

CMI NEWS LETTER

Vigilandum est semper; multae insidiae sunt bonis.

No. 3 - 1999

COMITE MARITIME INTERNATIONAL

QUARTERLY

BULLETIN TRIMESTRIEL

This Issue Contains:

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Ratification of International Conventions

NEWS FROM THE CMI

MINUTES OF THE ASSEMBLY - 8 MAY 1999

Attending:

President:	Patrick GRIGGS	Members:	Luis COVA ARRIA Karl-Johan GOMBRII
Vice-Presidents:	Hisashi TANIKAWA Frank L. WISWALL, Jr.		Eric JAPIKSE Thomas REMÉ
Secretary General:	Alexander VON ZIEGLER		Jean-Serge ROHART Ron SALTER
Assistant Administrator:	Pascale STERCKX		Panayotis SOTIROPOULOS
Treasurer:	Paul GOEMANS	Publication Officer:	Francesco BERLINGIERI

Member Associations:

Following Delegates have registered for this assembly:

ARGENTINA:	José Domingo Ray Domingo Lopez Saavedra	CANADA:	A. Barry Oland Sean J. Harrington Nigel H. Frawley Senator W. David Angus, Q.C. William Tetley, Q.C.
AUSTRALIA & NEW ZEALAND:	Ron Salter Hon. Justice Richard Cooper		
BELGIUM:	Wim Fransen Herman Lange Paul Goemans	CHILE:	Eugenio Cornejo Fuller J. Tomas Guzman
BRAZIL:	Pereira Rucemah Leonardo Gomes	CROATIA:	Velimir Filipovic Petar Kragic

DENMARK:	Jan Erlund	PAKISTAN:	Zulfiqar Ahmed Khan
DOMINICAN REPUBLIC:	Marie Linnette Garcia Campos George M. Butler Vidal	PANAMA:	Enrique de Alba
FRANCE:	Jean-Serge Rohart Philippe Boisson	SLOVENIA:	Marko Pavliha
GERMANY:	Thomas M. Remé	SOUTH AFRICA:	Johan Swart John Hare
GREECE:	Panayotis Sotiropoulos Antoine Antapassis	SPAIN:	Francisco Goni Jimenez Luis de San Simon R.A.G. Lebrero
IRELAND:	Brian J. Niall McGovern Dermot J. McNulty	SWEDEN:	Claes Palme
ISRAEL:	Peter Gad Naschitz	SWITZERLAND:	Alexander von Ziegler
ITALY:	Francesco Berlingieri	UNITED KINGDOM:	Patrick Griggs R. J. Sayer D. W. Taylor W. Birch Reynardson
JAPAN:	Noboru Kobayashi Hisashi Tanikawa	U.S.A.:	Howard M. McCormack William R. Dorsey Raymond P. Hayden Frank L. Wiswall, Jr. James F. Moseley Nicholas J. Healy Richard W. Palmer
KOREA:	Chung Byung-Suk	VENEZUELA:	Luis Cova Arria Julio Sanchez-Vegas
LATVIA:	Patriks Markevics		
MALAYSIA:	Nagarajah Muttiah		
MEXICO:	Ignacio Melo		
NETHERLANDS:	R. Eric Japikse		
NORWAY:	Karl-Johan Gombrii		

The Assembly met on 8 May 1999 at the Century Club in New York at 09:30 a.m. The Assembly was closed at 1.00 p.m.

The President opened the Assembly meeting by thanking the US MLA for hosting this year's CMI Assembly and thanked in particular Frank Wiswall, USA, for organising the CMI meetings at the Century Club.

1. Adoption of Agenda

The Assembly agreed to proceed as stated by the Agenda.

2. Memorials

The President reported to the Assembly that Mr. George REDIADIS (Greece), Mr. Neil Moore HUDSON (UK), Mr. Woodrow de Castro (Panama), Col. Bart Neil Malott (Canada) and Mr. Edwin CAREY (USA), have passed away since the last Assembly. He asked the Assembly to rise in the honour of the deceased.

3. Approval of the Minutes of the Assembly held in London on 15 May 1998

The Assembly approved the Minutes of the Assembly held in London on 15 May 1998.

4. Members

a) *Titulary and Provisional Members; amendment to Article 3 of the Constitution and Guidelines.*

The President referred to the decision of the Assembly in 1997 and 1998 to establish guidelines and a structure of procedures for the election of Titulary

Members. He asked F. Wiswall to introduce the suggested changes. F. Wiswall referred to the draft Guidelines and proposed changes in the Constitution which had been duly circulated among the MLAs. The intention is to remove the limit on the number of Titulary Members for each National Association. Further the revised Article should confirm the practice that applications for Titulary Membership is to be reviewed by the Executive Council. In addition, the restriction that the nomination must come from a National Association, shall be removed. The criteria for election of Titulary Members should be a direct contribution to the work of CMI or its goals and evidence of this should be produced.

Regarding Provisional Members there shall be a time limitation. The status of such a Provisional Member would be reviewed every three years.

The proposed changes to the Constitution as well the guidelines submitted to the Assembly were unanimously approved. The President thanked F. Wiswall for his efforts in preparing the necessary documents.

b) *Titulary Members*

The Assembly elected the following Titulary Members:

- nominated by the British Maritime Law Association:
 - The Rt. Hon. Lord Justice Evans
 - Anthony Diamond Q.C.
- nominated by the Maritime Law Association of Canada:
 - William M. Sharpe
- nominated by the Maritime Law Association of Chile:
 - Ricardo San Martin Padovani

- nominated by the Maritime Law Association of France:
 - Luc Grellet
- nominated by the Maritime Law Association of Israel:
 - Peter Gad Naschitz
 - Gideon Gordon
- nominated by the Maritime Law Association of Slovenia:
 - Marko Pavliha
 - Marko Ilesic
 - Mag. Andrej Pirs
 - Anton Kariz
 - Dorde Ivkovic
 - Mag. Josip Rugelj
- nominated by the Maritime Law Association of Spain:
 - Fernando Meana Green
- nominated by the Maritime Law Association of the United States:
 - Michael Marks Cohen
 - David W. Martowski
 - Winston R. Rice

All individuals nominated were unanimously elected Titulary Members of CMI.

c) Associations of Maritime Law

The President referred to the efforts of the Executive Council to monitor the situation relating to MLAs which were in the past not sufficiently active in the work of CMI. There will be a detailed report on the progress of those contacted at the next Assembly.

