

VALEDICTORY ADDRESS AT THE IMLI GRADUATION CEREMONY 2005
BY LT CMDR GIANMATTEO BREDA (ITALY)

Your Excellency Secretary-General,
Honourable Minister,
Excellencies,
Honourable Justices,
IMLI Governors,
IMLI Faculty and Staff,
Graduands,
Parents,
Distinguished Guests

A passage from the journal of Columbus in his voyage of 1492.

Friday, 21 September. Most of the day calm, afterwards a little wind. Steered their course day and night, sailing less than thirteen leagues. In the morning found such abundance of weeds that the ocean seemed to be covered with them; they came from the west. Saw a pelican; the sea smooth as a river, and the finest air in the world. Saw a whale, an indication of land, as they always keep near the coast.

Christopher Columbus was an Italian sailor, who served for the Kingdom of Spain exploring a new route for the Orient but who is well-known for having found the new world. I firmly believe this is indeed the intimate character of the maritime scenario: at sea the boundaries and the differences of every kind have a peculiar meaning and instead of dividing they unite.

The perils of the sea and the spirit of adventure render life at sea so full of emotions that even the simplest events, such as a pelican flying on a smooth sea, is something that remains impressed in the memory of the sailor.

It is with this spirit that some months ago, a heterogeneous group of 29 lawyers came to Malta to begin together a challenging maritime adventure: an intensive course on the rules and the laws governing life at sea. We believe that there is indeed a converging element which is

capable of overcoming the various differences and the diverse cultural approaches that are obviously present in such a multinational group.

This common view is represented by the passion for the study and development of the law, as the concrete affirmation of a just world and as a solid basis on which to build a better future.

In this perspective, it is correct to say that maritime law is certainly international *in re ipsa* and in a world where speaking of globalisation has become a fashion, within the maritime sector this has been the norm since early civilizations and what is new for others is for the maritime actors the mere confirmation of a consolidated tradition.

Today, this batch of 11 ladies and 18 gentlemen enters with full title in the family of the IMLI graduates, a world-wide legal community which is more and more playing a role of paramount relevance in the daily care of maritime affairs, both on the private and public sector.

I hail from the Republic of Italy where I serve as a Naval Officer in the Legal Department. These are all elements that render me very proud of the deep maritime character that has distinguished my life. In fact, Italy, a peninsula surrounded by the seas, is certainly a maritime nation with a long-standing tradition and it is deemed to be the homeland of law.

Therefore, it is a privilege and indeed a pleasure to deliver this address on behalf of the IMLI Class of 2005 on the occasion of the 16th Graduation Ceremony.

I dare to say that here amongst us there are 29 Ambassadors in representation not only of their countries but also of the principles and values as espoused by the IMO.

All the graduands can be proud of having been outstanding flag bearers of the cultures, traditions and values of their Nations and during the whole academic year this has been our contribution to common enrichment from which also the International Maritime Law Institute has benefited.

Every word of appreciation for the superb academic direction and supervision of Professor David Attard would not give due justice to his remarkable teaching qualities. His ability to render any challenging topic easily accessible, interesting yet still intriguing is a testament to his many years as one of the major international authorities on the subject.

I take this opportunity to give due and sincere recognition to Dr. Ivan Vella, Mr. Norman Martinez and Mr. Mitja Grbec who not only have demonstrated an unparalleled level of

excellence in their academic performance, but have also shown a sense of collegiality with us students which we depended on and very much appreciated.

The already impressive work done by the Faculty is further completed by the many distinguished guests that the Academic Institution is capable of attracting year after year. It would be impossible to name all of them, but every visiting lecturer is certainly a representative of the international character and dimension of the Institute.

Allow me now a few words on the importance of such guidance which has constituted a fundamental “navigational” aid on the way to the LL.M, a long process that has required constant attendance, several nights spent working on the dissertations and legislative drafting projects, not to mention the necessary inspiration during the preparation for the final exams.

All these results would not have been possible without the constant and passionate support of the IMLI staff that provided all the necessary administrative and technical assistance, permitting us to focus on our studies.

