

# CMI NEWS LETTER

*Vigilandum est semper; multae insidiae sunt bonis.*

COMITE MARITIME INTERNATIONAL

NO. 3 - OCTOBER / DECEMBER 2010

## News from the CMI:

- Minutes of the Executive Council meeting held at the Marriott Plaza Hotel in Buenos Aires on October 24, 2010
- Minutes of the CMI Assembly held at the Marriott Plaza Hotel in Buenos Aires on October 27, 2010
- Corrigendum

## NEWS FROM THE CMI

### MINUTES OF THE EXECUTIVE COUNCIL MEETING HELD AT THE MARRIOTT PLAZA HOTEL IN BUENOS AIRES ON OCTOBER 24, 2010

Attending:

<i>President:</i>	Karl-Johan GOMBRII
<i>Immediate Past President:</i>	Jean-Serge ROHART
<i>Vice-Presidents:</i>	Stuart HETHERINGTON Johanne GAUTHIER
<i>Councillors:</i>	Giorgio BERLINGIERI Christopher DAVIS José Tomás GUZMAN Måns JACOBSSON Henry LI Louis MBANEFO Andrew TAYLOR
<i>Secretary-General:</i>	Nigel FRAWLEY
<i>Administrator:</i>	Wim FRANSEN
<i>Treasurer:</i>	Benoit GOEMANS

### 1. *Minutes*

The minutes of the Executive Council meetings held by email conference during the weeks commencing March 15 and June 21, 2010 were discussed. The Secretary General moved for their approval, which was seconded by Chris Davis and the minutes were approved unanimously.

### 2. *Business Arising*

Stuart Hetherington brought the Executive Council up to date on construction of the new website by Ben Slater and his assistants. He said that Pascale Sterckx is now capable of adding items to the new website. He said that they will be replacing the old website in the very near future. There was some discussion about including a schedule of ratifications by States to International Conventions. Johanne Gauthier suggested that all NMLAs should be invited to comment on the new website and that there should be a contact person in each member association for purposes of supplying information to the database on jurisprudence. She also suggested that Mr. Hetherington should liaise with Chris Giaschi of the Canadian MLA who is experienced in the construction of websites. On Mr. Hetherington's recommendation, the Executive Council agreed with paying 5,000 AUD for further website development by Ben Slater's company, Admission, in order to allow CMI to send communications directly to the members of all NMLAs. Where an NMLA, for privacy or other reasons, is unable to provide their members' contact details they will be asked to designate somebody to whom all CMI communications can be sent for on-forwarding to its members.

### 3. *Management Committee Report of the Meeting Held at Singapore June 27, 2010*

The President reported that he, Mr. Hetherington and Nigel Frawley were in attendance with Ms. Gauthier by telephone conference. He referred to the recommendation for a subscription holiday and pointed out that even with it there is still a large reserve remaining. Ms. Gauthier advised that she had read a Canadian government memorandum on non-profit companies with references to reserves being proportionate to the activity and would try to locate it and circulate it to the Executive Council. Benoît Goemans also reported about Belgian guidelines on the subject. Chris Davis suggested that a reserve sufficient to look after 2-3 years' expenses would be appropriate. He then remarked that a continued subscription holiday (beyond 2011) might cause problems in the future with respect to collecting subscriptions from NMLAs once current subscription levels are reinstated. Benoît Goemans referred to his report on the impact of the level of subscriptions on the reserves. Although the 2010 subscription level significantly reduces the income of

the CMI, it does not appear that this level will erode the reserves significantly within the next few years. A 40% reduction of the 2010 subscription level along with a 20% early bird discount would visibly reduce the reserves, and necessitate to double the subscriptions once the reserves have reached a level that should not be further reduced, say around 2017. The question is whether the MLAs will then be able to amend their financial policy and be able to face a level of subscriptions that is twice the amount charged over the last years. To avoid this development and difficulties, a one time skip of the subscriptions in 2011 would enable to reduce the reserves visibly, while maintaining them on a level sufficient to cover several years of expenditures, to improve the cash position of the MLAs without them getting acquainted financially to a level of CMI subscriptions which covers only half of the needs of the CMI. Måns Jacobsson said that he prefers a reserve of 500,000 Euros and increasing our expenditures for worthwhile matters. He said the IOPC Funds had had a subscription holiday once with mixed experience. Mr. Davis recommended a vote at the Assembly either for a 100% subscription holiday or a 25% or 50% reduction.

The President thanked Councillors for their views and said he would take them all under advisement for the debate at the Assembly. The President then asked for guidance on use of the surplus by increased expenditures and referred the Executive Council to paragraph 2 of the Memorandum of the Singapore Management Committee meeting. Following a full and frank discussion there was general approval of the recommendations in paragraphs 2 a)-f), attached hereto as Annex "A". During the discussion, a suggestion was made to ask prominent Maritime Law Professors worldwide to get organised for video lectures to CMI Young Members and other interested persons.

The President then turned to the approaches that have been made in recent years by the IBA Maritime and Transport Law Committee for purposes of discussing joint activities. He was in favour of continuing contacts with the Committee and as has been suggested by them, to participate in each other's meetings in order to get to know each other better. It was pointed out by one of the councillors that we should be aware that the IBA is more of a networking organisation than the CMI. Mr. Rohart said that he had heard that there was an IBA Young Lawyers Association meeting in Istanbul. He will look into this and report. The President said that IBA had disclosed plans to organise a meeting of the Committee in Shanghai in the spring of 2012. As this might interfere with a number of delegates registering for the CMI Conference in China October 2012, he had requested that they change the venue of their meeting if possible.

It was decided that the Management Committee will discuss the matter of expenditures and closer liaison with the IBA at their meeting later in the week.

#### 4. *Finances*

a) The Treasurer's report auditing the financial impact of reduced future subscriptions has already been circulated and discussed. It was decided that there was no need for further discussion at this time.

b) Unpaid subscriptions: Mr. Davis and José Tomas Guzman then reported on their efforts to settle with those countries having outstanding contributions. Mr. Guzman reported that, as a general rule, the Presidents of the Maritime Law Associations have explained that they have encountered difficult times due to lack of maritime legal work in their countries, mainly because the termination of public subsidies has resulted in a loss of their merchant fleets. Some of these Maritime Law Associations have lost members and it has been difficult for them to collect contributions in order to face their own expenses. Notwithstanding this, the Presidents all agree that it is in their great interest to maintain the link with the CMI. He has been in contact with the Presidents of the MLAs of Brazil, Chile, Ecuador, Colombia, Peru and Uruguay. He has not received any reply from the Netherlands Antilles. In particular, the Executive Council thanked Mr. Guzman for his efforts in settling with a number of Latin American MLAs and encouraged him to continue his efforts in order to achieve even further agreements. The Executive Council thereupon ratified the settlements reached with Chile and Colombia and agreed settlements on the same basis with the MLAs of Peru and Uruguay.

