

THE 2023 DAG HAMMARSKJÖLD LECTURE

# Reaching Shore - Multilateralism and the Value of International Law



Rena Lee

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*This text was delivered by Rena Lee for the 2023 Dag Hammarskjöld Lecture. It was held together with the 2024 Dag Hammarskjöld Lecture at Uppsala University Aula on 16 September 2024.*

*The Dag Hammarskjöld Lecture is organised by Uppsala University and the Dag Hammarskjöld Foundation in memory of the second Secretary-General of the United Nations. It is given in recognition of the values that inspired Dag Hammarskjöld personally and as Secretary-General, particularly compassion, humanism and a commitment to international solidarity and cooperation.*

*Each year, the lecture is offered to an outstanding international personality who, in significant and innovative ways, contributes to a more just, peaceful and environmentally sustainable world through their contributions to politics or research.*

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Rena Lee paying her respects at Dag Hammarskjöld's grave in Uppsala.



Rena Lee giving her 2023 Dag Hammarskjöld Lecture at the Uppsala University Main Aula.

# Reaching Shore - Multilateralism and the Value of International Law

Rena Lee

*Rena Lee, Singapore's Ambassador for International Law and the Chief Executive of the Intellectual Property Office of Singapore, speaking on the occasion of the 2023 Dag Hammarskjöld Lecture, Uppsala, 16 September 2024.*

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I first learnt of Dag Hammarskjöld when I was in Law School. It was my first foray into international law, and of course, no study of international law is complete without learning of the role of the United Nations, and the persons who led it. I learnt how Dag Hammarskjöld was a tireless supporter of the work of the UN and how he gave his life in service of ideals that hold true even today. So it is truly an honour for me to be delivering this lecture in memory of a very special man, who continues to inspire.

Good evening excellencies, ladies and gentlemen. I thank the Dag Hammarskjöld Foundation for inviting me to share my thoughts about “Reaching Shore”. This is the story of how States came together to forge an agreement to govern the world’s high seas and deep seabed. It is known as the BBNJ Agreement and deals with Biodiversity Beyond National Jurisdiction.

The BBNJ Agreement, or to give it its full title, the Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction, is an implementing agreement under the United Nations Convention on the Law of the Sea (UNCLOS). Some of you may know it as the High Seas Treaty, which is not strictly accurate, as the Agreement applies

to both the high seas and the deep seabed, or what is known in UNCLOS as the Area. These are areas beyond the national jurisdiction of any State; they are therefore considered part of the global commons. We are all too familiar with the “tragedy of the commons”; it is every one’s and no one’s responsibility to look after the commons. What this Agreement does is that it put in place a framework to enhance governance of these areas beyond national jurisdiction, in order to achieve its stated objective of conservation, and sustainable use of the biodiversity.

The BBNJ Agreement has several new and interesting features, and I will highlight a few. First, this is an implementing agreement under UNCLOS, but it incorporates several elements more commonly found in multilateral environmental agreements. For example, Article 7 on General Principles and Approaches includes several concepts from environmental law, including the polluter pays principle, the precautionary principle or approach as appropriate, and an ecosystem approach.

Second, the Agreement also tackles the issue of how marine genetic resources in the global commons should be governed. It sets out a structure for activities in relation to marine genetic resources and provides for the fair and equitable sharing of both monetary and non-monetary benefits arising out of such activities.

Third, the Agreement establishes rules for employing area-based management tools, including marine protected areas. These rules complement the 30 by 30 goal of the Kunming-Montreal Global Biodiversity Framework to conserve 30% of land, waters and seas by 2030, by providing a means to establish marine protected areas in the areas beyond national jurisdiction.

Fourth, the Agreement amplifies the provisions in UNCLOS on the conduct of environmental impact assessments by States, including the introduction of some degree of international scrutiny of processes conducted at the national level. And there are several other features of this Agreement, too many to go through in this session.