Turning to applications for membership the Assembly approved the application of Guatemala, subject to the fulfilment of the requirement of the submission of the Articles of Constitution and subject to the assurance that the MLA is truly representative. The President was authorised to accept Guatemala as Member if this was fulfilled.

Regarding the application of Latvia it was decided to accept individuals from Latvia as Provisional Members. Mr. Patriks Markevics was cordially welcomed. Latvia will, under the new provisions of the Constitution, be able to nominate 3 individual members pending the formation of a fully representative Latvian Maritime Law Association.

The President was also contacted by individuals from Puerto Rico who showed an interest to apply as Members. Reactions from the US MLA showed that due to the close integration of Puerto Rico into the USA it was impossible for Puerto Rico to form an independent MLA. This issue will have to be further investigated.

5. Finances

a) Accounts

Before the President gave the floor to the Treasurer of CMI, Paul Goemans, he introduced the point on the Agenda by referring to the transition of methods of book-keeping from the times of Henri Voet to the new Treasurer, Paul Goemans. He advised that the Executive Council had decided to review the accounting methods and to establish a small Audit Committee (A. Philip, D. Angus, A. von Ziegler and P. Goemans). Their task is to review the accounting procedures in light also of the decisions taken during the discussion on the "Future of CMI". It was also agreed that a consultant would be employed to assist in the reorganisation of the book-keeping and budgeting methods.

P. Goemans then reported on the accounts as of 31 December 1998. He submitted financial figures showing total receipts of EUR 246,843.60 and expenses of EUR 222,232.80, leaving a net increase of assets of EUR 24,610.84.

b) Budget

The Budget was approved.

c) Contributions

The Assembly approved an increase of the contributions for 2000 by a factor of 2.5%.

d) Unpaid contributions

D. Angus referred to one of the decisions of the Centenary Plenary Meeting to put the CMI house in order and to the efforts of the Executive Council and in particular of the President to collect unpaid contributions and to open communication lines with MLAs which had not paid contributions for many years.

He, in the name of the Executive Council, asked from the Assembly for authority to reach a compromise in relation to unpaid dues with the defaulting MLAs under the clear understanding that the MLAs concerned will as from now comply with the payment requirements. The Assembly further unanimously authorised the Executive Council to enforce the consequences established in the Constitution and in particular to expel the six defaulting MLAs, should it prove impossible to reach any acceptable compromise during a grace period until 11 November 1999. The following MLAs were concerned:

- Russia
- Egypt
- India
- Maroc
- Senegal
- Sri Lanka

It was decided that Titulary Members in such expelled MLA would be permitted to remain Titulary Members pending the formation of a new MLA in their country and provided their membership contribution was paid.

6. Assembly 2000. Arrangements in conjunction with London City Maritime Week 8 to 12 May. Other Conferences/ Seminars Singapore 2001

The next Assembly will be held on Friday 12 May 2000 in conjunction with the London City Maritime Week. (London).

The next meetings of the Executive Council will be on 12/13 November 1999 (London) and on 11 May 2000 (London).

The President referred to the Centenary of the Norwegian MLA on 29 November 1999 and the fall meeting of the US MLA in October 1999.

The President advised that the Spanish MLA had invited the CMI to participate in a Toledo Seminar in September 2000. This proposal was welcomed. A programme covering CMI current projects will be prepared. An Executive Council meeting will be arranged in conjunction with that Seminar.

Further, on the 7 and 8 October 1999, the Venezuela MLA will organise a Seminar in Santa Margarita Island, where different CMI issues will be discussed.

At the end of February 2001 CMI will hold its next major Conference in Singapore. The Conference organisers are the Singapore MLA and the Singapore Shipowners Association who will share the joint responsibility for the events. The format will follow the traditional CMI format.

7. Elections; Nominating Committee Report

The Chairman of the Nominating Committee, W. Birch Reynardson, reported on the nominating process pursuant to the provisions of the CMI Constitution. He advised the Assembly that Luis Cova Arria wished to stay for a second 4 year term and that Eric Japikse wished not to run for a second term. Therefore, the Nominating Committee had sought the views of the MLAs which were then summarised in the report of the Nominating Committee. Based on that report and based on the introduction by the Chairman of the Nominating Committee Luis Cova Arria was re-elected and John Hare, South Africa, was elected member of the Executive Council each for a 4 year term.

The President thanked Eric Japikse for his very valuable contribution during his term as Councillor.

The President then referred to the wish of W. Birch Reynardson to retire as Chairman of the Nominating Committee. He reported that the Executive Council had nominated, pursuant to article 15 of the Constitution, N. Frawley, Canada, as new Chairman of the Nominating Committee.

The President advised W. Birch Reynardson had also stepped down as trustee of the Charitable Trust. He thanked W. Birch Reynardson for his extremely valuable contribution to the Trust and the Nominating Committee. The Assembly joined in the thanks by applauding W. Birch Reynardson.

8. Publications

a) *CMI archives*

Dr. Frank Wiswall and Professor Berlingieri advised on the progress made regarding the CMI archives. In particular reference was made to the up-dating process of Matthew Bender. In connection with that up-date the CMI CD ROM will be receiving new information in form of the Newsletters, Yearbooks as well as texts of new legal instruments as for instance the Arrest Convention 1999, and the CMI model clauses for Classification Societies.

Regarding the CMI archives it was reported that the CMI Charitable Trust will finance the making available of CMI publications in CD ROM form. In that context the President thanked Pascale Sterckx for her efforts in collecting the information necessary for listing the CMI archives.

b) *CMI on the Internet*

The Assembly was informed of the decision by the Executive Council to install a CMI Web Site. The intention is that this Web Site should show the CMI Newsletters as well as part I and III of the Yearbook. The rest of the Yearbook would, for the time being, be published in hard copy only.

The costs of the Web Site would mean an additional expenditure for CMI in the amount of approximately EUR 4,000.-.

The Assembly supported the plans of the Council to produce such a Web Site.

