Message from the Director

As the year draws to a close, it is remarkable the number of firsts that the past three months have brought. These have come together to bring to a close a highly successful year.

In November, ANCORS combined with IBRU at the University of Durham to host a successful workshop on islands and maritime boundary delimitation at UOWD’s campus in Dubai. ANCORS also combined with the Australian Civil Military Centre to facilitate a maritime security workshop co-hosted by Australia and Indonesia under the auspices of the East Asia Summit.

We also had the opportunity to celebrate the recognition of Martin Tsamenyi AM as an Emeritus Professor of the University.

Finally, at the end of November, there was an opportunity to attend a United Nations/Nippon Foundation fellowship meeting in Bali for Clive Schofield and myself. The meeting was well attended and so we had a photo opportunity with some 14 ANCORS alumni and current students from around the Asia-Pacific. It has been a great year, with 2016 looking even better. All the best for the holidays!

To rule over the waves

On 12 July, in a celebrated legal battle many have characterised as the epic clash between David and Goliath, the Philippines overwhelmingly emerged the victor.

It was the exemplary illustration that small, weak states can confidently challenge powerful nations, standing on equal footing with them and bolstered only by the enduring principle that law and right will always triumph and prevail over brute power and might.

The Hague-based Permanent Court of Arbitration Arbitral Tribunal, after more than three years of bated anticipation since the case was filed, handed down its historic decision on the decades-old maritime dispute over the South China Sea (SCS), which Manila proudly calls the West Philippine Sea.

The 500-page final award meticulously and thoroughly weighed the case brought by the Philippines and rigorously and strictly applied the rules of international law, principally the United Nations Convention on the Law Sea.

The unanimous verdict is clear: China’s so-called indisputable claim over the SCS anchored on Beijing’s controversial nine-dash line claim has no basis in international law and was incompatible with the UNCLOS, the arbitral tribunal declared.

Strictly speaking, the award is only binding upon the Philippines and China. However, the landmark verdict will have significant, lasting and far-reaching implications affecting the legal rights of all the claimant states and will strongly impact the management and resolution of the conflicting claims in the SCS.

The award is not the end of the road, but perhaps just the beginning of rough paths ahead. (continued next page)
To rule over the waves (continued)

**The trial of the century**
On 22 January 2013, the Philippines instituted arbitral proceedings against China under Annex VII of UNCLOS in respect of their maritime jurisdictional dispute in the SCS. The arbitration is the first international litigation initiated by a claimant state in the SCS.

The game-changing proceedings have altered the terrain of strategies available to claimant states that have always eschewed legal options. The decision to go to trial was one that many considered reckless, legally indefensible, and doomed to fail.

Beijing never concealed its displeasure, strongly arguing against the jurisdiction of the tribunal, which was rejected in the award on jurisdiction rendered in October 2015. China also refused to participate in the proceedings, and made its position clear that it will not honour the ruling.

In accordance with the provisions of UNCLOS, the arbitration proceeded in China’s absence, with the five-member Tribunal deciding unanimously on both jurisdiction and merits in Manila’s favour.

**Judgment day – an overwhelming victory**
The final arbitral award of 12 July was not surprising because it was in Manila’s favour. What was surprising was that while many were expecting a favourable ruling, they were definitely not anticipating the magnitude and scale of victory that the arbitral tribunal delivered.

The award was a clear, resounding and overwhelming moral and legal triumph for the Philippines. It is also final and binding.

The arbitral tribunal refuted and categorically declared that China’s nine-dash line claim as well as China’s historic rights over living and non-living resources in the SCS find no basis in international law and was incompatible with UNCLOS.

The tribunal clarified that China does not possess historic rights over the resources within the ‘nine-dash line’ in areas within the Philippine EEZ or continental shelf; and that any historic rights that China may have over these resources is incompatible with UNCLOS and have been extinguished by China’s accession to UNCLOS and its entry into force.