Today, almost a year since the agreement was open for signature, the BBNJ Agreement, which was adopted by consensus, has garnered 92 signatures

and 8 ratifications. It is a good start, but we still have some way to go before we reach the 60 ratifications required for the Agreement to enter into force. I am frequently asked if I see the Agreement entering into force. Since the conclusion of negotiations for the Agreement, I have been struck by the optimism and the positive energy of States actively working on ratifying the Agreement, and this tells me that we will reach the initial goal of 60 ratifications, sooner rather than later. This will bring the Agreement into force. But I am ambitious though, and we must continue to press on in encouraging and supporting more ratifications over and above the initial 60. I am not alone in this ambition; the preamble of the BBNJ Agreement sets out our aspiration for universal participation. The BBNJ Agreement covers the global commons and universal implementation of the Agreement will be needed to achieve the objectives of conservation and sustainable use.

By itself, the BBNJ Agreement promises to change, in some fundamental ways, how we operate in the areas beyond national jurisdiction. But the story of BBNJ is more than what the Agreement itself provides for. It is also the story of how States did not allow the challenges of the last few years to deter them from pressing on with the conclusion of the Agreement. It is the story of how, in the face of a world that is increasingly fractured, polarized, divided, we can still come together and get things done. It is the story of how, in the face of conflicts, and pandemics, and soaring temperatures, and weather calamities, and other distressing challenges, there is still room to take positive, global action for our world.

When the BBNJ Inter-governmental Conference (IGC) began in 2018, it envisaged an initial four negotiating sessions over a period of two years to conclude negotiations for a legally-binding instrument on the conservation and sustainable use of biodiversity in areas beyond national jurisdiction. Interrupted by the pandemic, we eventually required five sessions, over five years. The fifth session was made of three parts, over a period of nine months or so, the first two parts for negotiating the text, and the last part, in June 2023, to adopt the text and close the IGC. Many have written or spoken about how the conclusion of the BBNJ Agreement closed the chapter on nearly two decades of work on BBNJ, in some cases, lamenting the length of time needed to conclude. This is true. What is equally true, but perhaps not so evident, is that treaty negotiations took only eight weeks. Negotiators began negotiating the text of the treaty in the third session of the BBNJ IGC

in August 2019. From that meeting, delegations then took only another three, two-week meetings to negotiate and conclude what is a complex treaty of over seventy articles. Yes, the four meetings took place over three plus years, interrupted by the pandemic. Yes, many worked hard in between the meetings to lay the groundwork for the negotiations when we did in fact meet, and to be clear, the intersessional work was absolutely vital. The fact remains that actual negotiations for the treaty took only eight weeks.

Why do I highlight this? It is to remind ourselves that we can get things done, and done in a reasonably efficient fashion, not two decades but eight weeks, so long as we have the will, and a common purpose.

Immediately after the conclusion of substantive negotiation of the BBNJ Agreement in March 2023, there was a surge of positivity around multilateralism. Many commented how the conclusion of the BBNJ Agreement represented a victory for multilateralism, that we still have it in us to work together in spite of everything that has been thrown at us. That positivity continues today and we must harness this positive spirit to press on with our work.

I say “we”, and by “we”, I do not mean just States. Last year, the Centre for International Law of the National University of Singapore held a dialogue between Singapore’s Ambassador Tommy Koh, and myself. Ambassador Koh is, as many of you may know, the President of the third United Nations Conference on the Law of the Sea that resulted in our constitution for the oceans, UNCLOS. He observed that during the negotiations for UNCLOS, non-governmental groups were not allowed to participate in the process. Forty years later, observers, including civil society groups, have become an essential part of the development of a treaty, including during the BBNJ IGC process. While I did limit certain aspects of the negotiations to States, particularly towards the end, by and large, observers were allowed to be in the room, to express their views and to follow proceedings, either in person or through weblinks when physically not possible. And observers did more, including engaging with States, sharing position papers, helping to organize workshops, seminars, to enhance delegates’ understanding of the various issues. Where I could, I tried to foster a more open, more transparent process, with greater involvement of stakeholders. I want to take this opportunity to pay tribute to the hundreds of persons, representing States, international

organisations, civil society organisations, and many more, who, through their dedication, their commitment, their conviction, and their will, made it possible for us to celebrate the conclusion of the BBNJ Agreement. It has been my privilege and honour to have contributed in some small way.