9. Work in progress

a) *Uniformity of the law relating to Maritime Transport*

(i) *Issues of Transport Law (ITL)*

Alexander von Ziegler advised on the progress made within the Working Group established to prepare the work relating to the Issues of Transport Law (ITL). He reminded the Assembly that this issue has arisen in the context of the discussion of UNCITRAL relating to the Electronic Commerce. It was then realised that a number of very important issues falling under the general scope of international transportation law remained not unified. In fact, issues such as the transfer of rights and duties from the shipper to the consignee, the role of the Bill of Lading, the possibility to stop the goods in transit, the instructions to the carrier, the situation at the destination when the cargoes were refused by the consignee etc., were left to national law. In this context UNCITRAL had asked CMI to start with a study and collect data relating to those issues and see whether, together with the industries involved, there could be principles or even provisions which could eventually lead to the unification in this field of law. At the same time, it was realised that in doing so, the deadlock situation resulting from the two competing liability systems (Hague Rules and Hamburg Rules) could be de-blocked (see report of Francesco Berlingieri on issues of responsibilities). CMI has enthusiastically taken up that task and appointed a Working Group. This Working Group has in six substantial papers studied the issues addressed by UNCITRAL. From those papers, a list of possible issues to be discussed in an International Sub-Committee were obtained. In spring of this year the Working Group drafted a questionnaire which was sent to the national MLAs at the end of April 1999. The replies are expected by the end of September. It is planned that following this study and completion of these responses obtained through that questionnaire, the Executive Council will establish an International Sub-Committee which will be given the task to work on principles and possibly on provisions which could lead to unification on several aspects of transport law. At the same time and as this project will develop, issues on liability will be reintroduced into that overall work. Thereby, the results obtained in the International Sub-Committee on Carriage of Goods by Sea chaired by Francesco Berlingieri will be re-introduced. It is no secret that those efforts must eventually lead to a new convention. This new instrument will have to be pre-discussed in detail with the industries and all geographical interests. It is very important for CMI and UNCITRAL that whatever proposals are made from CMI those suggestions and proposals are brought forward on the basis of a broad consensus amongst all relevant interests.

Alexander von Ziegler informed the Assembly that he was invited to attend the General Assembly of UNCITRAL in June this year and will then report to the UNCITRAL General Assembly and reconfirm CMI's interests in performing that task.

(ii) *EDI*

Alexander von Ziegler turned to the issue of EDI. The EDI Working Group of CMI had been very supportive of the efforts of UNCITRAL in preparing a model law of electronic commerce. Now, that this work has been mainly done by UNCITRAL, the EDI Working Group follows with interest the further developments in the field of EDI (digital signatures etc.). At the moment there are very few maritime angles to that work and therefore the preliminary task of the EDI Working Group is to support UNCITRAL whenever issues with an angle of maritime law come up. A new task for the

EDI Working Group will be to support the CMI International Sub-Committee on Transport Issues with ideas and challenges which are drawn from the experiences of Electronic Commerce.

(iii) European Commission Hearing - Intermodal Transportation and Carrier Liability: Statement by the CMI

Alexander von Ziegler then informed the Assembly that CMI was invited to participate in a Hearing of the European Commission on Intermodal Transportation and Carrier Liability. The President appointed Stuart Beare, Chairman of the Working Group on Transport Issues, to appear in the name of CMI. He made clear that efforts should be made on a global and not regional scale and that CMI and UNICTRAL are actually preparing such an instrument which also should address issues of Intermodality. It is not quite clear whether the efforts of the European Commission will continue. CMI will continue to have a close look at the developments within this regional body.

(iv) EDI Working Group: Appointment of new Chairman

The President advised that Alexander von Ziegler, Chairman of the Working Group on EDI, has indicated that he would like to step down from his responsibility as chairman of that Working Group. He had wished to use more of his capacity for the coordination of the efforts in the different working groups aiming for a CMI product to be submitted to the CMI Singapore Conference and eventually to UNCTRAL in due time. The President advised that the Executive Council had appointed Johanne Gautier, Canada to replace Alexander von Ziegler as Chairman of the EDI Group.

(v) Carriage of Goods by Sea: Issues of Responsibility

Francesco Berlingieri, Chairman of the International Sub-Committee on Carriage of Goods by Sea (Liability) referred to the fact that the review of the liability system has now become a part of a wider project. He reported on the outcome of the last meeting of the International Sub-Committee in London which produced a status report. As part of his overview he noted that of 22 items, 12 had registered a consensus. In 6 further points a clear majority view was obtained. However, there remained a number of issues, where disagreement had been noted throughout the work of that International Sub-Committee since the Paris Conference of 1990.

The President thanked Francesco Berlingieri for his outstanding work and his constant efforts to reintroduce uniformity in this crucial area of maritime law.

B. Oland, Canada, thanked the President and the Executive Council for bringing the CMI forward. He stressed that it was gratifying to see that the steps taken by the President and the Executive Council have brought first results. At the same time, he stressed that CMI, as a private organisation, should not "step behind" the governmental and intergovernmental organisations who seem to take much longer time in preparing international instruments. He proposed that the CMI Assembly was indeed in a position to draft in a very short time an international convention on liability issues and that CMI was able to do this as an independent organisation without lengthy political coordination with other organisations.

The Secretary General replied in stressing that neither the CMI nor any United Nations body could be seen as a world parliament. It was not sufficient for a CMI Assembly to approve a draft for a Convention. It is a matter of undisputed necessity that, a diplomatic conference called by international intergovernmental organisations has to go through an independent governmental process. Not even a number of signatures under such a document by delegations of governments would, as such, lead to any unification since the only relevant test for a success of a new Convention was whether or not sufficient governments will ratify and implement such a convention. Experience had sufficiently shown that, where instruments were drafted without worldwide and industry wide consultation, the instrument was doomed to fail. Further statements made by representatives in the Assembly supported that view. The President then summarised that CMI had no power to actually create conventions in the hope that international governmental organisations would take them up as drafted. However, it was the clear aim of CMI, in particular in the field of International Issues of Transport Law and Carriage of Goods by Sea, to work as quickly as possible towards producing a draft instrument following, however, the consultation process necessary for a successful completion of this task.

The report prepared by Francesco Berlingieri was unanimously adopted.

b) Classification Societies

Frank Wiswall referred to the 1998 Assembly and the decision to publish the CMI Standard Conditions despite the fact that the industry had not agreed limitation figures. The limitation amounts will be left in blank and in brackets.

