



## COMITE MARITIME INTERNATIONAL, AISBL

**Meeting of the CMI Assembly  
Friday 19 October, 2012  
2.15 p.m.  
Kempinski Hotel, Beijing, PRC.  
(Jade Ballroom B and C)**

### 1. Adoption of the Agenda

The Agenda is adopted.

### 2. Memorials

The Assembly keeps a moment of silence in remembrance of:

Paul GOEMANS / MLA of Belgium  
Eric JAPIKSE / MLA of the Netherlands  
Kenneth VOLK / MLA of the USA

### 3. Approval of the Minutes of the Assembly held in Oslo on 27 September 2011

The Minutes of the Assembly held in Oslo on 27<sup>th</sup> September 2011 were adopted.

### 4. Finances

- a) *Treasurer's report and presentation of accounts year end 31 December 2011*  
Mr Benoît GOEMANS presents the accounts. No questions are put to Mr GOEMANS.
- b) *Report of the Chair of the Audit Committee*  
Ms Liz BURRELL reports on the works of the Audit Committee and explains that it has two functions:
  - a. make sure that everything is accounted for
  - b. make sure that everything is transparent during its deliberations of this year.



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It confirms the soundness and stability of CMI's investments and expresses great confidence that all appropriate measures were taken in that respect.

The Committee gave special attention to outstandings and non-recoverable subscriptions.

Social liabilities were checked, expenditures and income were examined and discussions were conducted with the external auditors.

Ms BURRELL moves for the nomination of the same auditors for 2013.

The report is noted by the President with appreciation and thanks.

The accounts are approved.

*c) Budget for 2013 and d) Subscriptions for 2013 (see enclosure)*

Benoît GOEMANS reports on the draft budget for 2013 as recommended by the Executive Council, which was adopted on the basis of a level of subscriptions as being set by the Assembly in 2009 with a 10 % early bird discount, cfr below.

The draft budget contained three alternative levels of subscriptions, which would result in an overall loss in 2013 of:

- a. EUR 12.000 if the level of the subscription of the Rotterdam Colloquium is maintained;
- b. EUR 89,190 if one applies Rotterdam less 40% less 10% early bird; and
- c. EUR28,101 if one applies Rotterdam less 10% less early bird discount.

The President advises that the Executive Council favoured scenario c.

Ecuador moves to reintroduce subscriptions for Titulary members; it is decided that this proposal should have been prepared for reflection by the Assembly. It is noted that Executive Council will consider but it is noted that subscriptions for Titulary members had only recently been discontinued on the recommendation of the Steering Committee.

*d) Report of unpaid subscriptions*

Chris DAVIS reports on unpaid subscriptions. The amount of unpaid subscriptions has been reduced by 40%, partly due to the reductions of outstandings agreed by the President in an effort to try and accommodate national associations.

The Turkish delegation explains that in the past the Turkish MLA has been slow in paying but that it has by now paid all its debts; it is noted by the Assembly that Turkey should not be included in the list of outstanding subscriptions.



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- e) *Approval of the nomination of De Mol, Meuldermans and Partners BVBA as auditors for 2013.*

The nomination of Messrs DE MOL, MEULDERMANS AND PARTNERS BVBA as external auditors for the 2013 is approved.

- f) *CMI Charitable Trust*

A report is delivered by Tom B. REYNARDSON.

The income of the Charitable Trust in the last year is £16.000 / £17.000.

The report is noted with appreciation by the Assembly.

### 5. Members

- a) *Titulary members/nominations*

The following individuals are elected as Titulary members:

1. Robert G. CLYNE / MLA of the USA
2. William A. GRAFFAM / MLA of the USA
3. Jose VICENTE GUZMAN / MLA of Colombia
4. Philippe DELEBECQUE / MLA of France

- b) *New MLAs and current prospects*

1.

Applications to become an NMLA were made by:

- a. Indonesia
- b. Ukraine

The President reports as follows.

- a. The Executive Council has examined the documents supplied by the Indonesian Maritime Law Association and found that its member base has become broad enough to evidence that it is representative, democratic and open. It recommends election of the Indonesian MLA as a member of CMI. The proposal is accepted.
- b. The application of Ukraine has likewise been considered by the Executive Council, which has found that it appears that the competition that existed earlier between



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groups of lawyers from Kiev and Odessa has been solved and that the Association now seems to satisfy the requirement of the CMI Constitution.

The President notes that Executive Council recommends its election and the Ukrainian MLA is accepted as a member of CMI.

2.