Incidentally, I should add that greater stakeholder involvement is not confined to involvement in treaty negotiation processes but may also be seen in aspects of treaty implementation. In the BBNJ Agreement, for example, there is a detailed provision on consultations on and assessment of proposals for employing measures such as area-based management tools, including marine protected areas. Article 21 of the Agreement establishes an obligation for inclusive, transparent consultations that are open to relevant stakeholders, including not just States and intergovernmental organisations, but also Indigenous Peoples and local communities, civil society, and the scientific community. This is not to say that there have not been such provisions to consult in the past, but they were not always obligatory. The obligatory and detailed nature of this provision indicates that the days of international law being solely the province of States are transforming to a more participative model, which is important, given the role of international law, not only in maintaining order in our world but providing benefits for you and I in our everyday lives.

The BBNJ Agreement has been said to be an important, historic and significant achievement. It demonstrates the adaptability of the treaty process in the face of an increasingly fractured world. But we need to remind ourselves that the BBNJ Agreement is no one-off flash in the pan. Since June 2023, when the BBNJ Agreement was adopted, a number of other treaties have been concluded. Earlier this year, the World Intellectual Property Organization (WIPO) concluded a decades long process to adopt the first WIPO treaty addressing the interface between IP, genetic resources and traditional knowledge (WIPO Treaty on Intellectual Property, Genetic Resources and Associated Traditional Knowledge). The draft text of the United Nations convention against cybercrime has also been finalized. There are also ongoing negotiations on other agreements, such as the World Health Organization (WHO) Pandemic Treaty and a treaty on plastic pollution. These successes and efforts demonstrate, first, that multilateralism, so important especially to small states, is alive and well, that States continue to be willing to undertake global efforts to tackle global issues, even as we operate in a more

challenging environment. Secondly, these successes and efforts recognize that international law and international rule-making is one of the key ways to tackle such global issues. This, in my view, stems from a belief amongst States, as well as other actors, in the value of international law.

International law is the foundation of how we operate in society today. We are the subjects, and oftentimes, the beneficiaries, of our world order, premised on the foundation of international law. Knowingly or unknowingly, international law permeates our lives in myriad ways big and small, from strategic, global issues to the everyday. International law governs our lives in big ways, such as by prohibiting the use of force, by guaranteeing fundamental and universal rights to individuals, by providing a framework for taking climate action and many more. International law also governs our lives in small ways. When I arrived in Sweden, I did not need to produce a visa to enter your country. It is because of international law.

The value of international law, in promoting common growth, common development and global peace and security in creating a more just world, cannot be understated. A rules-based multilateral system, premised on sovereign equality resulting in a predictable framework within which agreed rules and norms apply to all countries, is particularly important to small States like the one I come from. This system represents the sharing of stakes in global governance, and also provides a means for interests of such States to be defended or furthered on a more level playing field. While this is certainly true for small States, it equally applies to large and powerful States too. In this context, where States tether their fates to each other in an interconnected and interdependent way, it is in the interest of all States, large or small, powerful or less well-resourced, to adhere to international law.

It is a common and somewhat valid criticism that international law lacks enforceability, that States cannot be held accountable for non-compliance with international law. This does not mean that we should not try nor does it mean that absolutely nothing is to be done. Rules that we make are most effective when they are implemented and adhered to by all. When I was in secondary school, the issue of the day was ozone depletion. Once the alarm was sounded, the world swung into action: States negotiated the Montreal Protocol on Substances that deplete the ozone layer in 2 years, 197 countries are parties to the Protocol, the private sector played its role

in developing alternatives to ozone depleting substances like CFCs, and UNEP reports that in 2019, the ozone hole was the smallest it has been since its discovery.