Philippe Boisson, France, thanked Frank Wiswall for his chairmanship and his efforts to find a compromise. He asked CMI to leave the door open for further discussions. The President then invited the Assembly to agree to proceed as decided in London. The agreement was given by the Assembly.

c) Off-shore Structures

Patrick Griggs informed the Assembly that the issue of off-shore structures based on the CMI report, remains in the working program of IMO.

d) IMO – 78th Session of the Legal Committee

Reference was made to the report of the President which will be published in the next CMI Newsletter. The President mentioned that there is a possibility that there will be a diplomatic conference on an Athens Convention Protocol and on liability for bunkers in 2001.

e) UNESCO: draft Convention on Underwater Cultural Heritage

Eric Japikse referred to the draft Convention of UNESCO relating to the Underwater Cultural Heritage. A CMI-questionnaire was being drafted and sent out to the MLAs.

f) IMAO

Alexander von Ziegler referred to the latest discussions with ICC and to the final report of the joint working group (ICC/CMI) on the revision of IMAO Rules of

Arbitration. Replies to the CMI-questionnaire sent out to all MLAs showed a clear indication that while an interest for a supra-national arbitration system was expressed there was actually no need expressed by the market for an ICC/CMI arbitration system. In particular many replies clearly showed that the IMAO system was conceived to be an expensive one. The finding of CMI was reported back to the ICC/CMI Working Group. ICC then sent a similar questionnaire to its members and it was interesting to see that the replies were practically in conformity with what CMI had found. Based on those findings the ICC/CMI Working Group decided that no changes and revisions should be made on the IMAO Rules and that for the time being no further effort should be made to market that special institution.

g) Euro Section: Appointment of CMI representative in Brussels

The President referred to his effort to find an individual in Brussels who could replace the Euro Section and would establish the link with the European Commission.

h) International Interests in Mobile Equipment

Thomas Remé informed the Assembly that relating to the UNIDROIT efforts for a convention on international interest in mobile equipment the aircraft industry had pressed for a solution whereby a convention would establish general principles and annexes would make special mobile equipment subject to the underlining convention. It is foreseen that the aircraft industry will establish such a Protocol suitable for the airline industry.

i) Athens Convention 1974

Panos Sotiropoulos referred to his report. The questionnaire has produced a respectable response. He had made a synopsis which was then presented to the IMO Legal Committee. The President thanked P. Sotiropoulos for his efforts in this project and advised that the Synopsis had been well received by the Legal Committee.

j) Arrest Convention

The President referred to the article written by Francesco Berlingieri in the latest CMI Newsletter. The text of the Arrest Convention is also printed there. The President then thanked Francesco Berlingieri for his work and his very efficient representation during the Diplomatic Conference.

k) Issues of Marine Insurance

Thomas Remé advised on the outcome of the Oslo Symposium and the establishment of a CMI-Working Group on Marine Insurance. The Working Group had prepared a questionnaire which was sent to the MLAs. It is intended that upon receipt of the replies the Working Group will provide a synopsis of different laws on marine insurance legislation. David Taylor, UK, urged CMI to allow more time to discuss within the industry what steps should be taken in this project.

l) FONASBA

Jean-Serge Rohart referred to FONASBA's initiative of creating guidelines on selected issues arising under

time charterparties. The President added that in the last meeting in London the decision was taken to ask Mr. Besmann to draft a code of interpretation.

m) Piracy

Frank Wiswall noted that there is a consensus within the international organisations involved in that project that there could be a CMI model law on "maritime violence". A questionnaire on that subject has been sent to all MLAs.

n) Status of Ratification of International Conventions: Co-operation with IMO

Francesco Berlingieri reported that there is an ongoing discussion with IMO as to how CMI and IMO could cooperate in the efforts to ensure that the ratification and the way the instruments are implemented and interpreted are made in a way which would preserve unification.

o) General Average

Thomas Remé referred to the fact that CMI is the guardian of the York Antwerp Rules. IUMI had asked CMI to revise the York Antwerp Rules on General Average. From their request it follows that the concept of General Average should be revised to reflect the traditional function, i.e. "common safety". He informed the Assembly that IUMI's invitation was accepted and that it was intended to make contact with National MLAs and industry groups involved in General Average to see how this project could be dealt with.

p) US COGSA

The President made clear that CMI is seeking harmonisation and unification of maritime law. However, CMI as an international organisation has no power and no mandate to interfere and police the action of individual governments. Therefore, the decision was taken by the Executive Council not to intervene into the efforts within the US to submit a revised US COGSA to Congress.

q) Seafarers Rights

Ron Salter referred to the invitation of the Centre for Seafarer's Rights asking CMI to become involved in a legislation which would deal with the repatriation of abandoned crew members. Meanwhile, IMO and ILO have created a joint working group to tackle the problems.

10. Various

a) Creation of Working Group on future CMI projects

During the Centenary Conference in Antwerp it was suggested to create a small working group, shortly before the Singapore Conference, in order to prepare on behalf of a future Assembly new areas of work for the CMI. Such a working group should present its report to the Plenary Meeting during the next CMI Conference. It was stressed that the representatives of that working group should also comprise members outside the Executive Council. The Executive Council will form that Working Group by November of this year. Suggestions for membership were collected after the Assembly.

**LETTER OF THE PRESIDENT OF THE CMI
TO THE PRESIDENTS OF ALL NATIONAL MARITIME LAW ASSOCIATIONS**

Dear Friends,

CMI – Where we are

Having just completed two years as CMI President I thought that this might be a good opportunity to report on recent developments at the CMI.

Administration

The Executive Council continues to meet twice a year. The spring meeting always precedes, by a day or two, the annual Assembly. During my two years in office I have very much appreciated the support of my two Vice Presidents, Hisashi Tanikawa (Japan) and Dr. Frank Wiswall (USA). At this year's Assembly Professor Eric Japikse (Netherlands) did not offer himself for re-election after his first four year term and was replaced by Professor John Hare (South Africa). I thank Eric for his hard work whilst a member of the Executive Council. The other elected members of the Executive Council are Senator David Angus (Canada) Luis Cova Arria (Venezuela) Karl-Johan Gombrii (Norway) Dr. Thomas Remé (Germany), Jean-Serge Rohart (France), Ron Salter (Australia) and Panayotis Sotiropoulos (Greece). Of particular assistance to me has been the presence at meetings of past-President Allan Philip and President ad honorem, Professor Francesco Berlingieri; Francesco is our Publications Officer and does a fantastic job in producing the Yearbooks and Newsletters which are the life blood of the CMI.

My Secretary General, Dr. Alexander von Ziegler, is a great source of support and encouragement and works tirelessly to maintain CMI contacts with the other international organisations with whom we deal, particularly in the United Nations family. My thanks also go to our Treasurer, Paul Goemans, who, in the two years since he took over from Henri Voet has computerised the CMI Accounts.

Our Administrator, Baron Leo Delwaide, is very much occupied with his work at the Antwerp Port Authority which places a heavy burden on the Assistant Administrator, Pascale Sterckx, but she has responded admirably to her promotion and keeps the Antwerp Secretariat running smoothly.

