

CMI NEWS LETTER

Vigilandum est semper; multae insidiae sunt bonis.

COMITE MARITIME INTERNATIONAL

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NEWS FROM THE CMI

REPORT ON CMI VANCOUVER CONFERENCE

by RICHARD SHAW¹

The 38th Conference of the CMI took place in Vancouver Canada between 30th May and 4th June 2004. Warm thanks are due to the Canadian Maritime Law Association whose Organising Committee under the able leadership of Michael Bird provided delegates with a week of stimulating debate on a wide range of topics of current interest in the field of maritime law.

Even the City of Vancouver, whose climate is better known for its drizzle and mist, turned on all its charms for us, with a week of unbroken sunshine, in which the City and its surrounding fjord scenery looked stunning. Some distinguished lawyers felt able to miss certain sessions to take sightseeing flights in a seaplane, and I fear that they were not disappointed.

The climax of the proceedings was the final dinner. This was in the Westin Bayshore Hotel in which the conference had taken place, but which had

been transformed with fir branches and other local colour into a woodland clearing. At this dinner the President for the last seven years, Patrick Griggs of the UK, handed over the role to Jean-Serge Rohart of France, together with the ceremonial "Talking Stick" donated to the conference at its opening session by the Chief of the local tribe of Native Americans. Jean-Serge will need all the magic of the Talking Stick to lead the CMI into the coming years, which present many challenges. As a lawyer still involved in active practice in his Paris firm of Rohart Simon he will have a hard job to fit in all the work which the Presidency demands, but his wit and gallic charm will no doubt be of great value, in addition to his undoubted skills in the field of maritime law.

He has asked several members of Patrick Griggs' team to continue their work in their respective areas, including, at the IMO Legal Committee and

¹ Senior Research Fellow, University of Southampton Institute of Maritime Law; CMI Delegate to the IMO Legal Committee and the IOPC Funds.

IOPC Fund, Patrick Griggs and the writer, so it is hoped that continuity will be maintained where it matters most. Some new younger faces will be welcome on the committees and working groups of the CMI, where so much valuable work is done, but one older face, that of Nigel Frawley of Canada, will be particularly welcome as the new Acting Secretary General of CMI. Nigel is a past president of the Canadian Maritime Law Association and was formerly a partner of the Toronto law firm of Borden Elliott into which his old firm of Meighen Demers merged some years ago. Most recently he has been Chairman of the CMI Nominating Committee.

Nigel's appointment came on the heels of the news that his predecessor, Prof. Marko Pavliha of Slovenia, had been appointed his country's Minister of Transport. His old friends in the CMI wish him well with the considerable challenges presented by a new job in the service of a new country.

THE WORK OF THE VANCOUVER CONFERENCE

The Legal Committee of the IMO is looking forward to receiving no less than four major reports on topics in its work programme which were debated at Vancouver; namely Places of Refuge, Criminal Offences committed on the High Seas on Foreign Flag Ships, Bareboat Charter Parties, and the Implementation of the 1989 Salvage Convention. The Chairmen of those sessions are, as this note goes to press, still working on their reports, and those reports will be posted as soon as possible on the CMI Website www.comitemaritime.org

The website already contains an impressive collection of working papers written in preparation for the Conference, and this will no doubt provide a valuable source of research materials for some time to come. The 2003 CMI Year Book was published just before the Conference and issued to each delegate on arrival. This itself contains much of the preparatory material.

A. Transport Law – The CMI/UNCITRAL Draft Instrument

This is part of a long running saga, and the position before the Vancouver Conference is to be found in the documents on the website. For a full report on the Vancouver debates the reader will have to look elsewhere, but informal exchanges with other delegates indicated to the writer that there was a particularly lively debate on jurisdiction and arbitration, and that more

progress was made in resolving outstanding issues than had been expected.

B. General Average – The York-Antwerp Rules 2004

These Rules were last revised by the CMI at its Sydney Conference in 1994. However marine insurers, through their international body the International Union of Marine Insurers (IUMI), subsequently expressed serious reservations about certain aspects of the Rules, arguing that they were in some respects an archaic relic which is inappropriate to today's world of commerce. A summary of the arguments for and against the revision of the existing York-Antwerp Rules is set out in the report of the CMI International Subcommittee, also to be found on the CMI website, and in the article by Richard Cornah, Fellow of the Association of Average Adjusters and a member of the CMI International Subcommittee on GA, in Issue 2 of the 2004 Journal of International Maritime Law at page 155.