#### 5. *Members*

a) The nominations of Henry Li, Robert Parrish, Marcello Maresca and Helen Noble for titular membership were discussed and approved.

b) *Consultative Members*: The Executive Council approved a recommendation to the Assembly for admission of IVR as a Consultative Member. There was then discussion about various UN entities becoming Consultative Members. It was thought to be a good idea to explore making UNIDROIT a Consultative Member for a start. The President will ask Frank Wiswall to investigate this matter further and give recommendations with the reasoning behind them. He should avoid lobby organizations.

c) *New NMLAs*: The President advised that discussions with Honduras, Malaysia, India and Poland are proceeding well. As to Indonesia, Mr. Hetherington said that they formed an Association and he had told them that they had to broaden their membership. As we have no indication that this has been done, their application for membership will not be put before the Assembly. It is important that they satisfy the requirements of the Constitution for a broadly based membership.

d) *Provisional Members*: Mr. Goemans advised that he received an e-mail from Curaçao in the

Netherlands Antilles that they would like to organise a new NMLA and cancel the old. The President asked Mr. Goemans to continue discussions with the person in question and stress that they cannot simply avoid outstanding subscriptions by creating a new MLA and that efforts should be made to revive the existing member association.

e) As to Portugal, Giorgio Berlingieri said that their MLA is no longer in existence and he told his contact in Lisbon that the CMI is open for an application from a new group of lawyers in that country. He will pursue this.

f) *Membership Consultation Process*: Mr. Davis reported that replies to questionnaires are still being received. He said that either he or Ms. Gauthier will report to the Assembly on this. Apparently, the Singapore MLA has offered a CMI regional office in Singapore on a trial basis and locally funded. The President was asked to explore this kind offer and report back to the Executive Council and, eventually, the Assembly.

g) It was suggested that an annual Newsletter from each country should be added to the website. As well, Singapore, Croatia and Germany have asked for links to the CMI website and this was agreed.

#### 6. *Nominations*

The Executive Council agreed with the Nominating Committee's nominations, which were for the re-election of Wim Fransen as Administrator, and the election of Song Dihuang, of the MLA of China, as a new Executive Councillor. As this was Henry Li's last meeting, the President congratulated him for his contributions and confirmed that he will continue to act as liaison between the Secretary General and the Beijing organising committee. Mr. Li replied that it had been a very positive experience for him. He recommended that the CMI focus more on Asia and involve more Asians on IWG's and ICS's.

Wim Fransen has been nominated for a second term. He thanked the Executive Council for the opportunity.

#### 7. *Work in Progress*

##### a) *General Average Interest Rate*

The committee's recommendation of 4.25% in 2011 for the York Antwerp Rules 2004 was noted and will be passed on to the Assembly for a decision.

##### b) *Piracy*

The President reported that Patrick Griggs will deliver a paper at the Colloquium which will be put on the website after the Colloquium is over.

##### c) *Fair Treatment of Seafarers*

Mr. Berlingieri reported that the IWG, chaired by Kim Jefferies of Norway, was recently given its

mandate by the Executive Council. In compliance with the mandate, the IWG made a submission a few weeks ago to the IMO Legal Committee. The submission addresses the need that the IMO guidelines (drafted initially by the CMI) adopted in 2006 be complied with and that Article 230 of UNCLOS also be complied with by member States. Notably, the submission was supported by other influential associations such as the International Group of P&I Clubs, ICS, ISF, BIMCO, Intertanko and ITF.

*d) LLMC and Australian proposal at IMO to increase limits*

The document prepared by Patrick Griggs, Mr. Jacobsson and Richard Shaw on behalf of the CMI, attached hereto as Annex "B", was tabled and approved. (Note: This document had been originally approved by the Executive Council at its June 2010 meeting but, since then, certain amendments had been made. It was submitted to the IMO Legal Committee for its meeting to be held in London November 15-19, 2010).

*e) Rotterdam Rules (UAE Conference, Bogota Conference)*

The Secretary General reported that Jean-Michel Moriniere is organising a conference on the Rotterdam Rules on February 1, 2 and 3, 2011 in Abu Dhabi. He also indicated that a group of lawyers are interested in establishing an MLA and joining the CMI. Mr. Rohart will talk to Dr. Moriniere. Mr. Hetherington said that he was interesting in going to Abu Dhabi to assist with setting up an MLA. Jean-Serge Rohart, Andrew Taylor and Stuart Hetherington will review any application and ensure that the membership be broadly based. The group was also encouraged to look into the history of the Gulf MLA, which was a member for 5 or 6 years but never paid any contribution or otherwise contributed to the work of the CMI and was subsequently expelled.

The Secretary General said that a successful conference in Bogota, Colombia had been held September 1-3, 2010 and that he was aware that Kate Lannan of UNCITRAL and Professor Michael Sturley had contributed to that conference by delivering papers on the Rotterdam Rules.

*f) Salvage, including appointment of new IWG member*

Stuart Hetherington reported on the meeting of the Salvage Convention IWG in London in May 2010 and the tension between the ISU on the one hand and the International P&I Group and ISC on the other. A representative of the Group recommended that Viggo Bondi, Head of the Legal Department, Norwegian Shipowners' Association and the new Chairman of the ICS Legal Committee, join the International Working Group. This was agreed. Mr. Hetherington said that there may be a need for an

IWG meeting before the Beijing Conference. This is likely to be in May 2011. Following the Salvage Convention sessions at the Colloquium, the question will be where the CMI takes this matter from here. Any further discussion on this was deferred until after the Colloquium presentations.

*g) Judicial Sale of Ships*

Mr. Li confirmed that he had organised a meeting with members of his IWG to get their papers ready for the Assembly. The question will be whether there is a need to continue this topic. He said he would submit a report to the Executive Council following the IWG presentations at the Colloquium.

*h) Implementation and Interpretation of International Conventions*

Francesco Berlingieri's report was tabled and a brief discussion ensued.

*i) Marine insurance*

There was discussion on the Questionnaire relating to Mandatory Insurance. Mr. Davis suggested that the IWG consider identifying additional topics for study, including subjects that might have commercial and practical application. He reported that Charles Debattista had recently spoken at the Tulane University Maritime Law Center on the interrelationship between the contract of sale, contract of carriage and contract of insurance, utilizing the new INCOTERMS 2010 as a point of reference. Mr. Davis said that this might be a worthwhile topic at the Beijing Conference.

*j) Cross border insolvencies*

Mr. Davis reported that the IWG on cross border insolvencies, the creation of which had been approved by the Executive Council at its March 2010 meeting, would comprise himself as chairman, Professor Sarah Derrington and William Sharpe. A preliminary meeting was scheduled to take place in Buenos Aires and he suggested that this subject might be a good topic for the Beijing Conference agenda.

*k) Limitation of Liability*

Gregory Timagenis then attended the meeting to report on this subject. He said that the mandate had been transformed so that the IWG is being replaced by an International Sub Committee which should not exclusively deal with procedural rules. The new role is:

- 1) to prepare a list of substantive issues of Limitation of Liability for study;
- 2) to finalize a Commentary on the Guidelines of Procedural Rules.