Compliance is multi-faceted but I want to briefly touch on two of these facets. First, the construction of rules that States can and want to comply with, and second, mechanisms to ensure compliance. I have observed, in the course of the treaty making process, that the manner in which States approach treaty negotiations suggests in particular that States do take treaty obligations seriously and come to the negotiating table cognisant of the implications and consequences of the text of the treaties they are negotiating. During the BBNJ IGC process, I could see the hard work underpinning the positions taken by States in the negotiations of the text, including consulting their respective stakeholders. But States also showed flexibility and a determination to find common ground, consulting one another, seeking to understand different points of view, building consensus around compromises in order to achieve the common goal of a treaty to govern the areas beyond national jurisdiction.

Beyond approaches to treaty negotiations, compliance can and should be encouraged, as well as enforced, and we should be open to different mechanisms for doing so. Earlier, I mentioned a more participative model of international law. In the BBNJ Agreement, there are a number of provisions on monitoring specific aspects of the Agreement, and this will have to involve stakeholders other than States. Another, more direct mechanism is that the BBNJ Agreement establishes an Implementation and Compliance Committee that is intended to be “facilitative in nature and function in a manner that is transparent, non-adversarial and non-punitive”. This is modelled after Article 15 of the Paris Agreement on Climate Change and is aimed at tackling issues of compliance at both the systemic level and at the level of individual States Parties. It recognizes that non-compliance may sometimes result, not from unwillingness, but inability. But there is also a recognition that facilitative compliance may not be sufficient. In the BBNJ Agreement, facilitative compliance is coupled with compulsory dispute settlement that adopts and replicates Chapter 15 of UNCLOS. The combination of facilitative compliance with a more coercive dispute settlement mechanism may well promote greater accountability in international law.

Indeed, States have also demonstrated a greater willingness to resort to

third party dispute settlement to ensure compliance with international law. In recent years, international tribunals have seen an uptick in the use of its services. The Permanent Court of Arbitration, for example, has seen an increase in its caseload, for both inter-state disputes and disputes involving one state party. The International Court of Justice is also seeing a record caseload. And the caseload is not just for contentious cases. Increasingly, States are also seeking advisory opinions from international tribunals, which, in my opinion, speak to how States see the value of international tribunals in guiding their actions. Even in contentious cases, which bind only disputing parties, the jurisprudence from the various tribunals is important because they are signposts that guide the behaviour of States. The jurisprudence enables States, although not bound by such jurisprudence, to calculate the risks involved in not complying with international law.

Last year, I said that “the ship has reached the shore”. But this does not mean that work has ended. Specific to the BBNJ Agreement, a Preparatory Commission to prepare for the entry into force of the Agreement has been established and will commence work next year. Aside from the BBNJ Agreement, there is more that can and should be done to tackle the challenges that we face today, through global action. It is not going to be easy; in some cases, it will be a very hard slog. But we press on because we must, and we press on, knowing that we can. It seems fitting to end with this quote from Dag Hammarskjöld, “The more we do, the more we can do”.

Thank you.

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After the lecture, Hans Wallmark, Chair of the Board of the Dag Hammarskjöld Foundation, presented the medal:

Excellencies  
Mr. County Governor  
Vice-Chancellor  
Colleagues and Students  
Ladies and Gentlemen

Your Excellencies – Ambassador Rena Lee and Jan Egeland

You are respectively the 23rd and 24th person to have delivered a Dag Hammarskjöld Lecture at Uppsala University.

The University has instituted a special medal, which is bestowed upon the Dag Hammarskjöld Lecturers.

The medal was created by the artist Annette Rydström and is cast in bronze.

Its obverse side shows a portrait of Dag Hammarskjöld and the reverse, a handshake, the symbol of Concordia, representing collaboration and Hammarskjöld's legacy in diplomacy.

In the Latin inscription, Uppsala University dedicates the medal in memory of his outstanding achievements.

It is an honour for the University and the Dag Hammarskjöld Foundation to award the lecturer with the medal and we sincerely thank you both and congratulate you for your achievements.

As Dag Hammarskjöld Lecturers, you are invited to join the International Honorary Committee of the Dag Hammarskjöld Foundation, where leaders in international cooperation and development can gather to reflect and drive debate and progress on global challenges and solutions.

