

出國報告（出國類別：國際會議）

參加「海洋管轄權限」(The Limits of
Maritime Jurisdiction) 國際研討會報告

服務機關：內政部（地政司）

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派赴國家：澳洲（臥龍崗）

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摘 要

為持續瞭解國際海洋法政專家學者對於海洋相關議題之最新見解，俾對我國現行、未來海洋政策及制度提出具體建議或因應對策，提供相關機關決策參考，本部繼 99 年派員參加第五屆國際海洋法政學術研討會後，復於 100 年派員參加美國加州柏克萊校區（UC-Berkeley）與韓國任荷大學（Inha University）於澳洲舉辦之第六屆國際海洋法政學術研討會，會議期間自 100 年 11 月 28 日至 12 月 2 日，為期 5 天。

本次會議係以「海域管轄權限」(The Limits of Maritime Jurisdiction) 為核心主題，討論海洋管理及管轄權限之全球趨勢、全球暖化海平面上升後對於領海基線之影響、永無止境的島嶼管轄爭議（包括南海及東海）、極地海域管轄權擴張、海域劃界發展、海域保安與管轄權限及氣候變遷下海洋治理新挑戰等。

而本次會議與會人員包括澳洲國家海洋資源暨安全中心主任 Martin Tsamenyi 及同中心研究主任 Clive Schofield、美國加州柏克萊校區海洋法機構聯席主任委員 Harry N. Scheiber、韓國海洋研究暨發展機構主席 Jung-Keuk Kang、韓國綠成長海洋論壇主席 Seoung-Yong Hong、國際海洋法庭法官 Rüdiger Wolfrum 及 Albert Hoffmann、印尼大使 Hasjim Djalal、加拿大哥倫比亞大學亞洲法研究中心主任 Ian Townsend-Gault、日本海洋政策研究財團主席秋山昌廣、聯合國大陸礁層外部界限委員會委員 Phil Symonds，以及多位國際知名海洋法政學者共同參予，其中包括 Jon M. Van Dyke、Moritaka Hayashi、David Freestone、Tavis Potts、Yuri van Logchem。我國方面則有宋燕輝教授及王冠雄教授受邀參加並分別發表論文。

藉由參加本次會議，除汲取國際著名學者對於海洋管轄權限看法，分享其海洋各項議題研究成果，獲得全球最新海洋發展新知外，並與關心海洋發展議題的各國學術研究單位、機構及基金會保持良好互動，並建立後續聯繫管道，更進一步將我國海洋權益主張於國際研討會中公開闡明，讓各國明瞭我國參與國際海洋事務之決心。此次會議的參與，對我國目前於國際海洋法政最新見解的掌握，尤其是海洋管轄權限與日後參加國際海洋相關議題會議，以及本部未來處理國家海域主張、權益維護及海洋法制建置、海域事務推動及目前所執行的「我國大陸礁層與島礁調查計畫」均有重大助益。

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壹、緣起及目的

美國加州大學柏克萊校區 (UC-Berkeley) 和韓國任荷大學 (Inha University) 自 2006 年開始籌劃共同舉辦國際海洋法政學術研討會議，第五屆會議於 2010 年 10 月於德國漢堡舉行。我國亦獲邀參與該次會議，同時，國內另有三位海洋法政學者參加會議並發表論文。本部亦派員與會觀察蒐集各方論點於返國後進行綜整研析。

由於第五屆國際海洋法政學術研討會議舉行時，因地利之便多為歐洲地區學者參與，本次會議主辦人澳洲國家海洋資源暨安全中心研究主任 Clive Schofield 於參與下屆會議籌備委員會時特別表明，大洋洲地區多為島國，澳洲更為海洋大國之一，且歷屆研討會議皆於北半球舉行，希冀由該國負責主辦於南半球召開第六屆會議，以提供全球各區域海洋法政學者交流互動之機會，該項提議獲得與會多數委員認同。因此，最終決定第六屆國際海洋法政學術研討會議於澳洲臥龍崗舉辦「海域管轄權限」(The Limits of Maritime Jurisdiction) 國際研討會，會議期間訂自 100 年 11 月 28 至 12 月 2 日，共五天，本次會議共計有聯合國國際海洋法庭法官、國際知名海洋法政學者，以及海洋研究機構等相關領域人員共計 93 人參與此次研討會，討論有關海域管轄權限等各項議題。為持續瞭解國際間相關海洋法政學者對於海域管轄相關權益之主張及國際實踐之情形，以因應未來海域劃界談判之需，本部爰派員參加本次會議。

透過本次會議的參與，可逐步與其他國際海洋學術研究單位、知名大學、智庫、基金會等建立學術交流管道維持友好關係，增加我國未來參與國際海洋法政相關會議空間，並取得與國際海洋法庭法官及國際海洋法政學者交換意見之契機，提升我國對於目前國際間海域管轄權限等各項議題之主張，以及參加海洋治理機構或相關活動之能見度，同時，藉由會議討論過程，亦瞭解本次參與之國際海洋法政學者對於國際間相關海域管轄權限與海域劃界之最新見解，重新檢視我國現行海域管轄規範與作為，並作為未來擬定海洋法政相關政策，以及參與國際海洋治理機構與活動等之重要參考。

貳、出國行程

一、會議地點及時間

會議地點：澳洲臥龍崗

會議時間：2011年11月28日至2011年12月2日（計5天）。

二、參加會議行程

日期	預定停留地點	行程
100.11.27 (日)	臺灣-雪梨(澳洲)	桃園國際機場搭機（去程）
100.11.28 (一)	臥龍崗 (會議報到)	搭乘澳洲（NSW City Rail）鐵路至臥龍崗，辦理研討會議報到，並與參加人員進行交流
100.11.29 (二)	臥龍崗 (國際研討會)	國際研討會
100.11.30 (三)	臥龍崗 (國際研討會)	國際研討會
100.12.1 (四)	臥龍崗 (國際研討會)	國際研討會
100.12.2 (五)	臥龍崗 (國際研習會)	國際研討會
100.12.3 (六)	雪梨 (參訪、路程)	搭乘澳洲（NSW City Rail）鐵路由臥龍崗返回雪梨，並參訪新南威爾斯州國家海洋博物館
100.12.4 (日)	雪梨-臺灣	返程
100.12.5 (一)	雪梨-臺灣	

參、會議重要內容

一、辦理單位

「第六屆國際海洋法學術研討會議」係由美國加州大學柏克萊校區 (UC-Berkeley)、韓國海洋研究暨發展機構和韓國任荷大學(Inha University) 主辦，由澳洲臥龍崗大學之澳洲國家海洋資源暨安全中心負責籌劃，主要協辦單位包括韓國國際通訊海纜研究機構 (Sea Lanes of Communication Study Group in Korea) 及我國的中央研究院。此次會議籌備委員會成員包括：Harry N. Scheiber (UC-Berkeley, 美國)、David D. Caron (UC-Berkeley, 美國)、Jon M. van Dyke (University of Hawaii at Manoa, 美國)、Jin Hyun Paik (International Tribunal for the Law of sea, 韓國)、Seoung-Yang Hong (Green-Growth Ocean Forum, 韓國)、Moon Sang Kwon (KORDI, 韓國)、李碩佑教授 (任荷大學, 韓國)、Martin Tsamenyi (ANCORS, University of Wollongong, 澳洲)、Clive Schofield (ANCORS, University of Wollongong, 澳洲)。