There was a meeting of the IS-C in London in February 2010 which clarified the new mandate. He said that a discussion ought to be taken further regarding the list of associations in order to have their input. He will hold a further IS-C meeting in the coming months and said that the identification of

issues is in itself helpful both to practitioners and those in the process of implementing the convention into the national legislation of a ratifying state. The next step could be to discuss one or two issues in order to arrive at a recommended solution. In the long term, a Protocol might be a possibility. He confirmed that the IS-C would consult with the Executive Council regularly regarding future work and report on completed work.

The Executive Council decided that the IS-C should continue with its work and report regularly to the Executive Council.

*l) Ratification of the Conventions on Arrest (1999) and Maritime Liens and Mortgages (1993)*

Mr. Berlingieri said that, at the Executive Council virtual meeting in March 2010, it was considered that the CMI should include an investigation on the reason why the 1993 MLM Convention and the 1999 Arrest Convention has achieved such little success. An International Working Group was appointed. The chairman is Professor John Hare of Cape Town and members are Professor Ignacio Arroyo Martinez and Giorgio Berlingieri. The IWG is presently considering the best way to proceed with this investigation, whether by way of a Questionnaire or otherwise. They will report to the Executive Council on their efforts in the next few months.

*8. Young Members, including consideration of the Essay Prize and alternatives*

Mr. Taylor and Mr. Frawley recommended that a Young Members programme be on the Beijing Conference agenda. Mr. Taylor said that he and others in U.K. will be organising a conference in London of European Young Members during this coming year. This will hopefully contribute to raising the profile of the CMI among younger lawyers. Frank Smeele has previously suggested that, as part of the Young Members' outreach efforts, maritime research students should be encouraged to network through the Young Members' section of the website. This, it was agreed, would be a very worthwhile endeavour. Frank Smeele has also suggested the Young Members' section of the website could also be a repository for articles. Mr. Davis suggested that lectures that have already been given and recorded via video-link, be put on the website and that we should consider web podcasts for interactive studies. He will consult with Michael Sturley, John Hare and Martin Davies on this. Mr. Jacobsson reminded us that there must be quality control on matters going onto our website.

As to the Young Member Prize, it was considered that the concept ought to be reviewed, partly because today's Young Members are too busy to enter into such competitions unless they are academics and partly because contributions, if any, are time consuming and sometimes difficult to review. It was felt that other ideas should be explored such as sponsoring a student at some college or sponsoring

participation in a CMI conference or the like rather than an Essay Prize. Mr. Taylor said it was best that Young Members come to us with their suggestions on the subject. Mr. Taylor will, if possible, consult with the Young Members at the Colloquium but, in any event, report back with ideas.

*9. Charitable Trust*

The report of Tom Birch Reynardson was noted, particularly the increase in assets from 371,000 GBP to 452,000 GBP.

The US MLA has asked for more transparency in dealings between the CMI and the Charitable Trust. Mr. Griggs prepared a note on the subject which will be produced at the Assembly. The President pointed out that the Charitable Trust does an excellent job in supporting IMLI in Malta and the WMU in Malmo, Sweden.

*10. Colloquium and Assembly – Buenos Aires*

The Secretary General reported that arrangements have been finalized and that all signs indicated that the Argentine MLA will be putting on an excellent Colloquium. He said that Jorge Radovich had been a pleasure to work with and that the Colloquium website was presently accepting papers for publication.

The Secretary General reported that all secretarial arrangements had been made by Ms. Sterckx and Ms. Canning. As Ms. Sterckx was unable to attend at Buenos Aires, Ms. Canning had kindly agreed to take her place and carry out her duties and responsibilities.

*11. Conference at Beijing October 2012*

Mr. Li said that he looked forward to continuing in the role of liaison between the CMI and the Chinese Organizing Committee. He also said that he would suggest Asian topics of interest. Mr. Hetherington said that one of the responses to the Questionnaire sent to NMLAs had suggested that we should consider transactional topics for presentations in seminar format at the conference (as we have been doing more over the last few years) particularly where the programme does not have sufficient traditional CMI working sessions.

*12. Other Business*

*a) IOPC Funds meeting of Governing Bodies- Marrakech, Morocco – Week of March 28, 2011*

The Executive Council approved asking Richard Shaw to proceed to the meeting in Marrakech as the CMI Observer.

*b) Albert Lilar Prize*

Mr. Fransen said that the Foundation is revitalized and presently is considering a new prize to be awarded. Frank Stevens of Antwerp was the last winner. He explained that the Foundation is an independent trust

and that the deed provides that the Board of Trustees can have an appointee from the CMI, Mr. Fransen being the current CMI appointee. The capital sum is approximately 100,000 Euros which gives a 5,000 Euro prize from the interest accrued. Mr. Fransen confirmed that he has no personal liability as a director or trustee that could be passed on to him as the Administrator of the CMI or to the CMI directly.

*c) CMI as Partner Institution with the International Foundation for the Law of the Sea (Summer Academy)*

Mr. Jacobsson reported that the CMI is now partnering with the International Foundation for the Law of the Sea. (Note: The Executive Council noted at its June 2010 meeting that the partnership would be with the Foundation). The partnership is useful in enabling an official CMI representative to lecture at the Summer Academy organized by the Foundation. It was noted that a number of CMI members had already lectured at the Academy but not as CMI representatives. He further said that a partner institution is in the nature of a consultative member. The CMI will not be making any financial commitment, nor is it expected to. He suggested that the CMI should draw the attention of Young Members to the Summer Academy to enable them to consider whether they would like to attend.

*d) World Ocean Council*

Mr. Frawley said that he and the President thought it wise to receive mailings from this United Nations department which has been developed to look after the World's Oceans from ever increasing pollution. There is no financial commitment. The Executive Council approved that the CMI be on the mailing list.

*e) Offshore Installations*

Mr. Frawley reported that Richard Shaw had sent an e-mail on October 14, 2010 about a proposal by Indonesia that the IMO Legal Committee should revisit the issue of liability and compensation for oil pollution damage resulting from offshore exploration and exploitation. He referred to an oil spill from an Australian Rig that had had transborder implications. Indonesia and Australia were both affected. Mr. Jacobsson pointed out that the preparation of an international instrument on the subject proposed by Indonesia was a controversial issue and a number of complex questions had to be addressed. He said that a regional convention covering the North Sea and the Baltic Sea adopted in 1977, the International Convention on Civil Liability for Oil Pollution

Damage resulting from Exploration for and Exploitation of Seabed Mineral Resources, in the drafting of which he as a representative of the Swedish Government had played an active role, had not been ratified by any State and had consequently not entered into force. After a discussion on the subject, a decision was made to ask Mr. Shaw to monitor the Indonesian application and report to the President and Secretary General. He is to be invited to update his old report, as Chairman of the CMI IWG on Offshore Rigs, to the IMO if he thinks it important to do so.

*f) Iran Sanctions*

The Secretary General reported that Dieter Schwampe wanted the opportunity to speak on this issue to the Assembly. He has prepared two documents. The first is the impact of the United Nations sanctions on the shipping industry in Europe. The second is the impact of the sanctions upon the United States shipping industry. The Executive Council approved this initiative.