During the sessions at Vancouver the debates were reviewed under the calm chairmanship of Bent Nielsen, of Kromann Reumert, Copenhagen, and votes were cast on each of the proposed amendments. At the end of the day a new set of York-Antwerp Rules was adopted. The differences are not very apparent as first sight, and are nothing like as far-reaching as the original proposals of IUMI, but they do, on more detailed study, go a long way to meeting underwriters' concerns. In particular the re-apportionment in General Average of salvage charges, which have already been distributed among the contributing salvaged interests in proportion to their respective values, has always appeared to be a needless duplication of effort. This has now been abolished, save for the exceptional case where one party, usually the ship owner, pays the entire salvage remuneration and then seeks contribution afterwards.

Crews' wages at a port of refuge are not now to be admitted in GA, although the extra crews wages incurred during the time that a ship is putting into and proceeding from a port of refuge will still be admissible. The wording of the Rule dealing with temporary repairs at a port of refuge has given rise to extensive argument, notably in the case of the "Bijela" [1994] 2 Lloyds Rep. 1 which went all the way to the English House of Lords. That rule has now been amended with the addition of what is known in adjusting circles as the "Baily Clause". No doubt the new wording will make some average adjusters sleep more easily, but it is not recommended reading for laymen on a dark night. A commission of 2 percent of the disbursements admitted in GA has traditionally been allowed,

but this has now been abolished, and the interest allowed on such disbursements will now be at a rate fixed annually by the Assembly of the CMI, instead of at a rate fixed every 25 years when the Rules are revised. With the rapid movement of interest rates and currencies in the international financial markets the old rule could clearly work injustice, and this amendment was the least controversial of all those debated.

Finally a Rule has been added imposing a time limit for the recovery of GA Contributions of one year from the date of publication of the Average Adjustment or six years from the date of termination of the common maritime adventure. In some jurisdictions where time limits are considered to be matters of public order this rule will not be enforceable, but the majority of delegates recognised that its inclusion should encourage the speedy preparation and settlement of average adjustments. The legal force behind the York-Antwerp Rules is essentially contractual, since they are incorporated into most contracts of carriage by sea, but in those jurisdictions where such a provision is unenforceable in strict law, it is to be hoped that it will still provide a guide both to the parties to the General Average and also to the judges who have to decide any issues arising where there is undue delay.

Overall the York-Antwerp Rules 2004 are a modernisation of the existing code, and it is to be hoped that they will commend themselves to all the participants in the carriage of goods by sea. The signals from IUMI indicate that their members were not disappointed by the results of this review, and it is to be hoped that this will encourage them to press for widespread adoption into contracts of carriage. The bigger question mark comes from the ship owner side. The new Rules will not give the owner the wages and maintenance of crew at a port of refuge and the GA Commission hitherto recoverable in GA from hull and cargo insurers. That is probably fair, and in the strong freight markets of today is unlikely to cause much pain, but if the markets were to revert to the weak state of past years where ship owners are struggling to cover their costs, they might be tempted to press for the retention in their bills of lading and charter parties of the 1994 York-Antwerp Rules. Will the differences be sufficiently well known to enable the parties to negotiate at arm's length? It is to be hoped that

this short note may be of some assistance to them.

C. Places of Refuge

This is a very topical subject of debate in the field of maritime law, as is shown by the extensive papers prepared for the Vancouver Conference on the CMI Website. A further update appears in an article by the writer in the *Journal of International Maritime Law*². The debates at Vancouver, under the chairmanship of Stuart Hetherington (Australia) certainly revealed a consensus on the need for some international instrument which would clarify the position of a coastal state faced with a distressed vessel seeking shelter but which also presents a serious threat to that state's marine environment. Neither UNCLOS nor article 11 of the 1989 Salvage Convention provide an answer. Perhaps more conspicuous is the lack of clear provisions dealing with the financial consequences of an accident following the admission of a casualty to a place of refuge. This is an area which the IMO Legal Committee has asked CMI to investigate.