I should mention that there will be a number of vacancies occurring over the next few years on the Executive Council when current Council members terms of office come to an end in accordance with the Constitution. As and when these vacancies occur the Nominating Committee chaired by Nigel Frawley, (past – President of the Canadian Maritime Law Association) will act upon the resolution, passed at the Centenary Assembly in 1997, to the effect that the geographic spread of the Executive Council should be broadened and that we should encourage National MLAs to propose younger candidates for appointment to the Executive Council.

As regards the **finances** of the CMI, I received authority at the 1998 Assembly to take a tough line with National MLAs which failed to pay their contributions. The threat of expulsion has resulted in a substantial number of defaulting Associations coming forward, reaching a compromise in relation to

unpaid contributions and again becoming fully paid-up members of the CMI.

By the time of the 1999 Assembly we were left with six Associations which are still in default on their contributions and with the authority of delegates to the Assembly I have now written to those six Associations advising them that unless the question of unpaid contributions has been resolved by the next Executive Council meeting on November 11th they will be expelled from the CMI. I know that those amongst you who pay your contributions promptly each year were keen that this tough line should be taken even though it might result in expulsions and in the reduction of the number of member Associations. I have done what you asked me to do. The other members of the Executive Council continue to monitor our income and expenditure. This monitoring process will become more and more important as some of our major projects progress, with an increased need for Committee Chairman to travel to meetings.

At the 1999 Assembly it was agreed that a small **Audit Committee** would be set up consisting of Professor Alan Phillip, Senator David Angus, Dr. Alexander von Ziegler and Paul Goemans to work with a consulting accountant on devising a modern accounting and budgeting procedure appropriate to a voluntary organisation such as the CMI in the 21st Century.

Membership

I am pleased to be able to report that during the period of my Presidency the Dominican Republic, Mauritania and Guatemala have become members of the CMI and provisional membership has been accorded to individuals in Dubai, Pakistan and Latvia with a view to the creation of full National MLAs in due time. It is hoped that there may be an application shortly for membership from a regional Association in South America.

CMI and the Internet

The CMI Website is now up and running. You will receive details of the Website in the next Newsletter. We shall gradually put archive as well as new material on the Website and anticipate that much of the printed material currently distributed by CMI will, in due course, appear on the Website.

Work in Progress

Since I became President a number of new projects have been launched and these are now starting to have an impact on National Associations with the arrival of Questionnaires. I thought that it might be helpful to outline these projects, indicate their likely future course and advise member Associations of the identity of those involved in those projects.

a) Uniformity of Law relating to Maritime Transport and Issues of Transport Law

Uniformity of Law relating to Maritime Transport has been on the CMI Agenda in various forms throughout most of its 100 year history. At the 1999 Assembly delegates formally adopted the Report of the CMI

International Sub-Committee on Uniformity of the Law of Carriage of Goods by Sea. This Report summarised the findings of the International Sub-Committee which has worked for many years under the Chairmanship of Professor Berlingieri. The Report will be given wide publicity but no further action on it will be taken until the CMI's new project on Issues of Transport Law has developed further. This project moves forward in conjunction with UNCITRAL. As you will know from the recently circulated Questionnaire, the object of the exercise is to identify a number of aspects of the carriage of goods by sea (other than liability) which might usefully be subject to a harmonising instrument. We are particularly concerned with the various functions of a bill of lading and, of course, are conscious of the impact of the development of EDI and of multi-modal transport. It is the clear and stated intention that once a scheme has been created to cover these new areas of harmonisation a new liability regime will be developed which is suitable for the new scheme. The starting point for this new liability regime will be the report of the CMI International Sub-Committee referred to above.

I fully understand the need for this project to progress as quickly as possible. A number of Governments are looking to legislate in the field of carriage of goods by sea and I hope that the prospect (though distant) of a unifying instrument might discourage unilateral action.

Issues of Transport Law will be the centre piece of the CMI's next major conference which is scheduled to take place in **Singapore in 2001 (February)**. Between now and then, however, an International Sub-Committee is likely to be created to which all National Maritime Law Associations will be invited to send delegates. We are planning a **Joint Colloquium with UNCITRAL on 7th July 2000 in New York** to discuss the project and time will be made available for the subject at a conference to be organised jointly by the CMI and the **Spanish Maritime Law Association in Toledo in September 2000**.

This is undoubtedly an exciting project and puts the CMI back in the front line of the battle to restore some level of uniformity in the law relating to the carriage of goods by sea.

b) Classification Societies

The CMI has finally published the Model Contractual Clauses and the Principles of Conduct for Classification Societies. Unfortunately it did not prove possible to persuade the Classification Societies and the Shipowners to agree on a maximum limit of liability to be inserted in the Clauses. Limitation figures have been left in blank to be filled in by the parties but there seems a possibility that the two sides will get together and it will then be possible to republish the clauses with limitation figures inserted.

c) Issues of Marine Insurance

At the Centenary Conference in Antwerp it was suggested that the CMI should take up Issues of Marine Insurance. A subsequent conference in Oslo, organised by the Scandinavian Maritime Law Institute and attended by CMI speakers, identified a number of issues which frequently arise in claims under marine insurance policies. Dr. Thomas Remé chairs a small International Working Group which has recently

published a questionnaire and to which I hope your Association will respond. Responses will be analysed and the Executive Council will then decide how this project should proceed and what form of document (model law, statement of common understanding or whatever) should be produced.

d) York-Antwerp Rules on General Average

A short while ago I received a letter from IUMI asking the CMI to undertake a major review of the York-Antwerp Rules on General Average. The object of the proposed exercise would be to move away from the current concept of "common benefit" and revert to the traditional concept of "common safety".