The tribunal also declared that China’s reclamation activities have interfered with the rights of the Philippines under UNCLOS, irreparably damaged the fragile marine environment of the SCS, and are clearly in violation of China’s obligations under UNCLOS.

The tribunal, mindful of the limits of its jurisdiction, carefully and explicitly avoided the issue of sovereignty whilst declaring that none of the features in dispute are “islands” being incapable of sustaining human habitation or economic life of their own, but merely “rocks” for purposes of Article 121(3) of UNCLOS that do not generate entitlements to an exclusive economic zone or continental shelf.

**Muted jubilation in Manila**
The reaction in Manila is currently one of muted jubilation. The new administration under Philippine President Rodrigo Duterte presciently adopted a “no taunt, no flaunt” policy which was very favourably received by Beijing.

There is challenging and real work ahead on more contentious issues of sovereignty, maritime delimitation, reparations and fisheries enforcement, and multilateral negotiations.

**The road ahead**
Manila clearly won the legal battle. However, compelling China to honour, abide by and comply with the award of the arbitral tribunal is outside the ambit of Manila’s legal triumph. While the decision is final and binding, the arbitral tribunal does not have the power or the resources to coerce China to concede to the overwhelming legal and moral victory that the Philippines secured for itself.

The post-arbitration geopolitical situation in the South China Sea will likely be a period defined by a belligerent, defiant China. Nonetheless, in the long-term, it should be expected that the bilateral relations between the Philippines and China will be mended and restored, as it is more robust, resilient and need not only be defined by their competing claims over the South China Sea.

-Dr Lowell Bautista is an ANCORS Alumni and Senior Lecturer in the School of Law.

This abridged article is published in full in the 25 July edition of the New Mandala:
www.newmandala.org/to-rule-the-waves/.
ANCORS well represented again at UN PrepCom II

The second session of the preparatory committee to develop elements of a new international legally binding instrument for the conservation and sustainable use of marine biological diversity in areas beyond national jurisdiction, under the United Nations Convention on the Law of the Sea, was held at the United Nations in New York, 26 August to 9 September 2016.

The meeting discussed area-based management measures, such as marine protected areas, environmental impact assessments, marine genetic resources and technology transfer and capacity building.

Areas of possible convergence and issues for further discussion were identified.

ANCORS members played a visible role on a number of delegations by speaking at various side events, including (photo, L to R): Mr Pio Manoa (FAO); Professor Robin Warner (IASS); Alumni Dr Carole Durussel (IASS); Ms Harriet Harden-Davies (UNESCO Intergovernmental Oceanographic Commission); Honorary Senior Fellow Dr Liz Brierley (PIFS); Advisory Board Member Alistair Graham (Australia) and Ms Lora Reeve (OceanCare).

The third and fourth PrepCom meetings for this historic development in international oceans law will take place in 2017.

Study finds fishing is worth more than jobs and profits to Australian towns

Dr Michelle Voyer and Professor Alistair McIlgorm were part of a team that recently completed a two-year assessment of the ways professional fishing contributes to the social and economic lives of NSW coastal communities.

The research team assessed how the industry contributes to key dimensions of community well-being, as the NSW fishing industry continues to undergo significant management changes.

The study finds that the industry remains a vital ingredient for maintaining the economic, social and cultural richness of coastal communities.

The study’s economic assessment component revealed that the industry contributes more than A$436 million in revenue annually to the NSW economy and accounts for about 3,290 full-time jobs.

Study results also indicate that nearly all (94%) of NSW coastal residents interviewed believe the fishing industry should be maintained in NSW and 64% indicated they would be interested in watching professional fishers at work while on holidays.

These findings come at a time where competition for marine resources in NSW continues to grow and the pressure to close more of the ocean to professional fishing increases, with unknown impacts on local communities.