The academic program of the Institute has been modelled so as to reflect the main concerns which the IMO seeks to address in the present and near future, as clearly identified in the IMO’s mission statement.

Your Excellency Secretary-General, I take advantage of your presence here on this prestigious occasion to further emphasize what is the major concern not only of the IMO, but of the international community as a whole.

Security, in its most comprehensive meaning, is a necessary framework on which the maritime community must align itself in view of recent dramatic events of which we are all unfortunately aware.

There can be no safe sea if there is no law governing it.

This assertion is so simple and obvious but at the same time so difficult to realize and enforce and there is no possibility for any party to shy away from its responsibilities.

It is indeed thought-provoking that in the time of electronic bills of lading and advanced navigational technology, ships still fall victims to the scourge of piracy, a crime many still mistakenly believe to have died out centuries ago with the fantasy tales of Captain Hook.

The role played by the juridical experts in this regard is decisive and in the absence of a definite and effective legal pattern on which to rely, the threat posed by international terrorism

would certainly be overwhelming. All the fundamental activities that every day take place at sea would be seriously put at risk, causing detriment to the welfare of present and future generations.

In the perspective of the prior need for security, as the *condicio sine qua non* for the development, if not for the existence of the maritime sector, the graduands have seriously committed themselves to put to surface fresh ideas and supported by a profound motivation, have elaborated on the many ramifications of international maritime law, focusing both on the public and private side.

Let me bring to your attention the interesting views and national perspectives on the effective implementation of the ISPS Code and on the process of revision, still in due course, of the SUA Convention.

This can be considered as the modern version of the ancient dilemma between the defenders of the *Mare Clausum* and the paladins of the *Mare Liberum* and of the creeping jurisdiction, as magistrally exposed by Professor Vaughan Lowe when lecturing at IMLI, which is still playing the part of the protagonist on the legal disputes.

Finally, the recent regional initiatives in the field of maritime safety and marine environmental protection have determined a situation of discrepancy between the different institutions involved in the legislative activity.

Issues like the criminalization of the masters and crew-members, the role of the classification societies, the places of refuge, the phasing out of single-hull tankers and the civil liability of the subjects involved in the maritime business (and this list is not an exhaustive one) must necessarily be dealt with by following a more appropriate method.

The international character of maritime law is a reality that cannot be shaded behind the need for urgent measures. A prudent master would definitely choose the safest course and speed that requires a global approach and the sharing of views, in order to adopt those measures ultimately capable of giving consistency and reliability to the whole sector.

This is now our task, no matter whose interests we will be supporting: serving the rule of international maritime law.

Our thanks go to the IMO, represented here today by Secretary-General Admiral Mitropoulos, whose presence is meaningful of the symbiotic relationship between it and IMLI: a relationship not dissimilar from that between a mother-ship and its daughter ships.

The Class of 2005 also wishes to convey its deep congratulations and best wishes to the Government and People of Malta for the warm hospitality extended to us. Malta's intimate connection with the seas is also evident in the work of its distinguished visionaries, such as Professor John Colombos and Ambassador Arvid Pardo who have made tremendous contributions to the evolution of the law of the sea; which contribution may be furthered after the Maltese Commissioner to the EU was entrusted with the portfolio for fisheries and maritime affairs.

We now are ready to sail again for the desired voyage back to our respective homeports, but let me express a final thought.

There is much to share here at IMLI and what a decade ago was the main objective of the Institute, helping the developing countries to fill in the gap of the maritime legal background with respect to industrialized Nations, is now just one of the goals. The developed countries cannot escape having a new approach regarding the involvement of the developing nations, because the common interests and the good ideas do not have nationality rather they fall under the principle of universal jurisdiction.

This is what renders the IMLI experience so attractive and worthy of being deeply lived. Clearly the modern dimension of international maritime law, along with the impact of technology, has contributed to the idea of a common interest which is the preservation of this splendid resource and way of living.

Once again Christopher Columbus:

The tongue is not enough to say and the hand is not enough to write of all the beauties of the sea.

I wish you all the best.