Dr. Remé has also agreed to take responsibility for this project and a letter has recently been circulated to all National Maritime Law Associations inviting their response to this IUMI initiative. Your best efforts and a wide ranging investigation within the shipping trade in your country would be appreciated.

e) Off Shore Craft

The CMI has for some years now been looking at the possibility of extending to Off Shore Craft the operation of numerous existing Conventions. Richard Shaw (U.K) has chaired an International Sub-Committee reviewing this project and a comprehensive report has been submitted by the CMI to the IMO Legal Committee. The report, which is highly detailed, will be published in the forthcoming Yearbook and it remains to be seen whether the Governments, which send delegates to IMO Legal Committee Meetings, would wish to see this proposal developed further. Thanks to the comprehensive nature of the CMI Report the decision taken will have been based upon a clear understanding of the consequences.

f) UNESCO draft Convention on Underwater Cultural Heritage

Some surprise has been expressed at the sudden appearance of the UNESCO draft Convention on Underwater Cultural Heritage. Because UNESCO is leading this project it is very much orientated towards protection of historic wrecks and other artefacts from the attentions of amateur divers and professional salvors. As drafted the Convention would seriously affect the freedom of commercial salvors and the CMI has set up an International Working Group under Prof. Eric Japikse to study this document and to ensure that it works with the existing international law of salvage (Salvage Convention 1989) rather than against it. A Questionnaire on this project should have reached you in recent weeks and your response would be very much appreciated.

g) International Interests in Mobile Equipment

UNIDROIT has for many years been working on a Convention to protect International Interests in Mobile Equipment. Initial drafts of this Convention would have extended its scope to cover ships as well as other items of equipment which may move around the globe in the course of their working lives. The CMI has, throughout this project, lobbied for the exclusion of ships on the basis that the rights of those who supply finance for the building or purchase of ships are fully protected by existing laws. I am pleased to report that the current draft Convention contains no reference to registered ships but simply defines "mobile equipment" as any

class of equipment (for example aero engines) to which the convention may be made to apply by an equipment specific protocol.

b) Athens Convention 1974 Questionnaire

I am grateful to all National MLAs which responded to the Athens Convention 1974 Questionnaire which was distributed last year by Mr. Sotiropoulos. Based on the responses received Mr. Sotiropoulos prepared an excellent summary report (which will be published in the Yearbook) for submission to the IMO Legal Committee who are currently considering amendments to the Athens Convention. This document was welcomed by delegates to the Legal Committee.

i) IMAO (ICC/CMI) Rules of Arbitration

We have continued our discussions with ICC on the IMAO (ICC/CMI) Rules of Arbitration. Few of you will be aware that some 20 years ago ICC and IMO got together to create a simple, cost effective, marine arbitration system. For various reasons the system has not been popular and very few appointments have been made. Again, Questionnaires were sent to all National Maritime Law Associations and I am grateful to those who responded. The final outcome appears to be a decision not to seek to breathe new life into IMAO and rather to allow it to die.

j) Time Charter Interpretation Code

Jean Serge Rohart and I have been co-operating with FONASBA on a Time Charter Interpretation Code. This exercise may eventually produce a short document which will aid interpretation of certain types of provision regularly encountered in time charters but this is not a major or important project.

k) Implementation of International Convention

For many years International organisations such as CMI and IMO have been concerned that International Conventions are not being ratified sufficiently widely and, if they are, that the method of incorporation into domestic law and interpretation by local courts defeat the unifying objective of the original document. At the invitation of the IMO Legal Committee the CMI has prepared a report and questionnaire designed to encourage ratification, facilitate the incorporation process and ensure harmonisation of interpretation. This may develop into a major project. It is one area in which the CMI is uniquely well placed to provide advice.

l) Arrest Convention

You will by now know that in March this year a Diplomatic Conference in Geneva adopted the text of a new Arrest Convention. This Convention is based upon a draft originally produced by the CMI at its Lisbon Conference in 1985. Throughout the life of this draft convention Professor Francesco Berlingieri has acted as advisor to the United Nations specialist agencies dealing with this project. It remains to be seen whether governments of maritime nations will regard this new Convention as an improvement on the 1952 Convention and give it wide support.

m) Protection to Seafarers

In October 1998 I was approached by the Center for Seafarers Rights with the proposal that the CMI

should draft a "super priority" clause which could be incorporated in all shipping documents giving Protection to Seafarers in the event of their being abandoned (following casualty or bankruptcy). This request was examined by Executive Council member Ron Salter and the Executive Council eventually concluded that such clausing would be ineffective. On the other hand a joint Working Group has been set up between IMO and ILO to consider the problems of abandoned seamen and the CMI is likely to send an observer to its meetings.

n) Joint International Working Group on Uniformity of the Law of Piracy

The CMI has also set up a Joint International Working Group on Uniformity of the Law of Piracy. This Group has already held a number of meetings and considerable interest has been shown in this project by other international organisations (including IMO) who are concerned with the incidence of Piracy and violent robbery at sea. It is hoped that the group will be able to produce a Model Law for consideration and finalisation at our Conference in Singapore in 2001.

Year 2000 Code of Good Practice

I take this opportunity of enclosing copy of a letter which I have recently received regarding the Year 2000 Code of Good Practice and the 2000 Safety Protocol⁽¹⁾. As I understand the project it enables those in the shipping trades either to incorporate the year 2000 Safety Protocol into their contracts or enables them to sign up to the protocol and register their adoption with either the ICS or BIMCO.

The purpose of the protocol is clearly explained in the attached documentation and seems to me to be a useful contribution to the resolution of Y2K problems, avoiding argument and litigation. I shall be grateful if you will circulate copies of this documentation to your members and invite them to give it careful consideration.

Conclusion

If you are still with me in the reading of this letter (for the length of which I apologise) you will appreciate that the CMI is actively involved on a number of significant projects. The support of your Association and the other member Associations is vital to the continuing wellbeing and effectiveness of the CMI and I very much hope that, as International Sub-Committees are formed to deal with these projects over the next year or two, you will feel able to send national delegates to those committee meetings. The strength of the CMI lies in its ability to call upon the expertise of lawyers and non-lawyers in National Maritime Law Associations who have *practical* experience in the day to day problems of operating ships. I have enjoyed my first two years as President of the CMI and appreciate the support which I have received not only from the Officers and Executive Council members of the CMI but also from the various National Associations affiliated to the CMI. The text of this letter will appear in a forthcoming Newsletter but I would ask you to copy this letter to all your members – they have the right to know what the CMI, which they help fund, is doing.

Yours sincerely,

PATRICK GRIGGS

⁽¹⁾ This letter is not published.

MARITIME TRANSPORTATION LAW - RENEWED EFFORTS AT UNIFORMITY

In the early part of this century the CMI had a vision: to create a set of internationally accepted rules which would govern the relationship between the owners of ships and the owners of the cargoes which they carried. In 1924 the Hague Rules came into existence and over the subsequent years they were adopted by no less than 85 states. Subsequent efforts to update the Hague Rules by the Visby Protocol attracted support from the major shipping nations but the Hamburg Rules attracted much less support. The Hague Rules, unamended, remain widely applicable. There is widespread agreement that the Hague Rules are out of date and should be replaced by a system of liability which meets modern requirements.