The Dag Hammarskjöld Lecture Committee is comprised of representatives

of Uppsala University and the Dag Hammarskjöld Foundation.

Please allow me to state in the Committees' motivation for the selection of the Lecturers:

Her excellency, Ms. Rena Lee was chosen by the Lecture Committee to deliver the 2023 Dag Hammarskjöld Lecture for her exceptional commitment to ocean conservation, multilateralism and the United Nations.

Your Excellency, Ms. Rena Lee, I now invite you to accept the 23rd medal, with your name engraved on the rim, from the Vice Chancellor.

His excellency, Mr. Jan Egeland was chosen by the Lecture Committee to deliver the 2024 Dag Hammarskjöld Lecture for his exceptional dedication to protecting the rights and welfare of those affected by conflicts and natural disasters and his dedication to shaping humanitarian response globally.

Your Excellency, Mr. Jan Egeland, I now invite you to accept the 24th medal, with your name engraved on the rim, from the Vice Chancellor.



Rena Lee with the 2023 Dag Hammarskjöld Medal after receiving it from Anders Hagfeldt, Vice Chancellor of Uppsala University.



## Rena Lee

**Rena Lee** is Singapore’s Ambassador for International Law and the Chief Executive of the Intellectual Property Office of Singapore. Rena Lee joined the Singapore public service in 1992 and has served in several roles, including with the Attorney-General’s Chambers and the Ministry of Foreign Affairs. She specialises in the practice of public international law, covering diverse areas including law of the sea, environmental and climate change law, and humanitarian and human rights law.

Rena Lee was most recently Ambassador for Oceans and Law of the Sea Issues and Special Envoy of the Minister for Foreign Affairs. In this capacity, Rena Lee was elected President of the BBNJ Intergovernmental Conference in 2018 and served until the successful conclusion of the negotiations in 2023. Rena Lee was also a member of the Legal and Technical Commission of the International Seabed Authority between 2017 and 2022.

In March 2023, after nearly two decades of efforts, UN Member States reached a significant milestone, as they finally agreed on a treaty to safeguard the high seas and deep seabed. Following days of exhaustive round-the-clock negotiations, conference president Rena Lee made the historic announcement in room 2 of the UN headquarters. The Treaty is regarded as crucial for conserving 30 percent of the world’s land and ocean by 2030.



## Dag Hammarskjöld

**Dag Hammarskjöld** (1905-1961) served as Secretary-General of the UN with the utmost courage and integrity from 1953 till his death in 1961, creating standards against which his successors continue to be measured. He stood firmly by the UN Charter and lost his life in pursuit of dialogue and peace; Dag Hammarskjöld died in a plane crash on a mission to mediate in the 1960's Congo crisis. For his service, he was posthumously awarded the Nobel Peace Prize.

Dag Hammarskjöld's most notable achievements while serving as the world's top international civil servant include restructuring of the UN to make it more effective, creating the basis for UN peacekeeping operations, and successfully implementing his 'preventive diplomacy' in crises from the Middle East to China. Before he was appointed UN Secretary-General, Hammarskjöld held several senior positions in the Swedish civil service and became a non-partisan member of the Swedish Cabinet.

Dag Hammarskjöld also had many cultural interests and served as a member of the Swedish Academy, the body that awards the Nobel Prize for Literature. Another testament to this literary side is his journal of personal and spiritual reflections which was published posthumously as *Markings* in 1963. Dag Hammarskjöld spent much of his childhood and adolescence in Uppsala, which also became his final resting place.

## Uppsala University



Photo: Wikipedia Commons

**Uppsala University**, founded in 1477, is the oldest and best-known university in Scandinavia. Famous scholars such as Rudbeck, Celsius and Linnaeus were professors here, as well as eight Nobel Prize laureates, among them Archbishop Nathan Söderblom, who was also the University's Pro-Chancellor. He received the Nobel Peace Prize in 1930. Dag Hammarskjöld got his degree 1925 at Uppsala University in different subjects including history, linguistics and literature. Further studies led to degrees in economics, law and a doctoral degree in economics in 1934.