*13. Next Executive Council meeting*

The President said that the next meeting will be by e-mail conference in the spring of 2011. Mr. Goemans suggested the week of April 4, 2011. The President said that he would consider this. The next physical meeting of the Executive Council will be held in Oslo during the week commencing Monday, September 26, 2010, the actual date to be decided later. The meeting will be in conjunction with, not only the Assembly, but also a meeting organized by the Norwegian Maritime Law Association possibly in cooperation with Det Norske Veritas.

There was then a general discussion where the next Colloquium should be held. Several Councillors said that the next Colloquium should be held in Europe. It was noted that Ireland has offered to host a Colloquium in Dublin in 2016, and that Italy had also offered to host an event. No decision was made.

*14. Next Assembly*

The President reported that the next Assembly will be held in Oslo in late September 2011 on a date still to be chosen.

*15. Termination*

Following a vote of thanks to the Argentine MLA for the splendid luncheon during the meeting, the President terminated the proceedings at 4:00 pm.

## ANNEX A

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- (a) Website – Annual maintenance. It is proposed that an experienced retired marine lawyer or professor knowledgeable in CMI matters be engaged for this purpose and paid an annual honorarium of, say, € 10,000 to maintain and upgrade the website and instructing Pascale accordingly.
- (b) Meetings of the Management Committee – It is proposed that there be one physical meeting of the ExCo per year on the work program and other substantive matters, and two virtual meetings per annum to deal with administrative matters. It is also proposed that there be meetings of the President, both Vice Presidents and Secretary-General (to be known as the “Management Committee”) on an as-needed basis. This will have the effect of increased travel expenses.
- (c) ExCo travel expenses to be increased in pursuance of the consultation process. It is necessary that we market the CMI in a more positive way.
- (d) ISC and IWG travel expenses – Article 22 of the Constitution provides for the expenses of the Chairman and Rapporteur to be paid. The expense of the other members of the ISC and IWG are at the discretion of the ExCo. It is considered that such expenses are to be more generously applied to encourage attendance. This will have the effect of increasing travel expenses.
- However, there should be a control on this by keeping the number of members on IWGs at a relatively low number where possible.
- (e) Continuing education – It is proposed that the many distinguished academics we have within the CMI in the various regions of the world should be utilised in order to take quality maritime law teaching to less well-resourced NMLA's, possibly by way of video conferences. Such lecturing should also emphasize topics that are subject to work in progress within the CMI. The academics could also put up nominees for a prize (e.g., a scholarship for Malmo). By way of example only, we could use: Africa – John Hare (Cape Town), North America – Martin Davis (Tulane) and Michael Sturley (University of Texas), South America – Diego Chami (Buenos Aires), Oceania – Sarah Derrington and Nick Gaskell (Brisbane) and Paul Myburgh (Auckland), Asia – Tomotaka Fujita (Tokyo) and Henry Li (Shenzhen), Europe – Charles Debattista and Richard Shaw (Southampton), Francis Rose (Bristol) and Francis Reynolds QC (Oxford). We should consult with John Hare for ideas. He has experience from video teaching.
- (f) It is proposed that with the contemplated increase in proactive work, individual members of the CMI be protected by Directors and Officers' insurance, and Defamation cover. The cost of the premiums will result in an increase of our annual expenses.

## ANNEX B

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Legal committee  
98th session.  
Agenda item 7

LEG 98/

*Consideration of a proposal to amend the limits of liability of the Protocol of 1996 to the Convention on Limitation of Liability for Maritime claims, 1976 (LLMC 96), in accordance with Article 8 of LLMC 96.*

*Review of legal issues*

*Submitted by the Comité Maritime International (CMI)*

### *Executive summary*

This document reviews the relationship between limits for loss of life/personal injury claims and other (property) claims under Art. 6(1)(a) and (b) of LLMC 96. It also considers the impact of increasing loss of life/personal injury limits on Article 7 LLMC 96 (passengers) and Article 7 of the Athens Convention on the Carriage of Passengers by Sea 2002.

*Related documents:* LEG 94/11/1, LEG 94/12, LEG

96/6/2, LEG 96/12/1, LEG 97/8/1, LEG 97/8/2; LEG 97/8/3; LEG 97/8/4.

### *Background*

1. At the Committee's 97th session in LEG 97/8, LEG 97/8/1, LEG 97/8/2 and LEG 97/8/3 the Australian delegation drew attention to the bunker spill case involving the Pacific Adventurer (March

2009). In that case claims had exceeded the limits of liability for property damage under LLMC 96. The Australian delegation proposed that the limits under LLMC Art. 6(1)(b) should be revised upwards by 127.5% to ensure that sufficient funds would, in future, be available to meet similar claims.

2. At the same session the CMI (LEG 97/8/4) submitted a study of the concept of limitation and also drew attention to the fact that, historically, the ratio between the limits for life/personal injury claims on the one hand and property damage claims on the other had always favoured life/personal injury claimants.

3. The CMI suggested that it might, therefore, not be possible to increase the property damage fund without also reviewing the life/personal injury limit. This was generally accepted although it was questioned whether the ratio between the respective limitation amounts was sacrosanct and needed to be preserved.

#### *Review of the ratio between the limit for life/personal injury and property claims*

4. The principle of giving preferential treatment to life/personal injury claimants in limitation cases appears to date back at least as far as 1862. The UK Merchant Shipping Act of that year provided that where only property damage claims were involved a shipowner could limit his liability to £8 per ton. If life/personal injury claims were also involved limitation would be on the basis of £15 per ton.

5. Under the 1924 Limitation Convention (the first international attempt to unify the law relating to limitation of liability) the limit of a shipowner's liability for all third party claims is an amount equal to the value of the vessel plus freight and accessories.

6. At that point in history, therefore, the international maritime community disregarded the UK model and did not make a distinction between life/personal injury and property damage claims in the context of limitation of liability.

7. This Convention only ever attracted 15 ratifications. The UK did not ratify this Convention because it involved limitation by reference to the value of the vessel whereas the limitation system already in operation in UK involved limitation by reference to a formula based on a certain sum per ton. The UK may also have disapproved of the absence of preference for life/personal injury claims.

8. Under the 1957 Convention a shipowner may limit his liability in respect of property damage to 1,000 francs per ton of the vessel's tonnage and in respect of life/personal injury claims to 3,100 francs per ton. Where an incident gives rise to both types of claim

2,100 francs per ton are set aside for life/personal injury claims and 1,000 francs per ton for property claims with the right for unsatisfied life/personal injury claimants to share pro rata in the property fund.

9. The adoption of the 1957 Limitation Convention was the first occasion on which the international maritime community had decided to make a distinction between life/personal injury and property claims in the context of limitation. The nominal ratio is 3.1/1 though this ratio drops to 2:1 where there are property claims as well as life/personal injury claims. The ratio again changes where life/personal injury as well as property claims are involved and the life limit proves inadequate to meet all claims in which case life/personal injury claimants whose claims have not been satisfied can share in the property fund. The principle of favouring life/personal injury claimants was clearly established internationally by this Convention.