UNCITRAL, the creator of the Hamburg Rules, includes in its work programme a review of current practices and laws in relation to the international carriage of goods by sea which is aimed at establishing the need for uniform rules where no such rules currently exist. The aim is greater uniformity of law in this area than has so far been attempted. It is recognised that existing national laws and international conventions leave significant gaps regarding issues such as the functioning of bills of lading and seaway bills. Also, the relation of transport documents to rights and obligations between seller and buyer and the legal position of entities which provide financing are not currently governed by internationally recognised rules.

At the request of and in conjunction with UNCITRAL, CMI has launched a major project simply entitled Issues of Transport Law, which will examine all aspects of the marine transportation of goods. Questionnaires have recently been distributed to all National Maritime Law Associations affiliated to CMI. This questionnaire was produced by a group of six distinguished lawyers (the CMI WG) nominated by the CMI Executive Council and all with extensive practical as well as academic expertise in the field. Once responses to the Questionnaire have been received, it should prove possible to establish what aspects of the international carriage of goods by sea could usefully be the subject of unifying rules.

Following this initial assessment the work will be referred to a CMI International Sub-Committee to which all affiliated National Associations will be invited to send delegates. Representatives from international shipping organisations will also be invited to attend.

UNCITRAL is due to meet in New York from 12th June to 7th July 2000. The CMI has been invited to submit an Agenda note and expects by that time to be in a position to outline a new international instrument which would cover those areas in which harmonisation would be appropriate. The CMI will propose that the project should be extended to include an updated liability regime to complement the terms of a new harmonising instrument. The Report of the CMI International Sub-Committee on Uniformity of the Law of Carriage of Goods by Sea (published May 1999) contains comprehensive summary of current thinking on issues of liability and will be available as a source of ideas for a new liability regime. Early indications are that such a comprehensive instrument would be welcomed in shipping circles.

On Thursday July 6th 2000 UNCITRAL/CMI will organise a joint colloquium in New York in the context of

the 33rd annual session of UNCITRAL. There will be two 3 hour fully interpreted sessions. This will enable industry experts and other interested organisations to explain the problems which they have experienced and to outline their proposals for harmonisation. The discussions will include contributions from members of the CMI WG.

If the project receives support the CMI would anticipate producing the main elements of a new broadly based international instrument at its 2001 February Conference in Singapore for submission to UNCITRAL for further consideration.

Any new harmonisation project is, inevitably, time consuming. The creation of an instrument to achieve harmonisation, which requires universal support, cannot be rushed if it is to achieve that level of acceptability which it needs in order to be a success. Nonetheless, the efforts of UNCITRAL and CMI will be concentrated on this project. With determination and goodwill, a favourable outcome will be achieved. The prize is substantial. It would be nice to think that this effort would receive universal support and that, in the meantime, national governments would refrain from devising their own national or regional solutions.

PATRICK GRIGGS

WHITHER GENERAL AVERAGE?

The Annual Meeting of the Association of Average Adjusters
London 13th May 1999

The Annual Meeting of the Association of Average Adjusters is usually the occasion for the presentation by the Chairman, at the end of his year of office, of a lengthy paper on an aspect of General Average or Marine Insurance. A number of these papers have made a significant contribution to the literature on these subjects. This procedure, hallowed as it is by custom, is nevertheless not cast in stone, and the Chairman for 1998-99 Mr. David Clancey decided to break with tradition this year and to stage a debate on the topic of greatest interest to all those concerned with the future of General Average - namely the proposals currently being canvassed by the International Union of Marine Insurers (IUMI) to restrict allowances in GA to those expenses incurred while the vessel was actually "in the grip of a peril" and to exclude port of refuge expenses (including crews wages, fuel and stores while at such a port of refuge), temporary repairs and costs of transhipment of cargo to destination.

This choice, it must be said, was a wise and courageous one, running as it did the risk of exposing Mr. Clancey to the charge of escaping the burden of identifying and writing a learned paper on an obscure aspect of this arcane subject. In the event, the debate was a lively one, and subsequent comment at the Savoy Hotel that evening, where the Association's Annual Dinner was held as usual (that is a tradition which no insurer has dared, or indeed wished, to abolish) suggested that it was welcomed and enjoyed by all who participated.

The Chair for the debate was taken by Lord Donaldson, a past Chairman of the Association and Master of the Rolls, and author of a memorable paper on constructive total losses. The motion that "This House proposes that the scope of General Average be restricted to the concept of common safety" was proposed by Nicholas Gooding, cargo underwriter of the Wellington Syndicate at Lloyds and seconded by John Wilson, a retired Member of the Association formerly of Richards Hogg International.

The motion was opposed by Richard Cornah of Richards Hogg Lindley, Liverpool, Member of the Association, and by Richard Shaw, Senior Research Fellow of the University of Southampton Institute of Maritime Law and annual subscriber.

In opening the debate Mr. Gooding explained that the justification for the initiative taken by IUMI derived from the statistics prepared by Matthew Marshall of the Institute of London Underwriters (now called International Underwriting Association) and presented to the IUMI Conferences in 1994 and 1996. These statistics, based on a study of some 1700 GA adjustments, pointed to the conclusion that the allowance of safe prosecution expenses was an incentive to shipowners to declare GA at every available opportunity, and that 20 percent of the "pure cost of GA" was accounted for by port of refuge expenses such as crew's wages, fuel and stores consumed in port, and temporary repairs, to which commission, interest and adjusters' fees must be added.

Following this study the view became widely held by marine insurers that the levels of allowed expenditure based on the common maritime adventure are now more extensive than necessary to give shipowners sufficient encouragement to preserve ship and cargo in a time of peril. Mr. Gooding urged the audience to recognise the commercial realities of the modern world and that "GA is dying a slow death of commercial strangulation", and concluded by asking them to approach this question with an open mind and to take forward a change which would benefit all by demystifying and uncomplicating "an ancient maritime practice which we do not want to carry into the next millennium as unwanted baggage".

Supporting Mr. Gooding, John Wilson, former average adjuster and editor of *Lowndes and Rudolf* (the definitive text book on GA) described himself as "notionally in a den of lions" in taking this position. He was sure that most adjusters were in favour of the simplification of GA, and quoted John Crump, former Chairman, who in 1969 firmly refused to accept that adjusters should be sufficiently lacking in integrity to strive for the preservation of a costly anachronism just for their own benefit. Quoting a number of respected authors published over the last 135 years Mr. Wilson argued that GA has now become an expensive luxury which has long since reached its sell-by date.