The study is recently discussed in the Conversation: https://theconversation.com/fishing-is-worth-more-than-jobs-and-profits-to-australias-coastal-towns-67053 and the report can be accessed online at: www.uts.edu.au/vcf.

Australian Award Fellows complete short course

A group of 15 fisheries managers from around the Caribbean recently completed a 4-week course at ANCORS.

The course, which was run by Professor Alistair McIlgorm, covered a comprehensive list of topics including: the status of global fisheries and fisheries trade, the global legal framework for sustainable fisheries, sustainable fisheries management tools and approaches, combatting IUU fishing, fish trade, MCS, and regional cooperation. It was a team effort, with most ANCORS staff and Fellows teaching at least one course, and Ms Myree Mitchell and Dr Owen Li ensuring that the behind-the-scenes details ran smoothly.

The course was not all deskwork, with visits to the Sydney Fish market and to the Australian Fisheries Management Authority, Border Force, FRDC and Parliament in Canberra.

Feedback from participants was that they were pleased with the consistently high standard of lectures.

The fellowships are funded by the Australian Department of Foreign Affairs and Trade.

A very engaged group of Caribbean AA Fellows thank DFAT on one of the warmer days of their spring visit.
ANCORS participates at South China Sea arbitration conference

On 5-6 October 2016, Professor Clive Schofield (ANCORS Director of Research), Professor Warwick Gullett (UOW Dean of Law) and Leonardo Bernard (ANCORS PhD Candidate) participated at the 2016 DILA-Korea and KIOST International Conference: South China Sea Arbitration and Beyond Territorial and Maritime Disputes in East Asia, held in Seoul, Korea.

Professor Schofield talked about the practical implications of the arbitral tribunal’s award for marine resources exploitation and management in the South China Sea; while Dean Gullett talked about the contribution of the South China Sea arbitration to the concept of juridical islands.

Leo served as the Rapporteur and presented the summary of proceedings at the end of each day of the Conference.

The Conference was attended by experts on the law of the sea, including scholars and government officials from USA, China, Japan, Canada, Australia, the Philippines, Italy and Singapore.

- Leonardo Bernard is an ANCORS PhD Student

TRAFFIC at CITES CoP17

The 17th Conference of the Parties to the Convention on Trade in Endangered Species of Wild Fauna and Flora (CoP17 CITES) closed in Johannesburg in early October after two weeks of intense inter-governmental negotiation on the regulation of trade in wild animals and plants.

The meeting concluded with some significant steps forward for global efforts to stamp out illegal wildlife trade and ensure the sustainability of future trade in a range of valuable species.

Substantial progress was made for a number of terrestrial and some marine species.

Issues discussed in the forum included captive breeding, demand reduction strategies traceability, and corruption in trade regulation.

ANCORS Senior Research Fellow and TRAFFIC Fisheries Programme Manager Mr Glenn Sant was on hand to support a number of initiatives, one of which was traceability in trade. Another successful initiative was the inclusion of four species of shark and nine species of Mobula rays on CITES Appendix II.

Irresponsible and unsustainable fishing practices, have led to an enormous decline in shark numbers over the past 50 years. Removal of these key predators from the food chain has serious consequences for interconnected marine and human systems.

This listing means that trade in these species is now controlled in order to avoid utilization incompatible with their survival in the wild; however, as always the success of these measures ultimately depends on adequate national implementation.

For more about TRAFFIC and CoP17 outcomes, see: www.traffic.org/home/2016/10/5/positive-outcomes-from-global-wildlife-trade-conference-but.html

Opportunities for peace, stability and sustainability at CSEAS Symposium

In August, ANCORS Research Fellow Brooke Campbell took part in the Asian International Symposium: The Contemporary Maritime Security Issues for the Asian Region: Challenges and Opportunities for Peace, Stability and Sustainability, held in Jakarta, Indonesia.