會議中邀請國際頂尖海洋法政學者及國際海洋法法庭之法官進行學術交流與意見交換，包括論文發表人、評論人及參與人員總計 93 人共襄盛舉，我國除中央研究院宋燕輝教授及師範大學王冠雄教授獲邀參與會議並於會中分別發表論文外，本部亦受邀以觀察員出席會議。

二、會議議程

會議地點：The Australian National Centre for Ocean Resources and Security (ANCORS), University of Wollongong, Australia (澳洲國家海洋資源暨安全中心，臥龍崗大學，澳洲)

1 st Day: Monday, November 28	
18:00-20:30	Welcome Reception Venue: The Deck, Novotel Northbeach Hotel, Wollongong Welcome to Wollongong Martin TSAMENYI (Professor and Director, ANCORS, University of Wollongong, Australia) Luke McNamara (Professor and Dean, Faculty of Law, University

	of Wollongong, Australia) Introduced by Clive SCHOFIELD (Professor and Director of Research, ANCORS, University of Wollongong, Australia)
	2 nd Day: Tuesday, November 29
時間	議程
08:30-09:15	Opening Ceremony Judy RAPER (Professor and Deputy Vice-Chancellor (Research), University of Wollongong, Australia) Jon M. VAN DYKE (Professor, William S. Richardson School of Law, University of Hawai'i at Manoa, USA) Jung-Keuk KANG (President, Korea Ocean Research & Development Institute (KORDI), Korea) Moderated by Clive SCHOFIELD (Professor and Director of Research, ANCORS, University of Wollongong, Australia)
09:15-10:00	Keynote Address: Ivan SHEARER (Adjunct Professor of Law, University of South Australia, Adelaide; Emeritus Professor of Law, University of Sydney and University of New South Wales, Australia) “The Limits of Maritime Jurisdiction” Introduced by William EDESON (Legal Adviser, Forum Fisheries Agency; Professorial Fellow, ANCORS, University of Wollongong, Australia)
10:00-10:30	Coffee Break
10:30-12:00	Panel One: On the Limits of Maritime Jurisdiction Panel Chair: Hasjim DJALAL (Ambassador, Indonesia) Panelists: Ian TOWNSEND-GAULT (Professor and Director of Southeast Asian Legal Studies, Faculty of Law, University of British Columbia, Canada) “De Mare Liberum – 2011 and beyond” Stuart KAYE (Professor and Dean, Faculty of Law, University of Western Australia, Australia) “Maritime security in the post 9/11 World: A new creeping jurisdiction in the law of the sea?” David FREESTONE (Executive Director of the Sargasso Sea

	<p>Alliance; Professor and Visiting Fellow, George Washington University Law School, USA; Editor, International Journal of Marine and Coastal Law)</p> <p>“Governing the Blue: Governance of areas beyond national jurisdiction in the Twenty-First Century”</p>
12:00-13:30	<p>Luncheon Ocean Room, iC Central (Group Photo)</p>
13:30-15:00	<p>Panel Two: Baselines, Limits and Islands Panel Chair: Judge Rüdiger WOLFRUM (International Tribunal for the Law of the Sea (ITLOS)) Panelists: Mark ALCOCK, Grant BOYES, Matthew McGREGOR and Tanya WHITEWAY (Geoscience Australia) “The management of Australia’s marine jurisdictional limits and baselines” Chang Hoon SHIN (Research Fellow, ASAN Institute for Policy Studies (AIPS), Korea) & Moon-Sang KWON (Principal Research Scientist, Ocean Policy Research Department, Korea Ocean Research & Development Institute (KORDI), Korea) “Baselines in trouble in Northeast Asia” Moritaka HAYASHI (Professor Emeritus, Waseda University School of Law, Japan) “Sea level rise and the law of the sea: How can the affected States be better protected?” John BRISCOE and Peter PROWS (Briscoe Ivester & Bazell LLP) “The role of islands in maritime boundary delimitation and delineation”</p>
15:00-15:30	Coffee Break
15:30-17:15	<p>Panel Three: Enduring Jurisdictional Disputes Panel Chair: Ian TOWNSEND-GAULT (Professor and Director of Southeast Asian Legal Studies, Faculty of Law, University of British Columbia, Canada) Panelists: Sam BATEMAN (Professorial Fellow, ANCORS, University of Wollongong, Australia) “Sovereignty as an obstacle to effective oceans governance – The</p>

	<p>case of the South China Sea”</p> <p>Yann-huei SONG (Research Fellow, Institute of European and American Studies, Academia Sinica, Taiwan)</p> <p>“Jurisdictional disputes in the South China Sea: Potential conflicts between China and the United States”</p> <p>Julia XUE (Professor and Director, Institute for the Law of the Sea, Ocean University of China, China)</p> <p>“The South China Sea: Competing claims and conflict situations”</p> <p>Tran Truong THUY (Research Fellow and Director of the Center for the East Sea (South China Sea) Studies, Diplomatic Academy of Vietnam, Vietnam)</p> <p>“South China Sea Disputes: Issues, Positions and Implications of Recent Developments”</p> <p>Xinjun ZHANG (Associate Professor and Deputy Director, Centre for Law of the Sea Study, Tsinghua University, China)</p> <p>“The notion of dispute in international law and its relevance to the Diaoyu Islands dispute”</p>
17:15-18:45	<p>Panel Four: Expanding Jurisdiction in Polar Waters?</p> <p>Panel Chair:</p> <p>Rosemary RAYFUSE (Professor, Faculty of Law, University of New South Wales, Australia)</p> <p>Panelists:</p> <p>Marcus HAWARD (Associate Professor, Institute for Marine and Antarctic Studies, University of Tasmania, Australia)</p> <p>“The Southern Ocean, climate change and ocean governance”</p> <p>Natalie KLEIN (Professor and Dean, Faculty of Law, Macquarie University, Australia) and</p> <p>Tim STEPHENS (Director, Sydney Centre for International Law, University of Sydney)</p> <p>“Whaling in the Antarctic: Enforcing rights in areas beyond national jurisdiction through international litigation”</p> <p>Suzanne LALONDE (Professor, Faculty of Law, University of Montreal, Canada)</p> <p>“Evaluating Canada’s position on the Northwest Passage in light of two possible sources of international protection: Article 234 of UNCLOS and an IMO PSSA designation”</p> <p>Tavis POTTS (Lecturer in Marine Policy, Ecology Department, Scottish Association for Marine Science, Scotland, UK)</p>

	“The practicalities of ecosystem based management and climate change in the Barents Sea: the ECOBAR project”
19:30-21:30	<p>Reception and Dinner The Norfolk Room, Novotel Northbeach Hotel, Wollongong</p> <p>Dinner Speaker: Donald R. ROTHWELL (Professor of International Law, ANU College of Law, Australian National University, Canberra, Australia) “Polar oceans governance”</p>
	3 rd Day: Wednesday, November 30
時間	議程
08:15-09:45	<p>Panel Five: Maritime Boundary Disputes and Developments in the Delimitation of Maritime Boundaries (Panel in Honour of Professor Kaiyan Homi KAIKOBAD)</p> <p>Panel Chair: Seokwoo LEE (Director, Inha International Ocean Law Centre and Professor of International Law, Inha University Law School, Korea)</p> <p>Panelists: His Excellency Damir ARNAUT (Ambassador of Bosnia and Herzegovina to Australia) “Adriatic blues: Delimiting the former Yugoslavia’s final frontier” John DONALDSON (Senior Research Associate, International Boundaries Research Unit (IBRU), University of Durham, UK) “Oil and water: Assessing the link between maritime boundary delimitation and hydrocarbon resources” Clive SCHOFIELD (Professor and Director of Research, ANCORS, University of Wollongong, Australia) “The Eldorado Effect: Reappraising the ‘oil factor’ in maritime boundary disputes” Mark ALCOCK, Grant BOYES, Matthew McGREGOR and Tanya WHITEWAY (Geoscience Australia) “The challenge of responding to increased regulatory intensity and the use of digital representations of maritime boundaries”</p>
09:45-10:15	Coffee Break
10:15-12:15	<p>Panel Six: Fresh Perspectives (Panel for early career researchers)</p> <p>Panel Chair: Jon M. VAN DYKE (Professor, William S. Richardson School of Law, University of Hawai’i at Manoa, USA)</p> <p>Panelists:</p>