Where the ship is a tanker and the CLC and IOPC Fund Conventions apply, the risks are, it was considered, already covered by an effective compensation regime. When the HNS and Bunkers Conventions enter into force³ there will also be a compensation regime in place for pollution by those substances. The debate highlighted the need for more effort to complete the drafting of a convention on Wreck Removal, currently on the IMO Legal Committee work programme but advancing rather slowly, to fill the gap where a ship sinks in a place of refuge to which she has been admitted. All these instruments will ease the burden on a coastal state's maritime administration in coming to a decision whether or not to admit a ship in distress. The IMO Guidelines on Places of Refuge⁴ are a substantial advance in setting the criteria for such a decision, and they also provide a useful yardstick of reasonable conduct (or negligence) in the context of the existing liability conventions.

However the discussions at Vancouver revealed that there are a large number of gaps in the existing regime, and that the entry into force of the HNS, Bunkers and Wreck Removal Conventions will not fill all of these. What happens where the costs involved exceed the limit of liability of the ship, either under the CLC and Fund Conventions

² 2004 Issue 2 at page 174.

³ It was suggested during the debates that there is a good prospect of the HNS Convention entering into force in 2005 and the Bunkers Convention shortly afterwards.

⁴ Adopted in December 2003

or the 1976 Limitation of Liability (LLMC) Convention as amended by the 1996 Protocol?⁵ Some states have demanded huge guarantees as the price for admission of a casualty to their waters, although this may well be a breach of their treaty obligations. Could a state itself be liable for the consequences of a wrong decision? Some delegates advocated a provision granting immunity from liability for a coastal state as the price for granting admission – this would certainly make any convention on this subject that much more attractive to governments, and might well ease the path of ratification.

At the conclusion of the debate it was clear that the majority of speakers, including notably the observers from the International Association of Ports and Harbours (IAPH), the International Salvage Union (ISU) and IUMI, were in favour of the development of a new international instrument to address and clarify all these issues - either a Convention, or amendments to existing conventions, or an extended set of guidelines. A detailed report to this effect has been submitted by CMI to the IMO Legal Committee, and will be available on the CMI website very shortly.

D. Marine Insurance – a modern approach

Professor John Hare of the University of Cape Town has written extensively on this topic and his papers are to be found on the CMI website. A full report on the debate on this subject in Vancouver is in course of preparation and will be found on the website very shortly.

E. Pollution of the Marine Environment

This session was chaired by Colin de la Rue (UK), Chairman of the CMI Working Group on this topic, and Mans Jacobsson, Director of the IOPC Funds, was also on the panel of speakers. The recent developments to improve the compensation available to victims of pollution, notably the increase in the limits under the 1992 Fund which took effect in November 2003 and the adoption of the Protocol to establish a Supplementary Fund, expected to enter into force in 2005, were noted. However the main subjects discussed were those which are still under consideration by the IOPC Fund Working Group, namely the definition of pollution damage, channelling of liability, limitation of liability – establishment of a fund, release of a ship from arrest, direct action against insurer, time bar

and jurisdiction. A Discussion Paper prepared by the Working Group was circulated at the conference and is now on the CMI Website.

F. Maritime Security – in ports and on board ships

Dr. Frank Wiswall, Vice President of CMI, chaired to two lively sessions on the increasing need for security measures in the face of widespread international terrorism, and the great difficulties, political and practical, faced by those seeking to do something about it.

The USA is leading the work in the IMO Legal Committee on the review of the 1988 International Convention on Suppression of Unlawful Acts against the Safety of Maritime Navigation (the SUA Convention), and its sister Convention relating to Offshore Platforms. Key areas include the right of a state to board vessels on the High Seas when they are suspected on reasonable grounds of carrying terrorist personnel or materials, and the alignment of the SUA Convention with other conventions on terrorist activity.

The lack of a generally accepted definition of “terrorist” is another problem. While all concerned sympathised with the need to tighten security in the face of changing circumstances there are considerable political problems ahead, particularly in convincing states to adopt common anti-terrorism measures which might adversely affect their own citizens.