Ms Campbell gave a presentation about food security and sustainable fisheries management and was a panelist for a session on marine environmental protection for sustainability along with ANCORS PhD student with Youna Lyons, the Indonesian Institute of Sciences.

-Theo Campbell is a ANCORS Research Fellow
ANCORS was delighted to host a workshop titled Ocean Issues for the Pacific and East Asia at the University of Wollongong's Innovation Campus on 2-4 November.

The meet convened under the auspices of the Jon Van Dyke Institute, University of Hawai'i at Manoa and was principally sponsored by the Korea Institute of Ocean Science and Technology (KIOST).

Around 35 participants came from various institutes and universities across Australia, Korea, the United States, Canada, China, New Zealand, Ireland, Scotland and Italy.

Participants heard 17 presentations delivered by six panels on a range of topics including: the blue economy, climate change impacts and sea level rise, the preservation of the marine environment and sustainable fisheries, new frontiers for deep sea minerals and the Arctic, the prospective International Agreement on Conserving Biodiversity Beyond National Jurisdiction, and the repercussions of the Award of the South China Sea Arbitration Tribunal.

Thought-provoking discussions led by expert panel chairs and commentators – primarily ANCORS staff and students – followed each set of presentations.

A Reflection and Tribute to the late Professor Ian Townsend-Gault was also delivered by ANCORS Professor Clive Schofield and William Stormont of the University of British Columbia.

After a successful workshop it was a special treat for attendees to see a pod of whales in the Wollongong basin before the harbourfront dinner on Thursday night.

- Ms Candice Visser is an ANCORS PhD student.
Community Based Fisheries Management project members Ben Namakin, Tarateiti Uriam, and ANCORS’ Brooke Campbell helped celebrate the 9th annual Kiribati Ministry of Fisheries and Marine Resources Development (MFMRD) Fisheries Awareness Week in late October by taking part in educational activities and festivities.

The week showcases the great work in which MFMRD is engaged across its five Divisions and raises awareness about Ministry activities as well as issues like maritime safety and the sustainable use of marine resources.

For the CBFM team it was also a chance to raise awareness about the project, to answer the public’s questions, and to showcase project achievements to date. Some of these successes include facilitating the development of Community Resource Management Plans in all 5 pilot project communities. These Plans were developed by communities and are the first of their kind in Kiribati.

The CBFM team and MFMRD are also watching proudly and standing by in support as communities begin to implement their management plan actions by themselves.

For example, North Tarawa’s Tabonibara village recently implemented a fishing ban for spawning Amori fish; in support of these conservation efforts, neighbouring villages have voluntarily adopted the ban as well. Buariki, Tanimaiai, and Bikati villages are also celebrating recent management successes.

Awards for the 2016 funding round include: Conservation and Equity in Pacific Tuna; Nereus, led by A/P Quentin Hanich and strategic grant Launching a Blue Economy: putting theory into practice, led by Dr Michelle Voyer.

ANCORS investigators for these recently awarded grants include Dr Michelle Voyer, Prof Alistair McIlgorm, Prof Richard Kenchington, Ms Harriet Harden-Davies, Ms Brooke Campbell, Dr Aurélie Delisle, Ms Ruth Davis, and A/P Quentin Hanich.

2016 was also a busy and successful year for GC grants at ANCORS, with over 148K in project, seed, and strategic funding awarded to 5 staff and students and their UOW and external partners in the 2015 funding round.
ANCORS had the pleasure of hosting a number of distinguished guests and visitors over the past months. One of these distinguished guests was Australian Minister for International Development and the Pacific Senator the Honorable Concetta Fierravanti-Wells. The Minister was also accompanied by UOW Vice Chancellor Professor Paul Wellings. Among the topics discussed was the new online Masters program and some of ANCORS activities in the Pacific.