	<p>Tara DAVENPORT (Research Associate, Centre for International Law (CIL), Faculty of Law, National University of Singapore (NUS), Singapore)</p> <p>“The negotiation of maritime boundaries in the East China Sea: Legal and practical Issues”</p> <p>Emily A. GARDNER (William S. Richardson School of Law, University of Hawai’i at Manoa, USA)</p> <p>“The legacy and fate of bluefin tuna under international law”</p> <p>Youri van LOGCHEM (Ph.D. Fellow, Netherlands Institute for the Law of the Sea (NILOS), University of Utrecht, The Netherlands)</p> <p>“The limits of coastal State jurisdiction under international law to act against activities undertaken by States in disputed maritime areas not covered by provisional arrangements”</p> <p>Jenny H. GROTE STOUTENBURG (Ph.D. candidate, University of Hamburg, Germany)</p> <p>“Through the back door: A critical appraisal of the UN Law of the Sea Convention’s usefulness as a tool to combat climate change”</p> <p>Ben MILLIGAN (Visiting Fellow, British Institute for International and Comparative Law, London, UK and ANCORS, University of Wollongong, Australia)</p> <p>“Marine protected areas in Antarctic waters: A review of policy options in the context of international law”</p>
12:15-13:45	<p>Luncheon Ocean Room, iC Central</p> <p>Luncheon Address: His Excellency Jeff BLEICH (Ambassador of the United States to Australia)</p> <p>Introduced by John BRISCOE (Briscoe Ivester & Bazel LLP)</p>
14:00-18:00	Excursion (Sydney Harbour Cruise)
19:00-21:00	Dinner in Sydney
21:00-22:00	Return to Wollongong
	4th Day: Thursday, December 1
時間	議程
08:30-10:00	<p>Panel Seven: Maritime Security and the Limits of Maritime Jurisdiction</p> <p>Panel Chair: Masahiro AKIYAMA (Chairman, Ocean Policy Research</p>

	<p>Foundation, Japan)</p> <p>Panelists:</p> <p>Robert BECKMAN (Director, Centre for International Law (CIL) and Associate Professor, Faculty of Law, National University of Singapore (NUS), Singapore)</p> <p>“Maritime security and Jurisdiction over pirates and maritime terrorists”</p> <p>Seokwoo LEE (Director, Inha International Ocean Law Centre and Professor of International Law, Inha University Law School, Korea)</p> <p>“Korea’s trial of Somali pirates”</p> <p>Irini PAPANICOLOPULU (Marie Curie Fellow, Faculty of Law, University of Oxford, UK)</p> <p>“A missing part of the Law of the Sea Convention: Addressing issues of State jurisdiction over persons at sea”</p> <p>Suk-Kyoon KIM (Director General, Planning and Coordination Bureau, Korean Coast Guard, Korea)</p> <p>“Perspectives of maritime disputes between China and Japan in the East China Sea: Over the collision of a Chinese fishing boat with Japan Coast Guard ships”</p>
10:00-10:30	Coffee Break
10:30-12:00	<p>Panel Eight: Pushing the Limits of Oceans Governance – Environmental and Marine Living Resource Concerns</p> <p>Panel Chair:</p> <p>Warwick GULLETT (Professor, ANCORS and Faculty of Law, University of Wollongong, Australia)</p> <p>Panelists:</p> <p>Martin TSAMENYI (Professor and Director of ANCORS, University of Wollongong, Australia) and</p> <p>Quentin HANICH (Senior Research Fellow, ANCORS, University of Wollongong, Australia)</p> <p>“High Seas boarding and inspection of fishing vessels in regional fisheries management organizations: A case study of the Western and Central Pacific Fisheries Commission”</p> <p>Kuan-Hsiung WANG (Professor and Director, Graduate Institute of Political Science, National Taiwan Normal University, Taiwan)</p> <p>“The role of RFMOs in deterring IUU: A success or a failure”</p> <p>Anastasia TELESETSKY (Professor, College of Law, University of Idaho, USA)</p>

	<p>“‘Good faith’ obligations to protect and preserve the marine environment: A proposal to create uniform High Seas fisheries through global fishing vessel registries and centralized fishing authorizations”</p> <p>Suk-Jae KWON (Senior Research Scientist, Ocean Policy Research Department, Korea Ocean Research & Development Institute (KORDI), Korea)</p> <p>“Issues and lessons from the Yellow Sea large ecosystem project: Building an effective regional governance”</p>
12:00-13:30	Luncheon
13:30-15:30	<p>Panel Nine: New Challenges in Oceans Governance: Climate Change and the Oceans</p> <p>Panel Chair:</p> <p>David FREESTONE (Executive Director of the Sargasso Sea Alliance; Professor and Visiting Fellow, George Washington University Law School, USA; Editor, International Journal of Marine and Coastal Law)</p> <p>Panelists:</p> <p>Jon M. VAN DYKE (Professor, William S. Richardson School of Law, University of Hawai'i at Manoa, USA)</p> <p>“The crisis of climate change and its impact on Pacific Islands acing sea-level rise”</p> <p>Rosemary RAYFUSE (Professor, Faculty of Law, University of New South Wales, Australia)</p> <p>“Cinderella or Saviour? Climate Change and the Law of the Sea”</p> <p>Warwick GULLETT (Professor, ANCORS and Faculty of Law, University of Wollongong, Australia)</p> <p>“Rising tides, fluctuating rights: The impact of sea level rise on Australian property rights and domestic jurisdictions”</p> <p>Seongwook PARK (Director, Ocean Policy Research Department, Korea Ocean Research & Development Institute (KORDI), Korea) and</p> <p>Charity M. LEE (Senior Research Scientist, Ocean Policy Research Department, KORDI, Korea)</p> <p>“New and renewable energy policy response to climate change in Korea: Ocean energy”</p> <p>Karen SCOTT (University Proctor and Senior Lecturer in Law, School of Law, University of Canterbury, Christchurch, New</p>