The entry into force on the 1st July 2004 of the International Ship and Port Security (ISPS) Code⁶ also presents many potential problems (and work) for lawyers. Security Assessments are now mandatory for all passenger ships, cargo ships of 500 tons and upwards, mobile offshore drilling units and port facilities serving such ships engaged on international voyages. The governments of contracting states are required to supervise the assessments and the documents certifying the security arrangements. It will be interesting to see how well the governments concerned are able to cope with the administrative burdens involved, and the impact on charter party disputes of delays caused by failure by a ship or port to comply⁷.

The extent to which ports will be able to place an effective security cordon around their ship berthing and cargo handling facilities, which in many cases are very extensive, is a matter of debate. A container can be used to transport a

⁵ Now in force.

⁶ As Chapter XI-2 of SOLAS

⁷ BIMCO has published specimen clauses for voyage and time charter parties for consideration in fixture negotiations.

variety of things, from illegal immigrants to nuclear weapons, without the contents being known to either the carrier or the exporting port facility. The very ease and speed of transshipment lies at the heart of the benefits of the container system, and if searches are to be made at every stage the time and cost involved will be very considerable. It was suggested in the debate however that the technology is evolving which will permit rapid non-invasive searches, and that the law will have to match the speed of such developments in this field.

F. Offshore Mobile Craft

This topic was not on the formal agenda of the conference, but the members of the CMI Working Group on this topic, to whose work the Canadian Maritime Law Association has made a substantial contribution, were all present in Vancouver and the opportunity was taken to hold an informal meeting.

A draft convention prepared by the CMLA was tabled, and it was agreed that, although this subject is no longer on the work programme of the IMO Legal Committee, it would be wise to keep the Working Group in existence and to retain the draft convention on file.

Richard Shaw (UK) Chairman of the Working Group reported accordingly to the Plenary Session and invited any member of a national maritime law association who was interested in this work to make themselves known to him or to Nigel Frawley of Canada.

G. Crimes on the High Seas and ashore

An interesting session addressed the problems following a crime committed on board a ship on the High Seas. Strictly speaking only the flag state has the jurisdiction to punish the offender, but in many cases the flag state has minimal administrative machinery, and even less inclination to incur the expense, to do anything about it.

This can leave a luckless ship's master sailing the seas with a murderer or thief locked in his cabin for an indefinite period. The aviation world has addressed this problem by the 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft.

However there is really no practical alternative for the captain of an aircraft, which has the ability

neither to remain in the air indefinitely nor to incarcerate an offender on board.

This problem was raised at the IMO by the government of Japan following an incident involving the killing of one of its citizens on a foreign-flag ship.

The delegates at Vancouver tended to the view that this is not a problem which occurs sufficiently frequently to justify a new convention.

They did agree, however, that a model law giving jurisdiction to the courts of the port to which a ship calls in such circumstances to investigate the alleged crime and to take the alleged offender into custody was a more practical solution.

More serious concerns were however expressed by many delegates at the development of criminal detention of seafarers following a major marine accident.⁸

Dr. Wiswall reported to the conference that this topic formed the basis of a recent speech to the European Parliament by the new Secretary General of the IMO, when he expressed in strong terms his concerns as to a. the effect on the morale of those detained far from home; b. fears of seafarers the world over at the consequences to their future livelihoods of detention following an accident involving the ships on which they serve; and c. the impact that an act of detention may have on the global campaign to attract young people to the maritime profession.

If it is the objective of governments the world over to minimise accidents at sea, it is essential that they use all means to encourage candidates of the highest calibre to train as officers and ratings. If clever young people perceive that the risks to which they may be exposing themselves outweigh the benefits of following these professions, that will necessarily mean that ships will be manned by those who cannot obtain other employment, and the likelihood of more marine casualties becomes greater than ever.

One speaker, noting that in the case of the "Tasman Sea" a salvage officer, who was not employed by the owners and who was not on board the ship when she grounded, had been arrested by the authorities in Pakistan, raised the spectre of a lawyer sent to investigate the casualty suffering the same fate. That certainly concentrated wonderfully the minds of the lawyers present.

However the golden sunshine of Vancouver and the generous hospitality of our Canadian hosts quickly banished all such unpleasant thoughts.

⁸ The arrest of the Captains of the "Erika" and "Prestige" and crew members of the "Tasman Sea" were mentioned in particular.

