Inaugural NMF-KAS International Seminar on Public International Maritime Law (PIML)

18 and 19 September 2025

"COLLABORATIVE SOLUTIONS TO LEGAL CHALLENGES OF PUBLIC INTERNATIONAL MARITIME LAW (PIML) IN THE INDO-PACIFIC"

CONCEPT NOTE

The Indo-Pacific, which is a *predominantly* — although certainly not *exclusively* — maritime space, stretches from the eastern shores of the continent of Africa to the western coast of the Americas, and from Eurasia's southern edge to the northern coastline of Antarctica. This region is well recognised as having been restored to its historical position being the centre of global socio-cultural and economic activity. Within its vastness, encompassing 64% of the world's oceanic area, dwell half the world's people, accounting for nearly two-thirds of the world's economy, and hosting seven of the world's largest militaries. Along the many international shipping lanes (ISLs) that crisscross the Indo-Pacific flows 50% of global container traffic and 80% of global maritime oil shipments, negotiating some 65% of the world's strategic maritime chokepoints (Hormuz, Bab-el-Mandeb, Mozambique Channel, Malacca, Sunda, Lombok, etc.). As might be expected for a region that is pivotal to global industries including manufacturing, technology, finance, energy, agriculture, fishing, tourism, and shipping, the Indo-Pacific is governed by a complex web of public international maritime law (PIML) frameworks.

A web of international conventions/treaties establish overarching principles and standards governing the activities and behaviour of various maritime entities. Adherence to the stipulations of these international conventions/treaties, taken in aggregate, generate what is often called the "rules-based maritime order". Unfortunately, far too many people believe that it is solely the 1982 *"United Nations Convention on the Law of the Sea"* (UNCLOS 1982) that is the determinant of this rules-based maritime order. However, it is critical to recognise that the *rules-based maritime order* is an amalgam of UNCLOS 1982 and a whole slew of extremely important international conventions, such as the *"Convention on the International Maritime Organisation"* (IMO Convention), the *"Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation"* (SUA Convention), the *"Convention on the International Regulations for Preventing Collisions at Sea"* (COLREGS), the *"International Convention for the Safety of Life at Sea"* (SOLAS Convention), the *"International Convention for the Prevention of Pollution from Ships"* (MARPOL Convention), the *"International Convention on Standards of Training, Certification and Watchkeeping for Seafarers"* (STCW Convention), the *"Constitution and Convention of the International*

Telecommunication Union" (ITU Convention), the FAO *"Code of Conduct for Responsible Fisheries"*, the *"Agreement on Biodiversity Beyond National Jurisdiction"* (BBNJ Treaty), etc.

Well before these conventions were negotiated and adopted, nation-States had been fighting for centuries to pursue what they held to be their interests and to protect what they believed to be their rights — thereby causing the creation of legal doctrines such as '*mare liberum*' and '*mare clausum*'. These doctrines act as the foundation of today's 'Public International Maritime Law' (PIML) and the several legal regimes of which mention has been made. However, even today — some might say *especially* — rising geopolitical tensions, environmental degradation, and technological advancements are testing the limits of these legal regimes.

Indeed, in a world in which globalisation and interdependence has waxed and waned with such surprising suddenness, the skilful navigation of each Ship of State through the resultant legal complexities — and especially the several legal ambiguities — encountered within the maritime domain is crucial to national and individual wellbeing. A thorough knowledge of PIML is, consequently, an essential attribute for a wide array of stakeholders ranging from supra-governmental and intergovernmental organisations to the world's nation-States and their enforcement agencies and going down to private organisations and entities whose business- or other interests involve the international maritime domain. Given that individual nation-States are the principal actors in the implementation and enforcement-of (and occasionally, even evasion-from) the provisions and stipulations of international treaties/ conventions, it is unsurprising that there are variations in the interpretation and the regulatory processes by which the obligations committed-to by States under PIML are incorporated into frameworks of domestic law.