	<p>Zealand; Editor, New Zealand Yearbook of International Law) “Exploiting the oceans for mitigation of climate change: Case study on iron fertilization in the Southern Ocean”</p>
15:30-16:00	Coffee Break
16:00-17:30	<p>Panel Ten: Beyond the Limits: Exploring and Managing New Frontiers Panel Chair: Sam BATEMAN (Professorial Fellow, ANCORS, University of Wollongong, Australia) Panelists: Philip SYMONDS (former Senior Adviser – Science & Law of the Sea, Petroleum and Marine Division, Geoscience Australia; Commissioner, United Nations Commission on the Limits of the Continental Shelf, Australia; Professorial Fellow, ANCORS, University of Wollongong, Australia) “The work and practices of the Commission on the Limits of the Continental Shelf: progress and issues” Joanna MOSSOP (Senior Lecturer, Faculty of Law, Victoria University, Wellington, New Zealand) “Beyond delimitation: Interaction between the outer continental shelf and high seas regimes” David LEARY (Senior Research Fellow, Faculty of Law, University of New South Wales, Australia) and S. Kim JUNIPER, (Professor, School of Earth and Ocean Sciences, University of Victoria, Canada) “Addressing the marine genetic resources issue: is the debate heading in the wrong direction?” Ronán LONG (Jean Monet Chair Professor, University of Galway, Ireland) “Moving towards a new normative approach to ocean governance in the EU”</p>
17:30-18:00	<p>Closing Reflections: Martin TSAMENYI (Professor and Director of ANCORS, University of Wollongong, Australia) Jon M. VAN DYKE (Professor, William S. Richardson School of Law, University of Hawai'i at Manoa, USA) Moon-Sang KWON (Principal Research Scientist, Ocean Policy Research Department, Korea Ocean Research & Development</p>

	Institute (KORDI), Korea) Presided over by Seokwoo LEE (Director, Inha International Ocean Law Centre and Professor of International Law, Inha University Law School, Korea) Formal Closing of the Conference: Clive SCHOFIELD (Professor and Director of Research, ANCORS, University of Wollongong, Australia)
19:00-21:30	Reception and Closing Banquet
	5 th Day: Friday, December 2
	Day trip to Kiama and historic town of Berry. Wine tasting and luncheon at Coolangatta Estate Winery, Shoalhaven. Departure time from Novotel Northbeach Hotel, Wollongong: 9:00 a.m.

三、會議情形

本此會議總共有 10 個專題分組，共 42 篇論文發表，惟此次會議論文發表人均僅提交摘要，據會議主辦方表示，完整論文繳交截止日為 2012 年 3 月底。我國學者宋燕輝教授及王冠雄教授則分別安排於第三與第八分組發表論文。在進入正式報告之前，主辦單位邀請 Professor Ivan Shearer 針對本會議主題「海洋管轄權限」進行基調演講，以 1982 年聯合國海洋法公約為開端，依據時間序列陸續說明國際對於海洋管轄權限的發展過程，並推論 21 世紀之進展。以下，茲就會議各分組論文口頭報告內容予以扼要敘述：

(一) On the Limits of Maritime Jurisdiction

本次國際學術研討會第一場主要討論全球各國對於其周遭海域紛紛展開一系列水文科學調查，藉此主張海洋管轄權益範圍，此舉已造成所謂「領土擴張」效應，造成海洋使用空間日受到限縮。此場次之主持人是印尼大使 Hasjim Djalal，三位論文發表人是知名學者加拿大英屬哥倫比亞大學法學院東南亞法律研究教授 Lan Townsend-Gault (論文題目：De Mare Liberum – 2011 and beyond)、澳州西澳大利亞大學法學院院長 Stuart Kaye (論文題目：Maritime security in the post 9/11 World : A new creeping jurisdiction in the law of the sea ?) 及美國喬治華盛頓大學法學院教授 David Freestone (論文題目：Governing the Blue: Governance of areas beyond national jurisdiction in the Twenty-First Century)。

(二) Baseline, Limits and Islands

會議第二場主題是由海岸巡防及法律面探討海平面上昇後對於領海基線之影響，以及過度領海基線主張，由德國國際海洋法庭法官 Rüdiger Wolfrum 教授主持。論文發表人包括著名澳洲地球科學學者 Mark Alcock, Grant Boyes, Matthew McGregor and Tanya Whiteway (論文題目：The management of Australia's marine jurisdictional limits and baselines)、韓國政策研究機構客座研究員 Chang Hoon Shin 與韓國海洋研究暨發展機構首席研究員 Moon-Sang Kwon (論文題目：Baselines in trouble in Northeast Asia)、日本早稻田大學名譽教授 Moritaka Hayashi (論文題目：Sea level rise and the law of the sea: How can the affected States be better protected?) 與來自布里斯科、伊維斯特及巴西環境保護機構律師二位律師 John Briscoe 和 Peter Prows (論文題目：The role of islands in maritime boundary delimitation and delineation)。

(三) Enduring Jurisdictional Disputes

會議第三場主題是討論永無止境的管轄爭議，由加拿大英屬哥倫比亞大學法學院東南亞法律研究教授 Ian Townsend-Gault 擔任主席。第一位論文發表人是澳洲臥龍崗大學之澳洲國家海洋資源暨安全中心教學研究員 Sam Bateman (論文題目：Sovereignty as an obstacle to effective oceans governance – The case of the South China Sea)，其從南中國海觀察說明主權為海洋有效治理的障礙。第二位是我國的中央研究院歐美所研究員宋燕輝教授 (論文題目：Jurisdictional disputes in the South China Sea: Potential conflicts between China and the United States)，由近期中美對於南海管轄爭端，探討二者之間潛在衝突關係。第三位是中國海洋大學海洋法研究所教授兼所長 Julia Xue (論文題目：The South China Sea: Competing claims and conflict situations)其強調周邊國家的權益主張，導致目前衝突的緊張局勢。第四位是越南外交學院東海研究中心主任 Tran Truong Thuy (論文題目：South China Sea Disputes: Issues, Positions and Implications of Recent Developments)，以南海最新發展局勢為主題，報告各國動態、立場及所帶來的啓示。第五位是中國清華大學海洋研究中心副教授張新軍 (論文題目：The notion of dispute in international law and its relevance to the Diaoyu

Islands dispute), 其由國際法角度論述釣魚臺所衍生相關爭議, 此項議題引發日方代表多次提問, 亦為本次參加會議特別關注議題之一。

(四) Expanding Jurisdiction in Polar Waters?

會議第四場主題是討論氣候變遷下南北極的變化造成該地區海事管轄、航道及治理的影響, 由澳洲新南威爾斯大學教授 Rosemary Rayfuse 擔任主持人。論文發表人包括澳洲塔斯馬尼亞大學海洋及南極研究機構副教授 Marcus Haward (論文題目: The Southern Ocean, climate change and ocean governance)、澳洲麥卡利大學法學院院長 Natalie Klein 與雪梨大學國際法中心主任 Tim Stephens (論文題目: Whaling in the Antarctic: Enforcing rights in areas beyond national jurisdiction through international litigation)、加拿大蒙特婁大學法學院教授 Suzanne Laronde (論文題目: Evaluating Canada's position on the Northwest Passage in light of two possible sources of international protection: Article 234 of UNCLOS and an IMO PSSA designation) 以及英國蘇格蘭海洋科學協會生態部門講師 Tavis Potts (論文題目: The practicalities of ecosystem based management and climate change in the Barents Sea: the ECOBAR project)。

晚上, 主辦單位在 Novotel Northbeach Hotel 舉辦晚宴, 並邀請澳洲國立大學法學院國際法教授 Donald R. Rothwell 以「極地海洋治理」為主題發表演說, 說明氣候變遷導致極地海洋權益日趨受到全球重視, 因此 21 世紀, 世界各國必須攜手為區域內海上運輸、資源分配及人才培育的機制而努力, 建立共通性原則及制度, 其報告內容獲得諸多與會學者的認同。

(五) Maritime Boundary Disputes and Developments in the Delimitation of Maritime Boundaries

會議第五場主要是探討海域劃界爭端與發展, 並向 2010 年 7 月 1 日去世的英國布魯內爾大學教授 Kaiyan Homi Kaikobad 致敬, 表彰其一生對於國際海域劃界事務的重要貢獻。由韓國任荷大學法學院國際海洋中心主任 Seokwoo Lee 擔任主持人, 論文發表人包括 Bosnia and Herzegovina 駐澳大使 His Excellency Damir Arnaut (論文題目: Adriatic blues: Delimiting the former Yugoslavia's final frontier)、英國德倫大學國際邊界研究單位高