10. The 1957 Limitation Convention was drafted over a period of years by the CMI and an agreed final text was produced at its Madrid Conference in 1955. This draft text then went forward to a Diplomatic Conference in Brussels in 1957. The introduction into the CMI draft text of preferential treatment for life/personal injury claims was due to the UK delegation. The report of the Diplomatic conference includes this passage:

“Mr. Hill (Great Britain). – Mr. Chairman. It will be remembered that the British delegation put forward at Madrid a figure of £50 for loss of life and personal injury claims [and £24 for property damage claims]. The argument for the £50 was that the figure, whatever it was, should go as far as possible in eliminating loss of life and personal injury claims from the field of limitation, on the ground that under modern conditions of shipowning and assurance facilities protection for the shipowner in respect of loss of life and personal injury should be restricted to a case of such magnitude of disaster as in these days would justify relief from the normal consequences of liability. That proposal was put forward at Madrid by the representatives of the shipowners, the payers, who still support it today. The view of my Government is that the figure which should go into the Convention is this figure of £50. The personal claims component of the fund is intended to establish a ceiling which should only be reached in rare cases of catastrophe.”

11. The report also reveals that the concept of limitation by reference to the value of the vessel (applied in most European States) was finally abandoned in favour of the UK system of limitation by reference to the tonnage of the vessel. This convention was ratified by 51 States.

12. Under the 1976 Limitation Convention a shipowner may limit his liability in respect of

life/personal injury claims to 333,000 SDR for a vessel with a tonnage not exceeding 500 tons. A shipowner may limit his liability in respect of property damage claims to 167,000 SDR for a ship with a tonnage not exceeding 500 tons. Where an incident gives rise to both types of claim and the limitation amount for life/personal injury claims is insufficient to pay the claims in full the amount set aside for property damage claims will be available to meet unsatisfied life/personal injury claims on a pro rata basis. (For ships above 500 tons there are different stepped increases in the limitation amount by reference to the vessel's actual tonnage and dependent on whether the claims are for life/personal injury or property). This Convention has been ratified by 52 States.

13. Under the 1996 Protocol to LLMC 1976 a shipowner may limit his liability in respect of life/personal injury claims to 2 million SDR for a ship with a tonnage not exceeding 2,000 tons. A shipowner may limit his liability in respect of property damage claims to 1 million SDR for a ship with a tonnage not exceeding 2,000 tons. Provisions similar to those contained in the LLMC 1976 apply where the limitation amount set aside for life/personal injury claims is insufficient to satisfy those claims in full (see above).

14. This review establishes that the concept of a ratio favouring life/personal injury claimants was first introduced internationally in the 1957 LLMC. A study of the Travaux for the 1976 LLMC reveals that the concept and the existing shape of the ratio was accepted without debate and was, again, not questioned at the time of the 1996 LLMC.

*Limits in respect of life/personal injury claims under Art. 6 LLMC and their relationship with limits under Art. 7 LLMC and the Athens Convention on the Carriage of Passengers by Sea 2002 (Athens).*

15. The tonnage based global limitation amount for life/personal injury claims under Art. 6 LLMC is, in practice, only likely to apply to claims made against the vessel seeking to limit by passengers and crew on a third party vessel – for example where the ship seeking to limit has been in collision with a passenger ship causing death and injury to passengers and crew. Passenger and crew claims made against the carrying ship will, in almost all circumstances, be subject to the Athens Convention 2002 and its predecessors. The question posed at LEG 97 was whether increasing the global limitation amount under Art. 6(a) for life/personal injury claims might result in third party passenger claimants being treated more generously than passengers under the specific passenger regimes under Art. 7 LLMC 96 and Athens.

16. There are two fundamental reasons why a meaningful comparison cannot be made. The limitation amounts under Art. 6 LLMC 96 are based on the tonnage of the vessel seeking to limit. Under

Art. 7 LLMC 96 the global limitation amount is calculated by taking the number of passengers which the ship is authorized to carry and multiplying that figure by 175,000 SDR. Under the Athens Convention the carrier's limit in respect of passenger claims is 400,000 SDR per passenger. This is a per passenger limit and not a global amount in which all claimants share as is the situation under Arts 6 and 7 of LLMC 96.

17. To illustrate the difficulty; if one takes the LLMC 96 and applies the proposed 127.5% increase to both life/personal injury and property limits to a ship of 30,000 tons the limit for life/personal injury claims under Art. 6(a) would be 22,400,000 SDR and for property claims under Art. 6(b) the limit would be 12,200,000 SDR. A ship of comparable size (30,000 tons) might, perhaps, carry 1,500 passengers and the limit of her owners' liability for life/personal injury claims would, based on Art. 7, be 262,500,000 SDR. This calculation tells us nothing about the fairness or otherwise of increasing the limits under Art. 6(a) LLMC.

18. Bearing in mind the limited circumstances in which Art. 7 LLMC is likely to be applied in practice and the difficulty of making any meaningful comparisons between the limits under Art. 6 and Art.7 the CMI feels that the Committee should not feel constricted in deciding whether the limits under Art. 6(a) should be increased proportionately.

19. As stated above the liability of a shipowner to passengers is limited to 400,000 SDR per passenger. This is a "per passenger" limit and not a global amount in which all claimants share in contrast with the position under Art. 7 LLMC 96. Though it is, of course, possible for a shipowner to calculate his total exposure to claims by multiplying 400,000 SDR by the number of passengers his ship is carrying on any particular voyage.

20. Again, it is impossible to make a meaningful comparison between limits for life/personal injury claims under Art 6(a) and limits for passenger claims under the Athens Convention.

### *Conclusions*

21. It follows from this research that concept of giving preference to life/personal injury claims has been accepted internationally since 1957 and the Committee may feel that the preference should be respected and maintained with the result that limits under Art. 6(a) should be increased proportionately. Further, due to the impossibility of making meaningful comparisons, the Committee may feel it need not be concerned that increasing the limits under Art. 6(a) LLMC 96 will impact unfairly on the limits for passenger claims under Art. 7 LLMC 96 and the Athens Convention

# MINUTES OF THE CMI ASSEMBLY HELD AT THE MARRIOTT PLAZA HOTEL IN BUENOS AIRES ON OCTOBER 27, 2010

Attending:

<i>President:</i>	Karl-Johan GOMBRII
<i>Immediate Past President:</i>	Jean-Serge ROHART
<i>Vice-Presidents:</i>	Stuart HETHERINGTON Johanne GAUTHIER
<i>Councillors:</i>	Giorgio BERLINGIERI Christopher DAVIS José Tomás GUZMAN Måns JACOBSSON Henry LI Louis MBANEFO Andrew TAYLOR
<i>Secretary-General:</i>	Nigel FRAWLEY
<i>Administrator:</i>	Wim FRANSEN
<i>Treasurer:</i>	Benoit GOEMANS

## 1. *Member Associations*

The delegates present at the Assembly are set out at Annex "A" to these Minutes. The President opened the meeting and welcomed all of the delegates present. A quorum was declared and the meeting held to be properly constituted.

## 2. *Adoption of Agenda*

- a) The tabled agenda was adopted.
- b) On behalf of the Credentials Committee, Johanne Gauthier reported that she and Benoît Goemans had reviewed the list of delegates present and reminded them that there was only one vote per delegation.