The potential membership of Associations from India, Malaysia and Poland is under discussion.

There are attempts to put together a Regional Association in East Africa.

Giorgio BERLINGIERI is in contact with the Egyptian MLA and Jean Serge Rohart has recently been in contact with the UAE.

*c) Provisional members*

Norman Martinez is a provisional member and is trying to set up an NMLA in Honduras. The process is being monitored by Executive Council.

Mr OGOLA from Kenya has become a Judge and can no longer be active in his efforts to create a local maritime law association that can become a member of the CMI; his provisional membership should be discontinued, cfr also 5 b.2. above.

There have been no reports from Mr ISAKI MBAMVU of the Democratic Republic of the Congo for a very long time regarding any CMI related activity; his provisional membership should be discontinued.

*d) New consultative members*

CMI was approached by London Maritime Arbitrators Association (LMAA), as to whether persons from that organisation wanting to attend the CMI Beijing conference should do so privately or as a team of LMAA... LMAA is presently not a consultative member, but the question arises as to whether CMI needs to be more liberal in considering who should be permitted to be Consultative members, so as to allow for membership of organisations like the LMAA or its counterparts in other countries such as SCMA in Singapore or CMAC in China . Executive Council will consider this further.



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e) *Member consultation process*

Chris DAVIS delivers a detailed report that is noted with appreciation.

### 6. *Work in Progress*

a) *Piracy*

The report is read by Andrew Taylor.

b) *Fair Treatment of Seafarers*

Giorgio BERLINGIERI explained that Olivia Murray who chairs the IWG was unable, due to work commitments to be present in Beijing so he had read her paper at the Conference. CMI continues to monitor developments world-wide.

c) *Salvage Convention*

Approval of the Resolutions adopted at the Plenary, namely: the Executive Council forward the report of the Conference to the IMO Legal Committee and the CMI encourage the Industry - Salvors, Shipowners and their insurers - to seek resolution of the issues discussed at the Conference in relation to environmental salvage and security for container ship casualties, as well as other matters which were debated.

d) *Judicial Sales of Ships*

Jonathan LUX reports on the work of the IWG. In spite of working until late at night the IWG was not able to produce a final wording. Under the circumstances the Resolution adopted at the Plenary was approved; namely: before the next CMI Assembly the IWG will submit a final Beijing draft convention to the Executive Council so that appropriate steps can be taken to finalise the work as soon as possible.

e) *Implementation and Interpretation of International Conventions*

Following on from the discussions at the "Future of CMI" sessions a new IWG will be formed to deal with Jurisprudence on International Conventions and, possibly a Standing Committee will be formed with IMO and ICS to work on Implementation of International Conventions.

f) *Marine Insurance*

Dieter SCHWAMPE reported that 14 answers had been received to the Questionnaire and he kindly requests that the NMLA's send answers to the Questionnaire. The answers will be published on the website and will encourage those who work in the IWG to continue their efforts. He confirmed that there was great diversity in the responses to the Questionnaire.



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g) *Cross Border Insolvencies*

This was reported on by Chris Davis. Following on from the panel discussion at the Conference the IWG will continue its work as more responses are received from NMLAs to the Questionnaire.

h) *Limitation of Liability*

Gregory TIMAGENIS reports that the efforts of CMI should be directed to soft law for preparing the harmonisation/unification of maritime law. The question has been raised whether the IWG should examine rules on interpretation of the limitation conventions or substantive issues arising from these Conventions but Executive Council is reluctant. Mr TIMAGENIS requests to step down from the IWG.

The President thanks him and the other members of the IWG for the tremendous amount of work they have achieved and which is applauded by the General Assembly.

i) *Arctic/Antarctic Legal Regimes*

Nigel FRAWLEY reports on the Seminar that was given on Thursday 18 October.

He confirms that Mr Henrik RINGBOM from Finland has joined the IWG.

Mr RADOVICH is looking into finding experts in Argentina.

j) *Rotterdam Rules*

Mr Tomotaka FUJITA reports on the Conference meeting and that there are now 24 signatories and 2 ratifications of the Rules.

The President expresses thanks to Michael STURLEY, Stuart BEARE, Gertjan van der ZIEL and Tomotaka FUJITA. The presentations will be posted on the CMI website.

k) *York Antwerp Rules*

Approval of the Resolutions adopted at the Plenary, namely: that the work commenced earlier this year to seek to amend the York Antwerp Rules so as to make the 2004 Rules more acceptable to industry be continued and expanded to encompass a wider review with a view to having draft proposals for the next Conference.