級研究員 John Donaldson (論文題目：Oil and water: Assessing the link between maritime boundary delimitation and hydrocarbon resources)、澳洲國家海洋資源暨安全中心研究主任 Clive Schofield (論文題目：The Eldorado Effect: Reappraising the ‘oil factor’ in maritime boundary disputes)、以及澳洲多位地球科學學者 Mark Alcock, Grant Boyes, Matthew McGregor and Tanya Whiteway (論文題目：“The challenge of responding to increased regulatory intensity and the use of digital representations of maritime boundaries”)。

(六) Fresh Perspectives

會議第六場原訂由美國夏威夷大學威廉·理察森法學院教授 Jon M. Van Dyke 主持，但不幸因心肌梗塞去世，於是日第一場會議進行時始由主辦單位發現，故臨時改由澳洲國家海洋資源暨安全中心主任 Martin Tsamenyi 主持。本場次的論文發表人包括新加坡國立大學法學院國際法中心副研究員 Tara Davenport 教授 (論文題目：The negotiation of maritime boundaries in the East China Sea: Legal and practical Issues)、美國夏威夷大學威廉·理察森法學院教授 Emily A. Gardner (論文題目：The legacy and fate of bluefin tuna under international law)、荷蘭烏特列支大學海洋法研究所博士 Youri van Logchem (論文題目：The limits of coastal State jurisdiction under international law to act against activities undertaken by States in disputed maritime areas not covered by provisional arrangements)、德國漢堡大學博士候選人 Jenny H. Grote Stoutenburg (論文題目：Through the back door: A critical appraisal of the UN Law of the Sea Convention’s usefulness as a tool to combat climate change)、以及澳洲臥龍崗大學國際及比較法研究所客座研究員 Ben Milligan (論文題目：Marine protected areas in Antarctic waters: A review of policy options in the context of international law)。中午用餐則安排由美國駐澳大利亞大使 His Excellency Jeff Bleich 致詞。

(七) Maritime Security and the Limits of Maritime Jurisdiction

會議第七場討論各式各樣海域執法問題，諸如：打擊走私、盜版、非法捕魚，並探討海上鑽油平台、人工島嶼及海底電纜、管道、自由航行等議題；本場次由日本海洋政策研究財團主席 Masahiro Akiyama 擔任主持人。四位論文發表人包括：新加坡國立大學國際法中心主任 Robert

Beckman (論文題目：Maritime security and Jurisdiction over pirates and maritime terrorists)、韓國任荷大學法學院國際海洋法中心主任 Seokwoo Lee (論文題目：Korea's trial of Somali pirates)、英國牛津大學法學院研究員 Irini Papanicolopulu (論文題目：A missing part of the Law of the Sea Convention: Addressing issues of State jurisdiction over persons at sea)、以及韓國海岸巡防綜合業務部主任 Suk-Kyoon Kim (論文題目：Perspectives of maritime disputes between China and Japan in the East China Sea: Over the collision of a Chinese fishing boat with Japan Coast Guard ships)。

(八) Pushing the Limits of Oceans Governance – Environmental and Marine Living Resource Concerns

會議第八場所討論主題是從環境及海洋生物資源面向切入，探討推動海洋管理的界限，由澳洲臥龍崗大學法律系教授 Warwick Gullett 主持，論文發表人包括：澳洲臥龍崗大學國家海洋資源暨安全中心 Martin Tsamenyi 教授及 Quentin Hanich 高級研究員 (論文題目：High Seas boarding and inspection of fishing vessels in regional fisheries management organizations: A case study of the Western and Central Pacific Fisheries Commission)、我國師範大學政治學研究所王冠雄教授 (論文題目：The role of RFMOs in deterring IUU: A success or a failure)、美國愛達荷大學法學院 Anastasia Telesetsky 教授 (論文題目：Good faith' obligations to protect and preserve the marine environment: A proposal to create uniform High Seas fisheries through global fishing vessel registries and centralized fishing authorizations)、以及韓國海洋研究發展機構高級研究員 Suk-Jae Kwon (論文題目：Issues and lessons from the Yellow Sea large ecosystem project: Building an effective regional governance)。

(九) New Challenges in Oceans Governance: Climate Change and the Oceans

會議第九場所討論主題是氣候變遷下各國於海洋治理所面臨新挑戰，由美國喬治華盛頓大學法學院教授 David Freestone 主持，論文發表人包括：澳洲新南威爾斯大學法律系 Rosemary Rayfuse 教授 (論文題目：Cinderella or Saviour? Climate Change and the Law of the Sea)、澳洲臥龍崗大學法律系 Warwick Gullett 教授 (論文題目：Rising tides, fluctuating rights:

The impact of sea level rise on Australian property rights and domestic jurisdictions)、韓國海洋研究發展機構主任 Seongwook Par 及同單位高級研究員 Suk-Jae Kwon (論文題目: New and renewable energy policy response to climate change in Korea: Ocean energy)、以及紐西蘭坎特伯里大學 Karen Scott 講師 (論文題目: Exploiting the oceans for mitigation of climate change: Case study on iron fertilization in the Southern Ocean)。

(十) Beyond the Limits: Exploring and Managing New Frontiers

會議第十場所討論主題核心為大陸礁層外部界限，探討目前聯合國對於大陸礁層相關規範及管理行爲，由澳洲臥龍崗大學教授 Sam Bateman 主持，論文發表人包括：聯合國大陸礁層界限委員會委員 Philip Symonds (論文題目: The work and practices of the Commission on the Limits of the Continental Shelf: progress and issues)、紐西蘭維多利亞大學法律系講師 Joanna Mossop (論文題目: Beyond delimitation: Interaction between the outer continental shelf and high seas regimes)、澳洲新南威爾斯大學法律系研究員 David Leary 與加拿大維多利亞大學地球與海洋科學學院教授 S. Kim Juniper (論文題目: Addressing the marine genetic resources issue: is the debate heading in the wrong direction?)、以及愛爾蘭高威大學 Ronán Long 教授 (論文題目: Moving towards a new normative approach to ocean governance in the EU)。

(十一) Closing Reflections

此次會議閉幕由韓國任荷大學法學院國際海洋中心主任 Seokwoo Lee 主持，澳洲國家海洋資源暨安全中心主任 Martin Tsamenyi 及韓國海洋研究暨發展機構首席研究員 Moon-Sang Kwon 總結發言，最後，由本次會議主辦單位澳洲國家海洋資源暨安全中心研究主任 Clive Schofield 於會中致謝詞，並帶領全體與會者共同為美國夏威夷大學威廉·理察森法學院教授 Jon M. Van Dyke 悼念，表彰其一生為國際海洋法政研究之卓越貢獻。

肆、心得

我國四面環海，地理位置優越且位於東亞南北往來的交通樞紐，亦具有特殊的戰略地位，周邊海域生物及非生物資源相當豐富；但過去政府相關政策措施多著重於陸域概念，相對地，卻忽略了海域思維，相關法規的制(訂)定皆未將海域部分納入考量。然而，自 1982 年通過聯合國海洋法公約，於 1994 年正式生效後，各沿海國無不努力尋求途徑積極擴展自身海洋權益，但我國並非聯合國會員國，更不是 1982 年聯合國海洋法公約締約國，因此，如何在有限的國際空間裏主張並維護我國海洋權益，成爲政府所必須面對的重要課題。