## 3. *Memorials*

The President paid tribute to old friends who had died since the last Assembly. He called for a moment of silence for Takeo Hori, Japanese MLA, Dr. Norbert Trotz, German MLA and former Secretary-General, and the Honourable Mr. Justice M.B. Belgore, past president of the Nigerian MLA.

## 4. *Approval of Minutes*

The Secretary-General moved, seconded by Stuart Hetherington, for approval of the minutes of the Assembly held in Rotterdam on September 23, 2009.

The only business arising was that the President reported that the new website was virtually complete and many thanks were due to Stuart Hetherington for organizing its construction, and to Francesco Berlingieri establishing and maintaining the old website for many years.

## 5. *Members*

### a) *Titulary Members*

The Secretary-General advised the Assembly that the MLA of the USA had nominated Robert Parrish; that the MLA of China had nominated Henry Li; that the MLA of Italy had nominated Marcello Maresca, and that the MLA of Ireland had nominated Helen Noble. He then called upon Pat Bonner, Song Dihuang, Giorgio Berlingieri and Edmond Sweetman to speak to these nominations. All four nominees were then duly declared to be elected as Titulary Members with thanks and congratulations for their significant contributions to the work of the CMI.

### b) *Consultative Members*

The Secretary-General advised that the Dutch Inland Waters Organization, IVR, had invited the CMI to be a consultative member of their organization. This was unanimously approved.

### c) *New MLAs*

The President reported that an organization in Indonesia had applied to become a Member

Association of the CMI and that the application was kept in abeyance pending a broadening of its membership so as clearly to comply with the CMI Constitution. The President also reported that he was in contact with persons and organisations in Poland, India, Malaysia and Honduras with a view to receiving in due course applications for membership from them.

*d) Temporary Members*

The President reported that the temporary membership of Mr Lejniaks had been terminated after Mr Lejniaks had advised that there were no real prospects of creating a viable Maritime Law Association in Latvia. There are also temporary members from Honduras, Kenya and The Democratic Republic of Congo. Discussions are still ongoing with Mr Okumu Ogola in Kenya and Mr Mbamvu in The Democratic Republic of Congo for purposes of creating maritime law associations there. Regarding Honduras, an application from a new Maritime Law Association there is expected shortly, see 4c) above.

*e) Portugal*

Giorgio Berlingieri reported that he had exchanged correspondence with several lawyers in Portugal who wish to revive the Portuguese MLA. He is optimistic that they will result in a reconstituted Portuguese MLA in due course.

*f) Member Consultation Process*

Christopher Davis reported that the process is progressing with meetings with several MLAs having been held. More will be arranged in the forthcoming year. He said that his committee had received several replies to the second Questionnaire but that more will be required before a proper summary can be distributed.

6. *Finances*

*a) Treasurer's Report*

The Treasurer said that prior to the Assembly, his report on the finances had been distributed to all NMLAs and this was composed of his report (Accounts for the Year ending December 31, 2009), and the Tentative Budget for 2010 and 2011.

*b)* The Treasurer then reported on the highlights of the Accounts for the Year ending December 31, 2009, including a PowerPoint presentation on the charts in his report. The Treasurer then reported on the highlights of the Accounts for the Year ending December 31, 2009, including a PowerPoint presentation on the charts in his report. He explained that the reserves were too high and had accumulated as a result of a number of factors, not the least of which were healthy surpluses from the Vancouver and Athens Conferences and Colloquia, as well as settling with a number of delinquent

NMLAs that had fallen behind with payment of successive annual subscriptions. There were no comments from the floor, and the 2009 Accounts were thereupon approved. Måns Jacobsson then tabled the Audit Committee report, explaining that the Chair of that Committee, Liz Burrell of the US MLA, was unable to be present. He explained that one of the main issues in the report is what to do about the CMI's very high reserves and how to arrive at a reasonable level for the CMI as a non-profit NGO. He said that the Audit Committee was still investigating the matter. The report was very well received by the Assembly.

*c) Budget*

The Treasurer tabled a revised budget for 2010, which was approved and a tentative budget for 2011 with alternatives for the subscriptions from member associations for that year. The President explained that subscriptions for 2011 on the 2010 level, would not have the effect of reducing the high reserve. The Executive Council had considered various alternative levels, i.e. reductions as compared to the 2010 level and concluded to recommend that there should be a zero subscription for all NMLAs in 2011. That would result in a significant reduction of the reserves, by about 17%, whereas lesser reductions of subscriptions would of course have a less significant effect. The recommended solution was to be regarded as a "one off" measure to achieve a significant reduction of the CMI reserve without member associations becoming used to low subscriptions over time, which might lead to problems when the level of subscriptions would have to be "normalised" again. Also, the recommended solution would give the Executive Council time to consider other means of reducing the reserve, like applying funds to various projects or programs consistent with the objective of the organisation. The President emphasised that there were pros and cons in relation to all options that had been considered but that the one recommended was submitted to the Assembly. The heads of several delegations spoke to the matter, and a broad majority were in favour of the recommended solution, although two spoke against. Many delegates emphasised the general need for a concerted effort to reduce the reserves, including increased expenditures in furtherance of the CMI's mission. One delegate suggested that the Executive Council might wish to consider setting up a committee to investigate and give recommendations for how to deal with this issue, e.g. by increased spending on publications and creating projects where the expenses were such that the CMI had previously not been able to take them on.

*d) Unpaid Subscriptions*

Chris Davis reported that his fellow committee member, José Tomas Guzman, in keeping with a previous mandate by the Assembly had done an excellent job of settling arrears in subscriptions with several South American countries. More particularly, it was reported that the ExCo had ratified settlements

with Chile and Colombia and had endorsed settlements on the same basis with the MLAs of Peru and Uruguay.

e) The Secretary-General moved, seconded by the Treasurer, for approval of the nomination of de Mol, Meuldermans and Partners, BVBA as auditors for 2011 accounts. The motion was unanimously approved.

#### f) *CMI Charitable Trust*

Patrick Griggs summarised Tom Birch Reynardson's report to the Executive Council and pointed out, in particular, the increase in assets from about GBP 370,000 in December 2009 to about GBP 425,000 in October 2010. He said that the US MLA has asked for more transparency in dealings between the CMI and the Charitable Trust. Mr. Griggs said that he had prepared a note on the subject which would be posted on the internet. He further pointed out that the Charitable Trust does an excellent job in supporting IMLI in Malta and cited examples of Louis Mbanefo, Frank Wiswall, Francis Reynolds, Marko Pavliha and Måns Jacobsson who had all lectured at IMLI Malta during the past year and that the projected expenses for 2011 for that purpose were GBP 5,000. He also said that about GBP 7,000 would be spent on CMI publications and website management in 2010 and also in 2011.