### 7. Publications

The President reports that work is being done to upload the Conventions on the CMI website and to publish, in co-operation with the International Maritime Law Institute on Malta, a new revised version of the Handbook on International Maritime Conventions.



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### 8. Website

Stuart HETHERINGTON reports that there is still a lot to do in order to refresh the website. There is scope for improvement and he urges anybody who can assist to contact the members of the Executive Council, and especially Giorgio Berlingieri who will be responsible for the website.

### 9. Next Assembly/Colloquium/Seminar/Conference

- a) Executive Council has accepted with gratitude the proposal from the Irish MLA to organise a Symposium together with an Assembly in September/October 2013. The President of the Irish MLA, Helen NOBLE, expresses the delight of the Irish MLA that will then celebrate its 50 years of existence.
- b) The US Maritime Law Association has lodged an invitation to CMI to organise the CMI Conference in New York in 2016 which on the recommendation by the Executive Council the Assembly approves.  
Robert PARRISH, President of the US MLA thanks President GOMBRII for the Yearbook of the XXVII Conference held in New York in 1965 and for a photograph of the gala dinner of that Conference, both of which are given to him, and introduces Vincent FOLEY who will be chairing the committee organising the Conference on behalf of the US MLA.
- c) The German MLA has offered to organise a seminar in Hamburg with an "Add-on" in Berlin in 2014 as well as a Meeting of Young lawyers in Hamburg.

There is also an offer from Turkey to organise a Seminar in Istanbul.

The two applications will be considered during the virtual Executive Council meeting in April 2013.

### 10. CMI Regional Office in Singapore

The President reported that following the approval of the General Assembly held in Oslo on 27<sup>th</sup> September 2011 to set up a CMI regional office in Singapore Executive Council has continued its efforts to that effect.

The President has continued discussions with the Singapore MLA. Executive Council will continue supervising the creation of a Singapore regional office.



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### 11. York Antwerp Rules 2004 – rate of interest

Richard SHAW representing a small working group reports that YAR 2004 allows for an annual review and determination of the rate of interest to be applied for 2013 in relation to average adjustments under YAR 2004 and refers to a short report making the recommendation for the year 2013 to set the interest rate at 2,75% per annum. The recommendation was approved and the rate of interest set at 2,75% per annum for 2013.

This is approved by the Assembly, as was the Resolution taken at the Plenary to set up a new International Working Group to undertake a general review of the York Antwerp Rules.

### 12. Elections

Report by Bent NIELSEN, Chairman of the Nominating Committee

Proposal by the Executive Council regarding an election honoris causa

A. Bent NIELSEN, Chairman of the Nominating Committee, reports that:

- Stuart HETHERINGTON is nominated as President of the CMI;
- Giorgio BERLINGIERI is nominated as new Vice-president of the CMI;
- Johanne GAUTHIER is nominated to be re-elected as Vice-President;
- Andrew TAYLOR and Louis MBANEFO are nominated to be re-elected as Executive Councillors;
- Tomotaka FUJITA is nominated as new Executive Councillor.

Stuart HETHERINGTON, Giorgio BERLINGIERI, Johanne GAUTHIER, Andrew TAYLOR, Louis MBANEFO and Tomotaka FUJITA are elected by the General Assembly.

B. Following a recommendation by the Executive Council, Richard SHAW is proposed by Karl-Johan GOMBRII as a Member *honoris causa* for his exceptional services to the CMI, is so elected and delivers a much acclaimed speech.

The President reported that Mr SHAW will continue to represent CMI as an observer at meetings of the IMO Legal Committee in conjunction with Patrick GRIGGS, and at meetings of the IOPC Funds.

### 13. Termination

The new President, Stuart HETHERINGTON, extends congratulations to Richard SHAW, Giorgio BERLINGIERI and Tomotaka FUJITA on their elections.





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He confirms the continuation of the Management Committee composed of Johanne GAUTHIER, Nigel FRAWLEY, as well as the new Vice President, Giorgio BERLINGIERI.

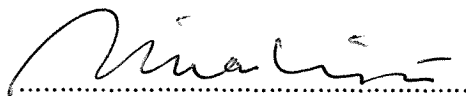
He confirms the importance of establishment of the regional office in Singapore for the trial period of 3 years, which will assist in trying to have an Indian MLA established, as well as in other countries in the region, such as Malaysia, Cambodia, Thailand, Vietnam and Laos. There is no reason why, in time, other regional offices should not exist in other areas where there are a limited number of MLA's, such as Africa.