爲尋求與國際海洋法政接軌，政府於 1998 年首先公布施行「中華民國領海及鄰接區法」與「中華民國專屬經濟海域及大陸礁層法」等二部海洋法規，主要內容是將 1982 年聯合國海洋法公約予以內國法化，明確規範我國領海、鄰接區、專屬經濟海域及大陸礁層之範圍與權益。其後，鑑於海洋事務多元性及複雜性，且爲因應海洋發展政策的總體目標需求，於 2004 年初正式成立「行政院海洋事務推動委員會」(2008 年改爲「行政院海洋事務推動小組」)作爲正式成立跨部會、跨領域、多面向及總體性之推動平台，並陸續訂定「國家海洋政策綱領」、「海洋政策白皮書」、「海洋教育政策白皮書」等作爲日後海洋政策推展方向；另外，有關部會亦多次辦理海洋事務及海洋法律相關國際學術研討會或研習班。然而，由於我國海洋事務散見於各部會，也未能作有效整合，亟需成立一個海洋專責機關，統籌並協調相關海洋政策或事務之推動，俾建立永續之海洋發展戰略，進行海洋事務人才的培育工作。

邇來，海域爭端更是進入了一個新的階段，我國周邊鄰國日本、韓國、菲律賓、馬來西亞、越南，以及中國大陸在內之各聯合國海洋法公約締約國，紛紛向聯合國大陸礁層界限委員會提交其大陸礁層外部界限之申請或初步資訊，各國更戮力從事各項海權擴張之實質作爲。爲避免鄰國藉由 1982 年聯合國海洋法公約所賦予的權利，恣意擴張其大陸礁層外部界限範圍，進而影響我國海洋權益，我國除由外交部發表抗議聲明外，更計畫性的透過各種管道蒐集各項資訊，且邀集海洋科學及國際法的專家成立專案小組，充實其提案主張之法律基礎、注意對聯合國大陸礁層界限委員會審查情形、研議我國對策方案，以爲未來劃界談判預作準備。

爲此，本部近年來除委請國內學術單位主辦或協辦海洋法政國際研討會，邀請國際知名海洋法政學者來台參與討論外，亦積極派員參與於其他地區舉行之各類國際海洋法政學術研討會，其中，本部曾於 2009 年協助本次會議主辦方於美國夏威夷大學舉辦之「第四屆國際海洋法政學術研討會」，次年亦受邀與美國、韓國及日本共同協助辦理會議。2011 年，我國除有中央研究院宋燕輝教授及師範大學王冠雄教授獲邀參與會議並於會中分別發表論文外，本部同樣獲邀參與本次會議，對於歷次參與與各方所建立之友好關係，更應長久把握。再者，透過國內海洋法政學者於各種國際會議場合發表我國對於周遭海域相關議題之主張與立場，亦得藉此突顯我國周邊海域劃界之問題，得到國際社會的注意與重視，此有別於正式外交聲明及國際事務談判之軟性訴求，同樣可達到維護國家海洋權益之最終目的。

伍、建議

一、與國外海洋法相關學術研究單位或機構培養長期互惠關係，建立穩定交流合作管道

本次與會的學者專家大多來自與海洋法相關之著名院校、重要研究單位、智庫、以及基金會，例如：The Australian National Centre for Ocean Resources and Security (ANCORS)、International Boundaries Research Unit (IBRU, UK)、Ocean Policy Research Foundation (OPRF, Japan)、Green-Growth Ocean Forum (Korea)、Korean Ocean Research & Development Institute (KORDI, Korea)、Sea Lanes of Communication Study Group (SLOC, Korea) 等，上述單位常年投入大量人力及經費專研海洋法類科相關議題，其公開發表成果報告，亦為國際社會所推崇矚目，為增進我國未來參與國際海洋法政相關事務的空間，政府應審慎研議如何透過國內學術研究單位與上述機構建立長遠地交流管道與友好關係。

二、鼓勵支持國內國際海洋法政學者參與相關國際學術研討會議，並主動發表論文

由於我國國際地位較為特殊，許多國際組織或區域性高峰會議無法獲邀參與，因此，我國之立場與主張易受到國際社會的忽視，同樣亦缺乏正式的溝通場域。有鑑於此，現階段政府相關部門除應持續爭取國際參與各種管道外，亦可經由經費補助或獎勵方式，適度支持國內相關國際海洋法政學者參與國際組織或其他各國所舉辦的各類國際學術研討會議，以提高我國日後參與國際海洋事務的能見度，另一方面，透過論文發表及成果分享等軟性訴求，讓國際社會也能進一步瞭解我國海域主張及對於國際海洋法相關議題所持之看法。

三、強化海洋法政相關人才培育工作，適時遴派出國參與國際海洋會議汲取經驗

海洋事務工作涉及許多面向，包含：漁業、生態環境、油氣礦床、運輸、打擊海盜、科學調查，以及劃界等事項，上述事務皆不免與國際海洋法有所關連，換言之，海洋法政是海洋事務的基礎；而國內目前實際從事海洋法政研究學者並不多見，本次會議中研院宋燕輝教授為提攜後進，主動向主辦單

位要求增列一名出席者，以培養未來具有潛力我國年輕學者，其作法殊值肯定。另外，經由與會觀察，發現各國多有年輕學者自行報名參與會議，類此情形，可對於我國人才培育現況提供借鏡，政府應有計畫加強各部會現有辦理海洋事務人員對於國際事務專業能力之培育，且及早成立海洋政策智庫，定期派員出國參與國際海洋事務研討會議，一方面，汲取各國學者於專長領域內之研究成果，另一方面，協助有關單位蒐集研析國際海洋治理的資料，以供政府決策參考。

四、蒐集整理國際海洋法政學術會議相關資訊，並研議我國參與或贊助效益及方式

誠如前述，我國並非聯合國會員國，亦不是聯合國海洋法公約締約國，無法參與聯合國海洋法公約下設之相關國際組織或機構，因此，每年度所獲得國際間海洋法政相關會議訊息有限，亦無法得知各國近期內海洋最新權益主張，以及國際學者對於海洋相關議題的重要研究成果，建議政府駐外單位透過管道定期蒐集在地規劃召開或已召開海洋法政學術會議訊息，交付國內相關部會研議是否透過贊助或其他模式同意我國派員參與會議發表及討論，以取得與國際海洋法政學者交換意見之難得機會。