Within a specific maritime geography — the South China Sea, for example — 'localised' legal and non-legal normative agreements might well initially appear to be attractive options with which to encourage recalcitrant States to conform to expected norms and standards of behaviour. More often than not, however, these sorts of agreements introduce additional layers of complexities by way of expectations and obligations.

In the maritime domain, especially on the high seas or areas beyond national jurisdiction (ABNJ), ambiguities in respect of legal jurisdiction can and do generate very considerable complexity in terms of attributability and culpability. These complexities are exacerbated by the fact that technology is galloping at a considerably faster rate than the law. As a case in point, uncrewed autonomous surface vessels challenge many elements of the anthropocentric framework of the COLREGS (e.g., Rule 8: Action to Avoid Collision). When technology moves underwater, these complexities are particularly pronounced — for instance, when confronted with the challenges of underwater and seabed infrastructure in the ABNJ or even within the EEZ of a particular State, as witness the fact that Indonesia's 2022 regulation requires permits for the laying of submarine cables within its EEZ.

Nauru's 2021 invocation of the "2-Year Rule" (UNCLOS Annex III) to fast-track mining applications offers evidence of a rising challenge — economic impatience as a driver of State practice.

In the face of these challenges, legal redressal and arbitration mechanisms are themselves less robust and accepted the than might have been hoped. For instance, of the 75 States of the Indo-Pacific, only 28 accept ITLOS jurisdiction under UNCLOS Annex VII. Similarly, only 22 have ratified the FAO Port State Measures Agreement of 2009. Likewise, only 40% of ASEAN member-States publicly recognise the 2016 ruling of the Arbitral Tribunal that adjudicated the Philippines versus China dispute. These depressing statistics underscore the challenges of enforcement of even consensually derived international treaty law.

The increasingly widespread resort to "lawfare" by States operating within the Indo-Pacific has generated a whole series of fresh complexities with State practice sometimes demonstrating flagrant disregard for established law. China's *"Nine/Ten Dash Line"*, its subsequent *"Four Sha"* claim of 2019-20, have led Beijing to its current effort to claim to straight baselines joining the outer limits of these four *"Shas"* — *Dongsha* [the Pratas Group], *Xisha* [the Paracel Group], *Nansha* [the Spratly Group], and *Zhongsha* [the Macclesfield Bank] — are cases in point.

It is clear that there is much to be discussed and much that needs to be done in the field of PIML. Sharing information, engaging in serious dialogue, and eking out genuine legal expertise that could inform opinion, and nurturing well informed expertise amongst future legal scholars and practitioners, as also practitioners of the art and science of seafaring — particularly naval and coast guard functionaries — are essential if responsible States are to navigate these complex PIML issues and achieve mutually acceptable outcomes. Mapping the legal 'seascape' is a continuous and multifaceted endeavour that requires a deep understanding and dissemination of the applicable legal frameworks, a proactive approach to risk management, effective communication, and cooperation and collaboration among all stakeholders.

In recognition of the importance and urgency of finding solutions to the several challenges confronting nation-States in terms of PIML, the National Maritime Foundation (NMF), New Delhi, and the India office of Konrad-Adenauer-Stiftung (KAS) have initiated what is expected to be an annual series of international seminars. An inaugural two-day seminar has accordingly been scheduled in New Delhi on the 18th and 19th of September 2025. It seeks to convene a conclave of international and national (Indian) scholars, PIML experts, and practitioners to deliberate upon the optimal solutions to the several complexities of public international maritime law so as to be better able to advise governments and private entities towards fostering a safer, more secure, and a legally stable and sustainable maritime environment.

This inaugural NMF-KAS International Seminar on Public International Maritime Law (PIML) will incorporate six professional sessions covering the following themes referenced to the Indo-Pacific:

1. Safeguarding Sovereignty in the Indo-Pacific
2. Deciphering the Exclusive Economic Zone
3. Undersea and Seabed Resources and Infrastructure: Legal Issues
4. Understanding and Countering "Lawfare"
5. Legal Challenges of Foreign Logistic-support / Military Bases
6. Laws of Naval Warfare: Acceptability of the San Remo Manual and the Newport Manual