**MINUTES OF THE MEETING OF THE EXECUTIVE COUNCIL
HELD IN VANCOUVER ON 30th MAY 2004 AT 12H00**

Attending:

<i>President:</i>	Patrick GRIGGS
<i>Vice-Presidents:</i>	Karl-Johan GOMBRII Frank L. WISWALL, Jr.
<i>Councillors:</i>	José Maria ALCANTARA Johanne GAUTHIER José Tomás GUZMAN S. John E. HARE (Acting Secretary) Stuart HETHERINGTON Henry H. LI Thomas M. REME Gregory TIMAGENIS
<i>Administrator:</i>	Wim FRANSEN
<i>Assistant Administrator:</i>	Pascale STERCKX
<i>Observer:</i>	Jean-Serge ROHART

1. (a) *Apologies*

The President recorded apologies from Messrs Alan Philip and Francesco Berlingieri. He reported that Benoit Goemans will arrive later in the week. **The meeting recorded a vote of good wishes to Messrs Philip and Berlingieri.**

(b) *Approval of Minutes of the Executive Council Meeting held in London on 18 November 2003.*

Approved as tabled.

(c) *Matters arising from those minutes*

All such items are covered in the agenda.

2. *Finances*

(a) *Report from the Treasurer*

In the absence of the Treasurer, a summary account prepared by Senator Angus was tabled. The summary outlines a history of the new accounting regime, and then deals with the 2003 accounts.

Certain points were noted: an amount of € 10,369 out of the € 13,368 entered under income and expenditure as 'Exceptional profit' will be removed from the income and expenditure account and only be included in the balance sheet. Indeed, this asset of € 10,369 being an asset already in earlier years it improves the reporting not to show it as a profit of the year.

Total income for 2003 was € 255,668 and expenditure continued to be kept in check so that the CMI ended the 2003 fiscal year with a surplus of € 90,026. A significant drop in travel expenses was noted. This will no doubt increase in 2004 arising out of the Vancouver meeting.

A vote of thanks was recorded to David Angus, Benoit Goemans and Pascale Sterckx for the preparation of the accounts.

The meeting adopted the accounts and the recommendations of David Angus:

- (i) **that there be neither an increase nor a decrease in the subscriptions of national associations;**
- (ii) **that a sum of € 100,000 be transferred to the liquidity fund for 2003; and**
- (iii) **that Messrs DeMol, Meuldermans & Partners be appointed as external auditors for the CMI for 2004.**

(b) *Unpaid Contributions*

Karl Gombrii reported on continuing efforts to monitor unpaid contributions, and recorded thanks for the assistance of Tomas Guzman in relation to the South American associations.

A copy of a report by Mr Gombrii was tabled.

Mr Gombrii reported dealing with about 30 defaulting associations. Some associations have not responded in substance, notwithstanding invitations to open dialogue about unpaid dues. These associations are referred to in the memorandum as Indonesia, Mauritania, Morocco, the Philippines, Poland and Senegal.

Mr Alcantara reported that he was to meet with the Secretary General, Transport of Morocco next month, and would take the matter up with him.

It was resolved that the assembly be asked to authorise that notice should be given to all the above associations that their membership is suspended forthwith, and that if no agreement

concerning unpaid dues can be negotiated by the end of 2004, steps will then taken to expel them from the CMI in terms of the constitution. A motion to suspend will be put to the 2004 assembly. In terms of the constitution, defaulting associations need to be notified of the resolution of the assembly. The President will send a copy of the resolution with his letter to each association.

Prof Wiswall confirmed that the CMI has the power of suspension. Defaulters should be suspended pending settlement or arrears.

After debate it was recorded that the readmission of any expelled defaulting national association would be examined ad hoc, with the assessment of the contribution of a readmitted association then depending upon the composition and status of the readmitted association.

Mr Guzman reported that he has made contact with South American defaulters. Some but not all have responded. Argentina and Brazil have settled outstanding dues. Venezuela reported a special deal made with the CMI in March 2004, but there is no record of such arrangements. Uruguay are interested in paying but seek special conditions. Colombia asks that 2002/3 arrears be condoned and that they would now start paying. Peru responded on 27 May reporting that they would make an offer in the near future. None is as yet forthcoming.