陸、研討會照片



圖 1 本部陳視察杏莉出席會議照片

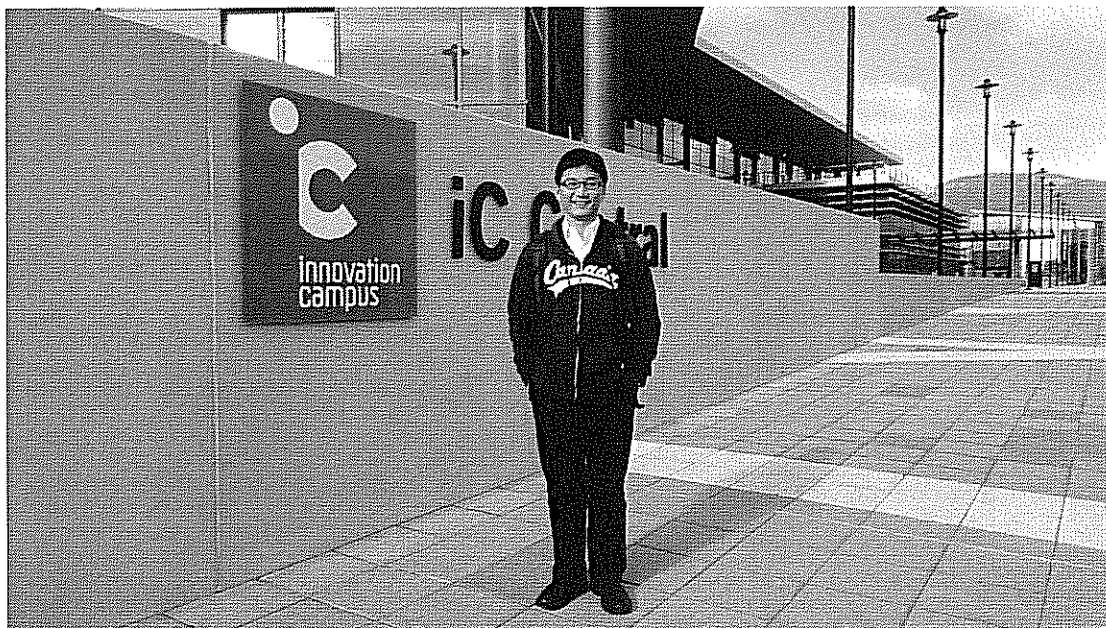


圖 2 本部張視察則民出席會議照片

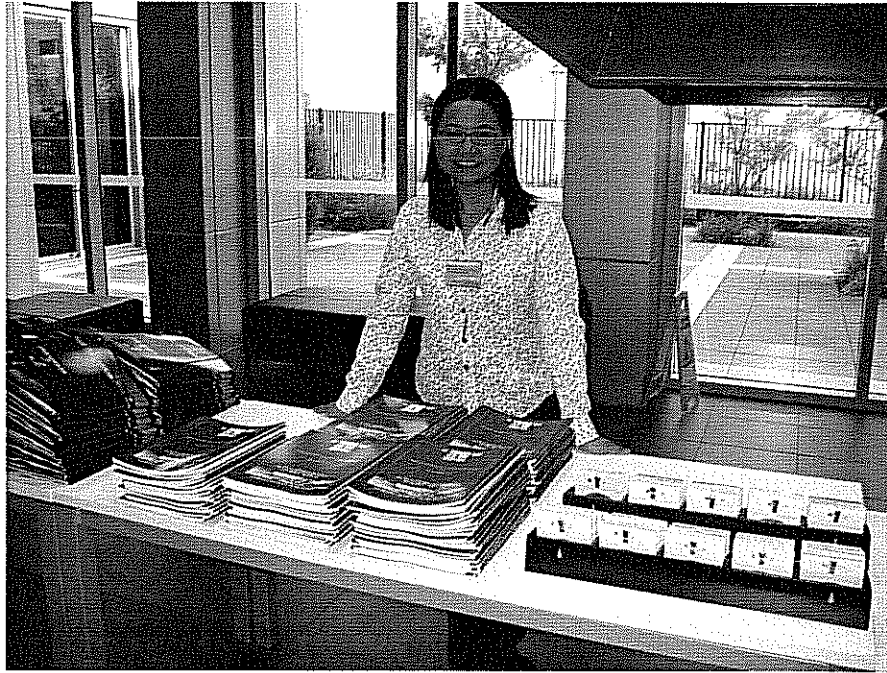


圖 3 會議報到處



圖 4 主辦方澳洲臥龍崗大學(ANCORS)Clive Schofield 教授致詞

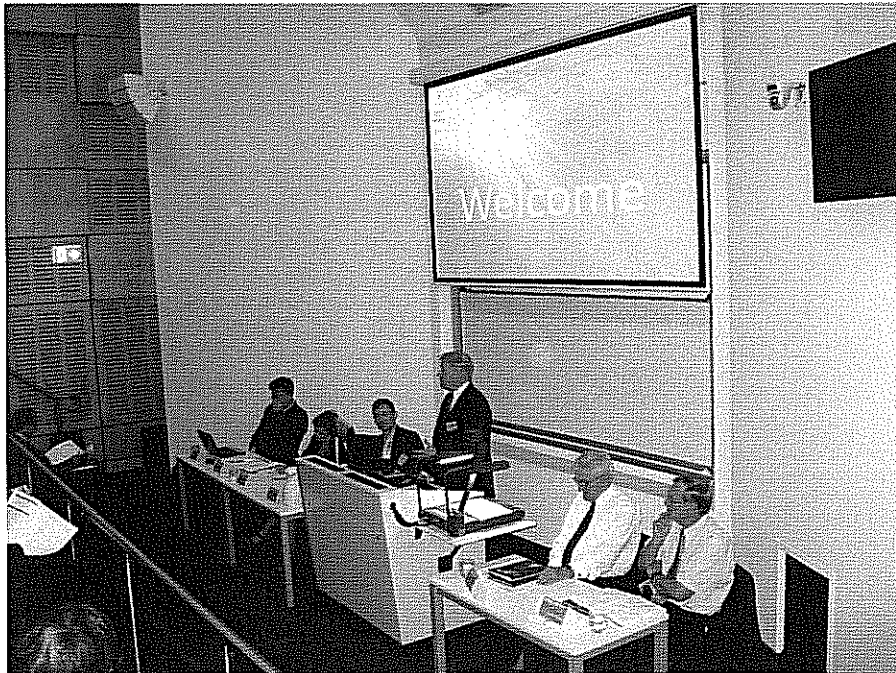


圖 5 美國夏威夷大學 Jon M.Van Dyke 教授致詞



圖 6 韓國海洋研究發展機構 Jung-Keuk Kang 主席致詞

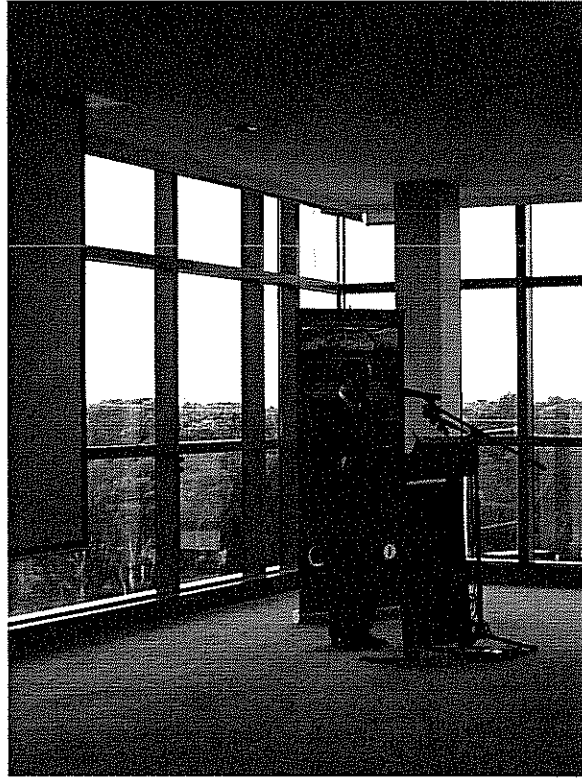


圖 7 美國駐澳大利亞大使 His Excellency Jeff Bleich 致詞



圖 8 與會者聆聽美國駐澳大利亞大使致詞情形



圖 9 韓國海岸巡防局主任 Suk-Kyoon Kim 發表論文情形

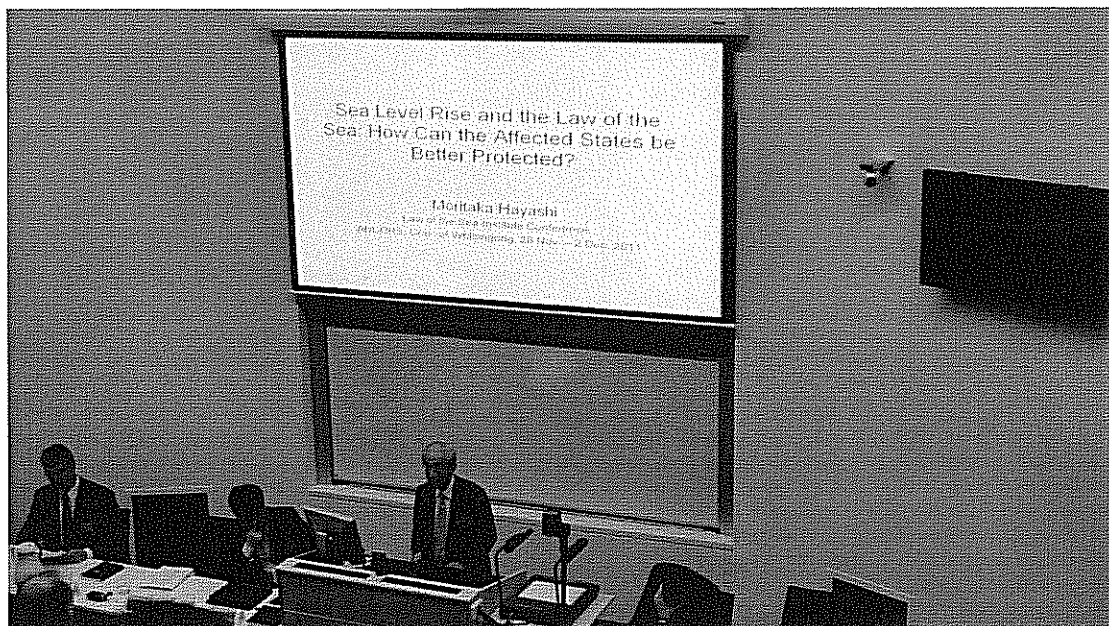


圖 10 日本早稻田大學名譽教授 Moritaka Hayashi 發表論文情形



圖 11 我國中央研究院宋燕輝教授發表論文情形



圖 12 我國中央研究院宋燕輝教授發表論文情形