The University's international studies library is named after Dag Hammarskjöld and, in 1981, the Swedish Parliament established the Dag Hammarskjöld Chair of Peace and Conflict Research at Uppsala University.

[www.uu.se](http://www.uu.se)

## The Dag Hammarskjöld Foundation



**The Dag Hammarskjöld Foundation** is a non-governmental organisation established in 1962 in memory of the second UN Secretary-General, which aims to advance dialogue and policy for sustainable development and peace. The Swedish parliament took the initiative to set up the Foundation shortly after Hammarskjöld's tragic death and UN General Assembly Resolution 1757 welcomed its establishment.

The Foundation is an autonomous institution and is unaffiliated with any political, religious or ideological groups; its work is guided by respect for and alignment to the principles outlined in the UN Charter.

[www.daghammarskjold.se](http://www.daghammarskjold.se)

## The Dag Hammarskjöld Lecture

The **Dag Hammarskjöld Lecture** is given in memory of Dag Hammarskjöld, and in recognition of the values that inspired him as Secretary-General and generally in his life – compassion, humanism and commitment to international solidarity and cooperation.

The invited speaker should be an outstanding international personality who in significant and innovative ways contributes to a more just, peaceful and environmentally sustainable world through valuable achievements in politics or research. Further information about the annual Dag Hammarskjöld Lecture including the full list of previous lecturers as well as their published speeches, can be found online at [www.daghammarskjold.se](http://www.daghammarskjold.se).



Kofi Annan (1938-2018), delivering the 2001 Dag Hammarskjöld Lecture.

## Previous Dag Hammarskjöld Lectures:

- 2022 Amina J. Mohammed, *Strength in Our Common Humanity*
- 2021: Agnès Callamard, *A Global Compact for a World Beyond COVID*
- 2019: Christina Figueres, *Leadership for the Decisive Decade*
- 2018: António Guterres, *Twenty-first Century Challenges and the Enduring Wisdom of Dag Hammarskjöld*
- 2016: Ban Ki-moon, *Evolving Threats, Timeless Values: The United Nations In A Changing Global Landscape*
- 2015: José Ramos-Horta, *Preventing Conflicts, Building Durable Peace*
- 2014: Helen Clark, *The Future We Want - Can We Make It A Reality?*
- 2013: Margot Wallström, *Sexual Violence in Armed Conflict*
- 2012: Tarja Halonen, *Women's Participation in the Sustainable World*
- 2011: Jan Eliasson, *Peace Development and Human Rights – The Indispensable Connection*
- 2010: Francis Deng, *Idealism and Realism – Negotiating sovereignty in divided nations*
- 2009: Karen Koning AbuZayd, *Rights, Justice and United Nations Values – Reflections through a Palestine Refugee Prism*
- 2008: Martti Ahtisaari, *Can the International Community Meet the Challenges Ahead of Us?*
- 2007: Sture Linnér and Sverker Åström, *UN Secretary-General Hammarskjöld – Reflections and personal experiences*
- 2005: Hans Blix, *UN Reform and World Disarmament – Where do we go?*
- 2004: Noeleen Heyzer, *Woman, War and Peace – Mobilising for Peace and Security in the 21st Century*
- 2002: Lakhdar Brahimi, *Rule of Law at Home and Abroad*
- 2001: Kofi Annan, *Dag Hammarskjöld and the 21st Century*
- 2001: Joseph Rotblat, *The Nuclear Age – A Curse and a Challenge: The Role of Scientists*

2000: Brian Urquhart, *Between Sovereignty and Globalisation  
Where does the United Nations fit in?*

1998: Mary Robinson, *Human Rights – Challenges for the 21st Century*



*The medal which Uppsala University has produced in memory of Dag Hammarskjöld is awarded to the Dag Hammarskjöld Lecturers. It is designed by Annette Rydström and cast in bronze. The obverse shows a portrait of Dag Hammarskjöld and on the reverse a handshake and a text in Latin which reads: 'Uppsala University to its disciple in memory of his outstanding achievements.'*



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