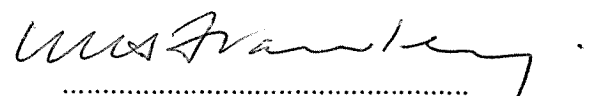
He emphasises the need to improve the Young CMI section on the website and stresses the importance of developing a database containing the Conventions and the relevant case law section from the different member states of CMI on the Conventions. He would like to see the proposals made by Benoit GOEMANS on collection of jurisprudence on the Conventions carried through.

He announces that a new IWG on Off-shore Activities, as well as on the York Antwerp Rules is to be set up. He identifies the Implementation of International Conventions and the proposed Joint Standing Committee with the ICS and IMO as a way for MLA's to work together with the ICS affiliate organisations in their country and engage with the appropriate Government officials.

He extends thanks and congratulations to Karl-Johan GOMBRII for his Presidency and also to him and Nigel FRAWLEY on their organisation of the Conference and all their numerous efforts made on behalf of the CMI.

The Assembly is closed.

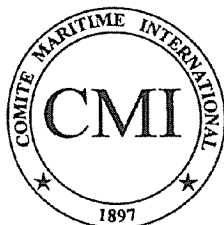
  
.....  
President

  
.....  
Secretary-General

## ANNEX A

<i>Argentina</i>	Alberto Carlos Cappagli Carlos R. Lesmi
<i>Australia &amp; New Zealand</i>	Diego Chami Frazer Hunt Matthew Harvey Sarah Derrington
<i>Belgium</i>	Karel Stes Peter Laurijssen Frank Stevens
<i>Brazil</i>	Pedro Calmon Filho Pedro Calmon Neto Rucemah L. Gomes Pereira
<i>Canada</i>	Christopher Giaschi John O'Connor Marc Isaacs
<i>China</i>	Henry Li Hai Li Li An Rui
<i>Ecuador</i>	José M. Apolo
<i>Finland</i>	Henrik Ringbom Peter Sandell
<i>France</i>	Philippe Boisson Luc Grellet Patrice Rembauville-Nicole
<i>Germany</i>	Dieter Schwampe Tilo Wallrabenstein Christian Breitzke
<i>Greece</i>	Gregory Timagenis Ioannis Markianos-Daniolos Deucalion Rediadis
<i>Hong Kong</i>	Jon Zinke
<i>Ireland</i>	Helen Noble Edmund Sweetman
<i>Italy</i>	Giorgio Berlingieri
<i>Japan</i>	Gen Goto Takashi Hakoi Tomotaka Fujita
<i>Malta</i>	Ann Fenech
<i>Netherlands</i>	Taco Van der Valk Vincent De Brauw Emily Derogee-van Roosmalen
<i>Nigeria</i>	Louis Mbanefo Olujimi Oduba
<i>Norway</i>	Ingar Fuglevag Jan-Fredrik Rafen Stephen Knudtzon
<i>Russia</i>	Boris Smyslov Galina Tormosina

<i>Singapore</i>	Valery Mikheev Lawrence Teh Kenny Yap
<i>South Africa</i>	Mark Sachs Andrew Robinson Gavin Fitzmaurice
<i>Sweden</i>	Patrick Holloway
<i>Switzerland</i>	Måns Jacobsson
<i>Turkey</i>	Alexander von Ziegler Sevilay Kuru Cüneyt Süzal
<i>United Kingdom</i>	Kerim Atamer Samim Ünan Andrew Taylor
<i>United States</i>	Stuart Beare Richard Shaw Patrick J. Bonner Robert B. Parrish Robert G. Clyne



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### MINUTES OF THE EXECUTIVE COUNCIL MEETING HELD IN THE LUOYANG ROOM AT THE KEMPINSKI HOTEL, BEIJING, PRC THE 14 OCTOBER 2012 AT 9.30 A.M.

#### Participating:

President: Karl-Johan Gombrii

Vice Presidents: Stuart Hetherington  
Johanne Gauthier

Councillors: Giorgio Berlingieri  
Christopher Davis  
Måns Jacobsson  
Dihuang Song  
Louis Mbanefo  
Jorge Radovich  
Andrew Taylor

Secretary-General: Nigel Frawley

Administrator: Wim Fransen

Treasurer: Benoît Goemans

Apologies: Jean-Serge Rohart and Sergej Lebedev

The President opens the Executive Council meeting.

1. The Minutes of the Executive Council meeting held by e-mail conference during the week commencing April 23<sup>rd</sup>, 2012 were approved.
2. No further business arose from these minutes, other than matters dealt with below.