Other recent Centre visitors include:

- Director Masahiro Yamada of the Japanese Coast Guard (Piracy Countermeasures Office)
- A/Prof Max Troell of the Stockholm Resilience Centre and the Beijer Institute of Ecological Economics;
- Dr Jeremy Hills, Director of the Institute of Marine Resources at the University of the South Pacific, Fiji;
- The David and Lucile Packard Foundation’s Senior Advisor Stuart Green and Program Officer John Claussen;
- Professor Karen Scott from the University of Canterbury School of Law; and
- Dr Philip James, Fisheries Economics Officer from the Pacific Community.


Unforgettable Experiences during UN Nippon Fellowship 2016

Zaki Mubarok Busro is an ANCORS PhD student studying under an Australia Awards Scholarship with Professors Stuart Kaye and Alistair McIlgorm. His PhD thesis looks at legal, policy, and institutional perspectives of Illegal, Unreported and Unregulated (IUU) fishing as transnational organized crime in Indonesia. He was awarded a UN Nippon Fellowship in 2016. Below, he writes about some of his experiences in this program so far.

It is indeed a good opportunity for me to be a selected fellow under the program of United Nations-Nippon Fellowship along with nine other Fellows from around the globe.

This program was concluded between the United Nations and the Nippon Foundation of Japan through a trust fund project agreement to provide capacity-building and human resource development to developing States Parties and non-Parties to UNCLOS executed by the Division for Ocean Affairs and the Law of the Sea (DOALOS).

For the second phase (July-December 2016), we have all been deployed to different countries. I am posted at the Center for Law in Action, Nelson Mandela Metropolitan University of South Africa. It is located in the small and iconic city of Port Elizabeth.

Above all, I would like to convey my gratitude to Prof. Stuart Kaye and Prof. Alistair McIlgorm for making this wonderful experience happen.
Congratulations to our 2016 Masters graduates

After a year of hard work, the 17 graduates listed below are now returning to an incredible diversity of countries around the world. We wish them all the best in their new professional endeavours and we hope our paths cross again in the future!

**Master of Fisheries Policy**
- Johhny Louys (Seychelles)
- Hearty Matamaru (Solomon Islands)
- Elisa Plati (Australia)

**Master of Maritime Studies**
- Itty Timothy (Nigeria)
- Robert Shea (Canada)

**Master of Maritime Policy (Online)**
- Seiloni Toakuru (Tonga)
  (ANCORS GC 2015)

**Master of Maritime Policy**
- Luigi Amoresano (Italy)
- Khairul Bin Taub (Malaysia)
- Kate Chung (South Korea)
- Anura Ekanayake (Sri Lanka)
- Noel Kalubowila (Sri Lanka)
- Ronald Paras (Philippines)
- Hickson Siba (Vanuatu)
- Semisi Tapueluelu (Tonga)
- Ravo Ramahafalala (Madagascar)
- Noel Thomasoo (Mauritius)

**Graduate Certificate in Maritime Studies**
- Luella Cox (Australia)

ANCORS Director Stuart Kaye receives a lovely appreciation gift from Noel Kalubowila on behalf of the graduating class of 2016.
ANCORS Alumni Ahmad Almaududy (Dudy) Amri has a number of reasons to celebrate; not only has he recently qualified for graduation, he and wife Maulida are thrilled at the arrival of their first child, a daughter named Aishah. Congratulations Dr Amri and family!

Administrator Ms Myree Mitchell is celebrating the birth of her first grandchild, Louis, who was born on the 12th of November. All the best to new parents Justine and Ben as well as Nooni Mitchell!

Farewell to Nippon Fellow Aruna, who heads back to Sri Lanka in mid-December!

A reminder of the dates for 2017 Short Courses:
- Fisheries Management: 3-7 April
- Law of the Sea: 19-23 June
- Maritime Regulation and Enforcement: 26-30 June
- International Fisheries Law: 21-25 August
- International Fish Trade: 28 August—1 September

Thank you to everyone who contributed to the newsletter this year. Happy Holidays and best wishes for 2017 from The Anchor!