Mr. Griggs further explained that the income of the Trust was approximately GBP 17,000 and that under the applicable law in the UK, the Trust must spend it all. With about GBP 5,000 to IMLI lecturing and about GBP 7,000 to CMI publications and website together with investment management fees and accountancy fees in excess of GBP 3,000 there was not much room for additional spending. At this point, Stuart Hetherington referred to the new website and reminded the Assembly that the Executive Council was now looking into a project of maritime law professors giving online lectures, which would no doubt have a monetary aspect to it. The report of the Charitable Trust and the reporting to the Assembly by Mr. Griggs were noted with approval.

#### 7. *Elections*

Jean-Serge Rohart gave the report of the chairman of the Nominating Committee, Bent Nielsen. He reported that Wim Fransen had successfully concluded one term as Administrator and that Henry Li had successfully concluded two terms as Executive Councillor. He said that 24 MLAs had replied and unanimously proposed that Mr. Fransen carry on as Administrator, and that Song Dihuang be elected to the Executive Council in place of Henry Li. At this point, Mr. Rohart asked for the Assembly's approval to these two appointments and it was unanimously given. The President thanked Mr. Li for his excellent services to the CMI and added that Mr. Li will continue to act as liaison between the Secretary-

General and the Organizing Committee of the Chinese MLA with respect to planning and organization of the Beijing Conference in October 2012.

#### 8. *Publications*

There was no report.

#### 9. *Work in Progress*

##### a) *General Average Interest Rate Committee*

In the absence of Bent Nielsen, Patrick Griggs gave the Committee's report which, in essence, was to recommend that the rate of interest to be applied for 2011 under Rule XXI of the York-Antwerp Rules 2004 should be 4.25% per annum. The Committee also recommended that 4.25% per annum should be applied to expenditures, sacrifices and allowances in General Average during the period from January 1, 2011 to December 31, 2011. These recommendations were unanimously approved.

##### b) *Piracy*

Patrick Griggs reported that he had nothing to add to the paper he had just delivered at the Colloquium but that the CMI will continue to monitor international developments. He said that the IMO was very involved with the practical issues of piracy but that, apart from Frank Wiswall's model law of a few years ago, piracy had not yet become the subject of further work on legal issues.

##### c) *Fair Treatment of Seafarers*

Giorgio Berlingieri reported that the IWG on this subject is chaired by Kim Jefferies who was recently given a mandate by the Executive Council which has been tabled as an Assembly document. In compliance with such mandate, the IWG made a submission to the IMO Legal Committee which is also one of the Assembly documents. The submission was supported by other influential associations such as the International Group of P&I Clubs, the International Chamber of Shipping, the International Shipping Federation, BIMCO, INTERTANKO and ITF. The submission addresses the need that the IMO Guidelines adopted in 2006 be complied with and that Article 230 of the United Nations Convention on the Law of the Sea also be complied with by Member States. That article provides that a custodial penalty is allowed only if a foreign seafarer is involved with a wilful and serious act of pollution. The CMI IWG had however noted that this binding treaty obligation is often violated which is what the CMI wished to focus attention on in its submission.

##### d) *Marine Insurance*

Dieter Schwampe, Chairman of the International Working Group, said that his group was focussing on three issues, namely mandatory insurance, transfer of rights in insurance contracts and direct action against

insurers. He said that a Questionnaire on mandatory insurance had been distributed to all NMLAs in August 2010 and that only five replies had been received so far. Once he receives more replies, he will be able to summarize them and report to the Executive Council for guidance.

*e) LLMC and Australian Proposal to Increase Limits*

Patrick Griggs spoke to this matter and said that as 38 states had ratified the 1976 convention, the Government of Australia will need more than 19 states to open up the convention to achieve their proposal. At the present date, he said that they do not have sufficient support but that the matter would be considered at the IMO Legal Committee meeting in November 15-19, 2010. He said that as this is a matter for governments, the CMI must be neutral but that it had decided to assist the deliberations by preparing a note on the history of limitation of liability and the structure of LLMC Article 6-1976 and the 1996 Protocol with regard to limitation of liability for loss of life and personal injury claims and a separate limit for property claims. He said that the note was included in the Assembly documentation and had been submitted, with the Executive Council's approval, to the IMO Legal Committee for its meeting in London, November 15-19, 2010. The Assembly approvingly noted the report and the submission by the CMI.

*f) Limitation of Liability*

Gregory Timagenis of the Greek MLA gave his report as Chairman of the ISC on this subject. He said that their mandate had been transformed so that the ISC should not now exclusively deal with procedural rules. The new mandate is 1) to prepare a list of substantive issues of Limitation of Liability for study; and 2) to finalize a commentary on the Guidelines of procedural rules. He said that a meeting of the ISC had taken place in London in February 2010 which clarified the new mandate. He will hold a further ISC meeting in the coming months and said that the identification of issues is in itself helpful both to practitioners and those in the process of implementing the convention into the national legislation of a ratifying state. He said that the ISC would consult regularly with the Executive Council regarding future work.

*g) Salvage*

Mr. Hetherington referred to the excellent papers which had been given during the Colloquium on the subject of environmental provisions of the Salvage Convention. He noted that there is a clear difference of view between the ship owners and the P&I clubs on the one hand, which do not see any need for reform, and salvors and the property insurance market on the other hand which recognise such a need. He said that the IWG would be meeting in London in May 2011 to discuss the various options available to the CMI and the industry. He then

advised that the difficulty is how to respond to the opposing views and that he and his IWG were considering a new questionnaire on the subject taking into account the individual views of the speakers on the Colloquium panel on this subject.

*b) Recognition of Foreign Judicial Sales of Ships*

The President referred to the excellent papers given on this subject at the Colloquium. He said that chairman, Henry Li, had advised him that the IWG had a meeting immediately after the Colloquium and had agreed that

- 1) legal issues with respect to the recognition of the judicial sale of ships do arise;
- 2) as far as the proceedings are concerned, there is a fair amount of uniformity on the main points in many countries;
- 3) the specific question of the duty to delete the registration after a judicial sale needs particular attention;
- 4) approximately half of the national MLAs which had responded the questionnaire saw the need for an international legal instrument;
- 5) the other half felt no immediate need for such an instrument, partly because the matter has already been dealt with in the 1993 Convention on Maritime Liens and Mortgages;
- 6) while issues arise with respect to judicial sales, in various countries there is less controversy regarding the need for recognition of foreign judicial sales and to lay down, by way of an international instrument, the standard or basic requirements for judicial sales of ships and for the recognition of foreign judicial sales of ships;
- 7) the IWG should therefore continue its work aiming to produce a preliminary draft international instrument which should be completed, following approvals of the Executive Council as the matter proceeds, and finalized at the CMI Conference in Beijing in October 2012.

The President asked the Assembly to approve continued work by the IWG along the proposed lines and to ask the ExCo to formulate a mandate for the IWG. There was unanimous approval.

*i) Implementation and Interpretation of International Conventions*

Giorgio Berlingieri spoke to Francesco Berlingieri's report on this subject which formed part of the Assembly documentation. There was no discussion.