Generally, Mr Guzman reported that most S American national associations are not strong. All want continued membership, but seek a review of outstanding dues.

Mr Griggs reported that where an association appears to be making an honest attempt to pay past and present dues, the CMI would, in appropriate circumstances, favourably consider proposals to write off a proportion of past dues.

The meeting resolved that Mr Gombrii continue his efforts, with authority to negotiate appropriate write-offs of outstanding dues. Mr Gombrii was asked also to take into account currency factors when viewing outstanding and current dues.

Mr Alcantara proposed a vote of thanks to Messrs Gombrii and Guzman for the work they have done in collecting overdue accounts.

(c) Bordeaux Colloquium - financial results

Mr Rohart reported that largely because of the large number of copies made during the colloquium, the surplus was lower than anticipated. The CMI's share of the surplus was € 1,750.

Mr Griggs cautioned that future conferences should take into account copy costs, and generally ending up with more free attendees than anticipated.

3. New Constitution – Legal status of the CMI

Wim Fransen reported that on 9 November 2003

the King of the Belgians passed a Decree granting juridical personality to the CMI as an “*Association internationale sans but lucratif*” in the meaning of the Act of 27 June 1921, as amended.

4. Next meeting of the Executive Council

The next meeting of the Executive Committee will be held on Friday, June 4 2004 after the Assembly meeting in Vancouver.

5. Assembly 2005

The 2005 Assembly will be in Paris on a date to be advised.

6. (a) Nominating Committee

Mr Griggs reported that Messrs Berlingieri, Philip and Ramberg wish to retire from this committee. Mr Bent Nielsen has indicated a willingness to take on the chair. Mr Griggs will sit as Past President. Mr Griggs has approached Mr John Kimball who has indicated willingness to serve. Prof Zhu Zengjie similarly has indicated willingness to continue on the committee. A further committee member needs to be identified.

The report of the nominating committee dated February 2004 was tabled and accepted by ExCo for submission to the assembly, Messrs Hetherington and Timagenis having recused themselves.

(b) Appointments of new Member Associations

Mr Griggs reported that Mr Norman Martinez of Honduras has indicated that he wishes to start an association. He should be encouraged and may be invited to apply for provisional membership pending the establishment of a national association.

Ms Gautier proposed that there be a starter kit for new members, indicating the likely level of dues etc. Mr Griggs reported that he has previously given this advice to prospective members, including offering a draft constitution.

Prof Hare tabled a letter from Mr Eric Okumu Ogola from Kenya accepting with thanks his provisional membership of the CMI, and a report from Mr Ogola dealing with the achievements of the task group appointed by the Kenyan justice ministry to review and update Kenya's maritime laws.

(c) Secretary General

Mr Griggs reported that Marko Pavliha has asked for leave of absence until October 2004 when he will have certainty about his political appointment.

It was resolved that the CMI requires an active secretary general as soon as possible, particularly in view of the change of Presidency. Mr Pavliha will be notified by Mr Griggs, with an appropriate vote of thanks.

(d) Mr Griggs reported that the Spanish association had questioned the appointment of a Spanish non-member to a CMI International Working Group. Mr Griggs asked the meeting for guidance on the principle.

Ms Gautier proposed that such members be members of or designated by or in consultation with national associations.

There was general support for the notion that the CMI should not restrict itself to calling upon experts who are members of their own association to serve on CMI international working groups.

It was resolved that members of international working groups should generally be members of or designated by national associations, though persons who are not members of their national associations may be appointed in consultation with those associations.

(e) Mr Griggs proposed that Senator David Angus be reappointed as Chair of the audit committee, and the meeting so resolved.

(f) Mr Griggs reported correspondence with Venezuela to the effect that Venezuela has been made the site of the Presidency of the Iberoamerican Maritime Law Institute. He proposed contact to explore contact between the Institute and the CMI. Mr Griggs will be meeting with Mr Fernandez-Concheso during this week and will report upon his meeting.

(g) Mr Griggs suggested that the titles of various office bearers and 'functions' be reviewed for a further report to ExCo. Mr Rohart and Prof Wiswall to report to future ExCo meetings.