Richard Cornah, opposing the motion, reminded the audience that average adjusters themselves had been the most active in reforming and simplifying GA, a point on which he found himself in agreement with Mr. Wilson. He pointed out that American and continental legal systems have taken the logical step of recognising that achieving physical safety is only the first step in getting the voyage back on track to achieving the original aim of the common adventure, namely to get the cargo to its destination. The current framework, he argued, increased the likelihood that the voyage would be prosecuted without legal wrangling and delay. From the perspective of a cargo owner, he said, a contract of affreightment which recognised common benefits in GA was clearly preferable to one that did not. It was perhaps in this argument that the nub of the debate emerged, namely that the common benefit principle currently applied has significant attractions for the owners of ship and cargo, though at the expense, it must be said, of their insurers.

Richard Shaw, concluding for the opposition, emphasised that the abolition of GA was not on the agenda, since

general average is a universally recognised principle of maritime law which is *sui generis* - that is to say it does not depend on the express incorporation into a contract of carriage of the York Antwerp Rules or the New Jason Clause. To abolish it in its entirety would require a new international convention, universally ratified and enacted into law in all maritime nations - something which was wholly unrealistic. He argued for constant vigilance by the adjusting profession to ensure that GA was meeting the real needs of the market, and pointed out that the detail of the IUMI proposals is still being worked on by a sub committee. The devil, he said, is in the detail, and the results of the work of the IUMI sub committee must be studied with vigilance by the profession.

The assertion made by IUMI that jettison hardly ever happens these days is, Mr. Shaw argued, proof that general average works. Without it the ships master would be tempted, or advised by his owner (or lawyer) by satellite telephone, to jettison cargo in preference to over-revving the engine to release his ship from the ground. The suggestion that there should be some condition precedent to contribution in GA that the ship was in compliance with the International Safety Management (ISM) Code was, Mr. Shaw said, unnecessary, since there would, in the case of an ISM non-compliant ship, invariably be a breach of the relevant contract of carriage.

The debate concluded with a few words from Patrick Griggs, President of CMI and an annual subscriber to the Association. He confirmed that the CMI had received a request from IUMI to review the York Antwerp Rules, of which CMI is custodian, and which were revised at the 1994 CMI Conference. The CMI has therefore appointed Dr. Thomas Remé, member of the CMI Executive Council, as chairman of a working group to handle this topic. Initially he will direct a consultation process with the member national maritime law associations and other consultative members, and, if as a result there is a discernible mood for a change he will probably be asked to chair an international subcommittee charged with a more detailed consultation process leading, Mr. Griggs hoped, to production of a draft document for consideration at the next major CMI Conference planned for February 2001 in Singapore.

Lord Donaldson then opened the debate to the floor, and a number of contributions were made, both for and against the motion. There was certainly a general consensus that those administering general average should be very alert to the signals coming from the users of the service, ship and cargo owners and insurers alike, but that there is no prospect of the complete abolition of GA in the foreseeable future. A "purely indicative vote", taken by show of hands, showed a substantial majority against the motion.

It is clear that the marine insurers will not let the matter rest there, and that this subject will be actively debated in the coming years by IUMI and CMI. It remains to be seen what the IUMI sub-committee working on the implementation of its proposals will produce in terms of detailed draft amendments to the York-Antwerp Rules. All interested parties who are keen to see some changes in this field are recommended to pass on their views to their national maritime law association, so as to ensure that the work of Dr. Remé's working group receives as much input as possible from those who are really interested in the future of general average.

RICHARD SHAW

NEWS FROM INTERGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS

NEWS FROM UNIDROIT

DRAFT UNIDROIT CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT

The preliminary Draft Convention on International Interests in Mobile Equipment established by the Study Group created by the International Institute for the Unification of Private Law - UNIDROIT at the conclusion of its 4th Session, held in Rome in November 1997⁽¹⁾ contained a list of the equipment to which the Convention should apply. It then provided that the fundamental rules set out in the Draft Convention would be complemented by rules corresponding to the special characteristics of each specific category of equipment to be contained in separate protocols. It followed that the Convention would enter into force, as regards any given category of equipment, at the time of entering into force of the

protocol relating thereto. Amongst the equipment listed there were, although placed in square brackets, registered ships: an inclusion to which the CMI had always objected.

The Draft Convention has now been amended to the effect that it no longer lists the types of mobile equipment to which it may be extended and it will therefore be left to trade organizations, who wish the Convention to cover the mobile equipment associated with their trade to promote a protocol. Assurance has been given by the UNIDROIT that no protocol on any particular category of equipment will be tackled without active participation of the trade organizations and the intergovernmental organizations concerned.

⁽¹⁾ See F. Berlingieri, The preliminary draft UNIDROIT Convention on International Interests in Mobile Equipment. Should ships be included? in CMI Newsletter no. 2-1998, page 8.

RATIFICATION OF INTERNATIONAL CONVENTIONS

Instruments of ratification of and accession to the following conventions have been deposited with the depositary:

- **International Convention for the unification of certain rules relating to arrest of sea-going ships**
Russian Federation: 29 April 1999(1)
- **Protocol of 1968 to the International Convention for the unification of certain rules of law relating to bills of lading, 1924**
Russian Federation: 29 April 1999
- **Protocol of 1979 to amend the International Convention for the unification of certain rules of law relating to bills of lading, 1924 as amended by the Protocol of 1968**
Russian Federation: 29 April 1999
- **United Nations Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules)**
Burundi: 4 September 1998

(1) The Russian Federation reserves the right not to apply the rules of the International Convention for the unification of certain rules relating to the arrest of sea-going ships of 10 May 1952 to warships, military logistic ships and to other vessels owned or operated by the State and which are exclusively used for non-commercial purposes.

Pursuant to Article 10, paragraphs (a) and (b), of the International Convention for the unification of certain rules relating to the arrest of sea-going ships, the Russian Federation reserves the right not to apply:

- the rules of the said Convention to the arrest of any ship for any of the claims enumerated in Article 1, paragraph 1, subparagraphs (o) and (p), of the Convention, but to apply the legislation of the Russian Federation to such arrest;
- the first paragraph of Article 3 of the said Convention to the arrest of a ship, within the jurisdiction of the Russian Federation, for claims set out in Article 1, paragraph 1, subparagraph (q), of the Convention.