*j) Ratification of the Conventions on Arrest (1999) and Liens and Mortgages (1993)*

Giorgio Berlingieri reported that the Executive Council decided to include an investigation on the reasons why these two conventions had achieved such little success. In fact, the 1993 MLM Convention, although in force since 2004, has been ratified by only 12 States, while the 1999 Arrest Convention is not yet in force. The IWG, chaired by Professor John Hare of Cape Town with members Professor Ignacio Arroyo Martinez of Madrid and

Giorgio Berlingieri of Genoa, is presently considering the best way to proceed with this investigation, either by way of a Questionnaire or by direct approach to NMLAs. Mr. Berlingieri said that a report would be sent to the Executive Council within the next few months.

*k) Arctic/Antarctic Issues*

The Secretary-General said that the President and he would be establishing an ad hoc working group in the near future to investigate the legal issues involving the Polar Regions which might be the subject of a study by the CMI. He said that he was pleased with the enthusiasm shown for the subject at the Colloquium and that several delegates had volunteered to be part of the process.

*l) Rotterdam Rules*

In the absence of Tomotaka Fujita, the President gave his report. He said he was pleased with the quality of the papers given at the Colloquium and the spirited debate that followed. He said that all of the papers would be posted on the website for the benefit of NMLAs. He further said that the work of the IWG would continue in its mandate of promoting the Rules and to explore any possible additional work required to achieve uniformity under the Rules, i.e. to look for issues that require particular attention when applying the Rules (such as by providing a comprehensive guide or commentary, publishing a synopsis of UNCITRAL reports on an article by article basis, or the like).

*m) HNS Convention Protocol*

Måns Jacobsson spoke to this subject and gave reasons why the original convention had not found favour. He said that a Protocol had been drafted and adopted in April 2010 which was designed to address three principal areas of concern: contributions by the receivers of packaged HNS goods, contribution to the LNG account; and non-submission of contributing cargo reports. He said that the Protocol and the 1996 Convention shall be read and interpreted as one single instrument to be referred to as the 2010 HNS Convention. Mr. Jacobsson expressed the earnest hope that the efforts of many distinguished international law specialists to modify the original 1996 text, intended to meet the concerns of governments and industry alike, will result in early ratification by a sufficient number of states. Only then will the victims of a major HNS incident be sure of prompt and adequate compensation for the damage suffered by them.

*10. CMI Conference in Beijing October 14-19, 2012*

The Secretary-General reported that he and the President had met that very day with some of the Chinese delegates to the Colloquium to discuss planning and organization to date and that everything was on track for a very successful conference. He then gave the floor to the distinguished delegate from

the MLA of China, Mr. Shen Man Tang, who issued a warm welcome to all NMLAs to attend at Beijing for the conference.

*11. Next Assembly*

The President said that the next Assembly would be in late September 2011 in Oslo. He said that no firm date had been settled as yet. He also said that a one half-day seminar was also likely on that occasion.

*12. Other Business*

*a) CMI as Partner Institution with the International Foundation for the Law of the Sea*

Måns Jacobsson said that the CMI had been asked to be a Partner Institution and that the Executive Council had accepted that position with enthusiasm and welcomed the idea that Young Members may wish to take advantage of the Summer Academy in Hamburg as a result. The acceptance of the CMI as a Partner Institution was approved unanimously by the Assembly.

*b) Portius – International and EU Port Law Centre*

The President explained that the CMI had been approached by the founder of Portius, Professor Eric Van Hooydonk, and been asked to become a sponsor (with no formal obligations). The President had responded favourably subject to the approval of the Assembly, which was unanimously given.

*c) World Ocean Council*

The Secretary-General sought the approval of the Assembly to join the mailing list of this Council which had been established to seek ways of combating the ever-increasing pollution of the world's oceans. Such approval was given.

*d) Iran Sanctions*

Dieter Schwampe tabled a report on the impact on the shipping industry of the EU sanctions on Iran and also another report that had been prepared by the MLA of the USA on the impact on shipping by the US sanctions on Iran. He said that all of these sanctions had created major problems for the shipping industry including the marine insurance industry.

The President noted that putting this topic on the agenda at the last minute was viewed with favour by the Executive Council, as a means of using the opportunity to discuss a current topic of interest to most maritime lawyers although the topic might not be of immediate relevance to the CMI as such. In fact it was considered that the CMI should be putting more such current topics on future agendas for the Assembly and not be restricted solely to the unification mandate of the CMI. This was approved by the Assembly.

In the absence of Wim Fransen, the Treasurer then spoke briefly on the subject of the "Albert Lilar"

prize. He said that after several years of inactivity, Administrators of the Foundation met in September 2010 and decided to award a prize in the year 2011. The prize will be awarded to the author of an innovative book on maritime law published during the last five years. The prize is 5,000 Euros. Any books to be entered must be filed at the secretariat of the Albert Lilar Foundation by no later than May

15, 2011. The address is the same as the CMI Secretariat at Everdijstraat 43, 2000 Antwerp. The conditions to be met by the candidates will be published on line on the CMI website.

At this point, the President thanked the Organizing Committee of the Argentine MLA for the splendid arrangements for the Assembly and thereupon terminated the meeting.

## ANNEX A

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<i>Argentina</i>	Diego E. Chami Domingo M. Lopez Saavedra Jorge M. Radovich
<i>Australia &amp; New Zealand</i>	Stuart Hetherington Sarah Derrington
<i>Belgium</i>	Benoît Goemans Guy Van Doosselaere Win Fransen Guy Huyghe
<i>Brazil</i>	Pedro Calmon Filho Luiz Leonardo Goulart
<i>Canada</i>	Jeremy Bolger Cecily Strickland Christopher Giaschi
<i>Chile</i>	José Tomás Guzman Salcedo
<i>China</i>	Henry Li Mantang Shen Dihuang Song
<i>Croatia</i>	Igor Vio
<i>Denmark</i>	Henrik Thal Jantzen
<i>Finland</i>	Henrik Gahmberg
<i>France</i>	Jean-Serge Rohart
<i>Germany</i>	Dieter Schwampe Klaus Ramming
<i>Greece</i>	Gregory Timagenis John Markianos-Daniolos
<i>Ireland</i>	Helen Noble Edmund Sweetman
<i>Italy</i>	Giorgio Berlingieri Francesco Campodonico Guido Pastori
<i>Japan</i>	Gen Goto
<i>Mexico</i>	Ignacio Melo Bernardo Melo
<i>Netherlands</i>	Taco Van der Valk
<i>Nigeria</i>	Louis Mbanefo
<i>Norway</i>	Viggo Bondi Karl-Johan Gombrii

<i>Russia</i>	Sergej Lebedev
<i>South Africa</i>	John Hare Andrew Robinson
<i>Sweden</i>	Måns Jacobsson
<i>United Kingdom</i>	Patrick Griggs Stuart Beare Andrew Taylor
<i>United States</i>	Patrick Bonner John Kimball Warren Marwedel Robert Parrish Chris Davis
<i>Venezuela</i>	Francisco Villaroel

## **CORRIGENDUM**

Readers of the CMI News Letter will have noted an inadvertent error in the list of Contents of 2010 Issue No 2. The report by Richard Shaw on the Meeting of the Executive Committee and Working Group of the IOPC Funds which took place on 29-30 June 2010 should of course have been listed under the heading of “News from IOPC Fund”, and not under “News from IMO”.