chair and Commentator:  
**Tullio TREVES** (Judge (Italy), International Tribunal for the Law of the Sea)
  - > Panelists:  
**Davor VIDAS** (Director of Marine Affairs and Law of the Sea Programme, Senior Research Fellow - Professor, The Fridtjof Nansen Institute, Norway)  
: **“Regional and Sub-regional Oceans Governance”**
  - Nilufer ORAL** (Professor, Faculty of Law, Istanbul Bilgi University, Turkey)  
: **“The Regime of the Straits”**
  - Doris KOENIG** (Professor, Bucerius Law School, Hamburg; Chairperson, International Foundation for the Law of the Sea (IFLOS), Germany)  
: **“Global and Regional Approaches to Ship Emissions Regulation: EU and the IMO”**
- 15.25-15.40 **Break**
- 15.40-17.15 **Panel Eight: Blue Water and “Green Oceans”: Climate Change & Marine Environment**
- > Panel Chair:  
**Dalchoong KIM** (Honorary President, Sea-Lanes of Communication (SLOC) Study Group in Korea, Korea)
  - > Panelists:  
**David D. CARON** (C. William Maxeiner Distinguished Professor of Law, School of Law; Co-Director, Law of the Sea Institute, UC Berkeley, USA; President, The American Society of International Law)  
: **“Climate Change and the Oceans”**
  - Zhiguo GAO** (Judge (China), International Tribunal for the Law of the Sea)  
: **“China and the Future of the Marine Environment”**
  - Yong-Hwan KIM** (Research Fellow, Northeast Asian History Foundation, Korea)  
: **“Blue-Water Oceans: A ‘Green Future’”**
  - Marcus HAWARD** (Professor, School of Government, University of Tasmania, Australia)  
: **“The Nexus between the UNCLOS, the Convention on Biodiversity, and the London Convention: Problems of Competence and Possible Forum Shopping”**
- 17.15-17.40 **Closing reflections:**
- > **Jin-Hyun PAIK** (Judge (Korea), International Tribunal for the Law of the Sea)  
**Harry N. SCHEIBER** (Riesefeld Chair Professor, School of Law; Co-Director, Law of the Sea Institute, UC Berkeley, USA)
  - > Presided by  
**David D. CARON** (C. William Maxeiner Distinguished Professor of Law, School of Law; Co-Director, Law of the Sea Institute, UC Berkeley, USA; President, The American Society of International Law)

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SOCIAL PROGRAM

OCTOBER 4-6, 2010

**MONDAY, OCTOBER 4**

17.15-18.30 Welcoming Reception

Venue: 'Intercontinental Lounge' (situated on the 10th floor), Intercontinental Hotel

Address: Fontenay 10, Hamburg (Invitation Only)

**TUESDAY, OCTOBER 5**

18.15-19.00 Wine reception for panelists and registered audience

Venue: The ITLOS facility

20.00-22.00 Dinner

Venue: Restaurant 'Raven'

Address: Mittelweg 161, Hamburg (Invitation Only)

Presiding:

**Bernard H. OXMAN** (Richard A. Hausler Professor of Law, University of Miami School of Law, USA)

Speaker:

**Shunji YANAI** (Judge (Japan), International Tribunal for the Law of the Sea)

**WEDNESDAY, OCTOBER 6**

19.30-21:30 Venue: 'Intercontinental Lounge' (situated on the 10th floor), Intercontinental Hotel

Address: Fontenay 10, Hamburg (Invitation Only)

Presiding:

**Jin-Hyun PAIK** (Judge (Korea), International Tribunal for the Law of the Sea)

Speaker:

**Rüdiger WOLFRUM** (Judge (Germany), International Tribunal for the Law of the Sea)

Closing thanks from

**Seoung-Yong HONG** (Chairman, Green-Growth Ocean Forum, Korea)

**Masahiro AKIYAMA** (Chairman, Ocean Policy Research Foundation, Japan)

**Yann-huei SONG** (Research Fellow, Institute of European and American Studies, Academia Sinica, Taiwan)

**Harry N. SCHEIBER** (Riesenfeld Chair Professor, School of Law; Co-Director, Law of the Sea Institute, UC Berkeley, USA)



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REGISTRATION FORM

Please fax back to +49 (0)40 - 3 07 06 195 not later than September 15, 2010

First Name

Town

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Institution

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Email

***I will take part in the Conference on “Institutions and Regions in Ocean Governance” in Hamburg at the International Tribunal for the Law of the Sea on **October 5-6, 2010.*****

I confirm the remittance of the **conference fee**

of €150,- (regular conference fee)

of € 75,- (reduced fee – only for students, PhD students, trainee lawyers,  
and for members of the IFLOS Circle of Friends)

to the account no. 09 666 990 01 (account holder: IFLOS),  
Commerzbank AG, Hamburg, sort code no. 200 800 00,  
IBAN: DE 94 2008 0000 0966 6990 01,  
SWIFT-Code: DRES DE FF 200.

Date

Signature

- \_\_\_\_\_
- \_\_\_\_\_
- I cannot take part but would like to be informed about future IFLOS activities.
- Please delete my name and address from the IFLOS mailing list.

**For further information please send an e-mail to: [iflos@law-school.de](mailto:iflos@law-school.de)**