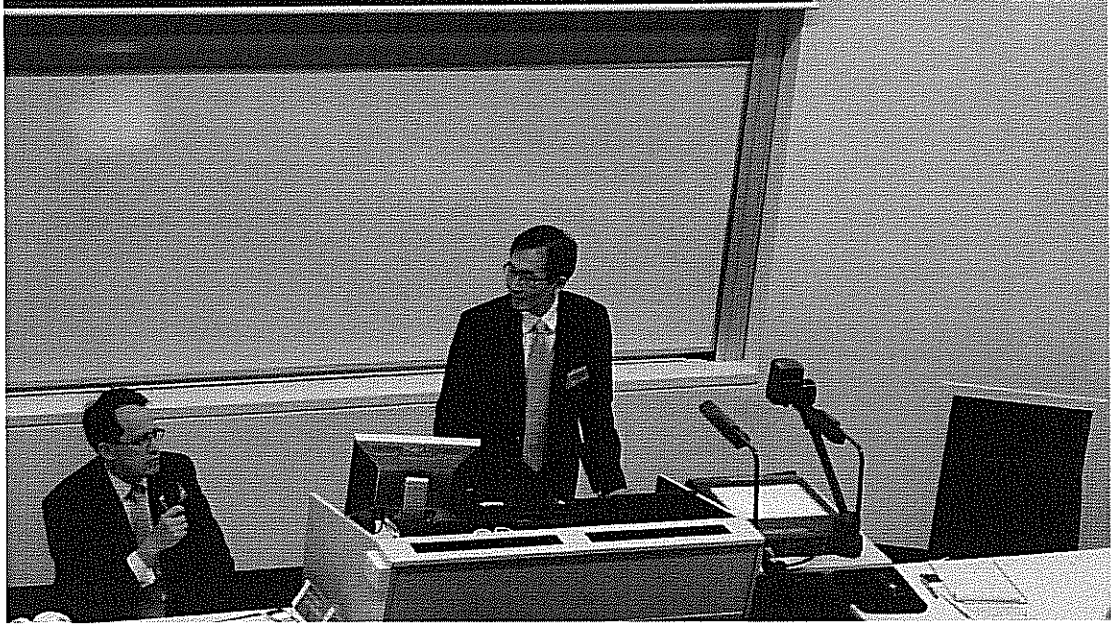


圖 13 我國師範大學政治學研究所王冠雄教授發表論文情形



圖 14 我國師範大學政治學研究所王冠雄教授回答提問情形



圖 15 會場實景



圖 16 會場實景



圖 17 與會人員於會議休息時間交流情形



圖 18 與會人員於會議休息時間交流情形



圖 19 11 月 30 日晚宴與會人員合影



圖 20 澳洲臥龍崗大學(ANCORS)Clive Schofield 教授主持 11 月 30 日晚
宴情形

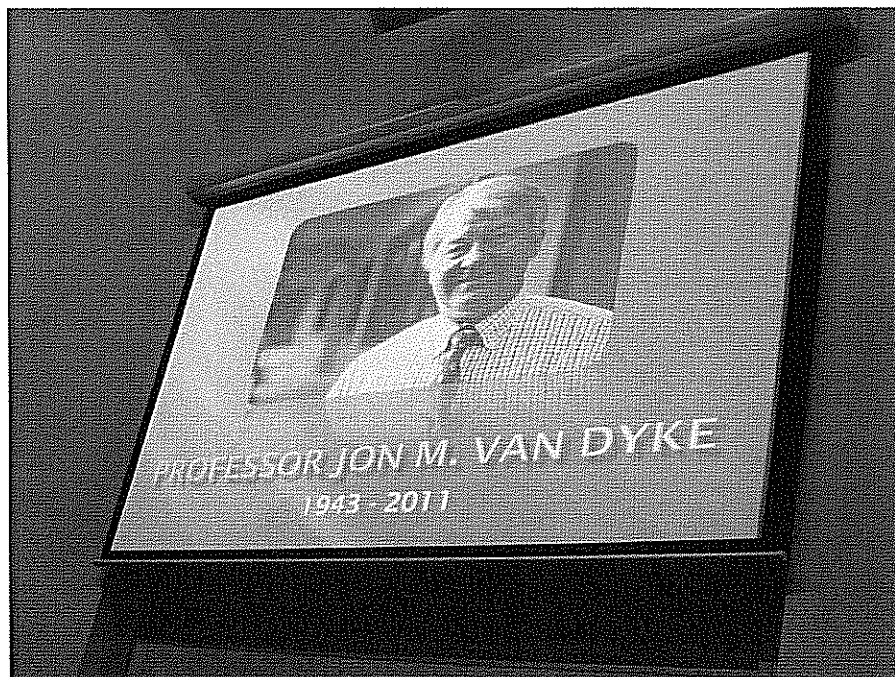


圖 21 悼念美國夏威夷大學 Jon M. Van Dyke 教授



圖 22 全體與會人員集合準備合影

柒、附錄

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THE LIMITS OF MARITIME JURISDICTION

28 November - 2 December, 2011

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二、研討會議程

(如后附件)

三、研討會發表論文摘要

(如后附件)