(h) Prof Wiswall reported that under the new constitution, the assembly may elect any person to CMI positions *honoris causa*. Such members may be designated as honorary officers of the CMI on the proposal of ExCo. They do not pay membership fees.

It was unanimously resolved to propose to the assembly that Alan Philip be appointed president *honoris causa* and that Henri Voet be appointed treasurer *honoris causa*.

(i) Mr Griggs reported the hyperlink of an Italian website which links to the CMI site as a subsite.

It was resolved that the CMI welcomes links to its site, but that subsite links should be asked to change the link to a proper hyperlink.

Ms Gautier pointed out that the sublink may be against EU regulation. John Hare will compose a letter for the President to send to offending sites.

7. Conference programmes:

(a) 38th International Conference

Mr Griggs reported that arrangements for the Vancouver conference had gone very smoothly. The present count is some 384 delegates and about 120 accompanied persons.

(b) Cape Town February 2006

Prof Hare confirmed arrangements for Cape Town 2006. He tabled provisional budget figures and a flier postcard which has been put into the Vancouver conference package. Messrs Hetherington and Alcantara offered help in preparing budget and other arrangements, in the light of their experience at Sydney and Toledo. Prof Hare will consult with Mike Bird to get guidance of costing from the Vancouver organising committee.

(c) Greece 2007 or 2008

Mr Timagenis reported that Poseidonia is scheduled for 2 June 2008. If the 39th Conference is to be in a Poseidonia year, it should be back to back with Poseidonia.

It was resolved that a provisional date for the 39th Conference would be the week 26th May 2008.

Mr Timagenis would report further to the next EXCO meeting.

8. CMI Charitable Trust

Mr Griggs reported that the Trust has noted that it may not accumulate excess income in the UK more than 21 years after the formation of the trust (2006 cut-off). CMI publication costs continue to be paid by the Trust.

Mr Hetherington proposed that the Trust may sponsor speakers at CMI conferences. Mr Griggs confirmed that this was done from time to time.

9. Publications:

(a) Yearbooks, Newsletters and website

Mr Griggs reported no reaction from members to the CMI's new printing policy favouring most CMI documents being made available on its website rather than in hard copy.

Mr Timagenis noted that the Bordeaux conference papers have been removed from the CMI site⁹.

It was resolved that there be an archive part of the site to cater for documents no longer immediately relevant, but nevertheless part of the CMI archive.

Prof Wiswall proposed that whenever anything is removed from the site it should be archived.

Mr Rohart mentioned that when the CMI expels members from the CMI part of the sanction is to stop the circulation of CMI documentation. He

⁹ All papers were moved to the CMI Yearbook 2003-Vancouver I section of the site.

asked whether the CMI should look at the possibility of a key for members of national associations.

He suggested a balance between promoting the CMI publicly, and making our publications freely available.

Mr Timagenis suggested the possibility of a public and private area of the CMI site.

After debate it was resolved to leave the CMI site open for the moment.

(b) CMI Archives

Prof Wiswall reported that Matthew Bender is putting CMI archival material on CD Rom and that a master copy of the CD will be sent to the CMI offices in Antwerp for records.

(c) Other publications

Mr Griggs reported an appreciative response from recipients of the free volumes of the Travaux Préparatoire.

Mr Griggs is reviewing the list of recipients of free volumes of CMI documentation.

10. Work in progress

These subjects will all be dealt with during the Vancouver conference.

11. Management Reports

(a) Young CMI Prize Competition

John Hare reported that this had not progressed further since the last ExCo meeting. The project rests with the CMI Charitable Trust having agreed to fund the attendance of a winner at international conferences. As we were unable to call for papers for adjudication in time for the Vancouver conference, it was confirmed that papers would be invited in time for the first winner to attend the Cape Town colloquium. Thereafter the prize would be awarded only at international conferences.

The rules for the competition would be approved ExCo as soon as possible, and will be placed on the CMI site.

(b) (i) National associations: monitoring

Deferred to the next ExCo meeting on Friday. John Hare to prepare guidelines for regional representatives' dealing with national associations.

(ii) Creation of regional MLA's

Deferred.

12. Mr Alcantara recorded that this would be the last ExCo meeting presided over by Mr Griggs.

He proposed a vote of thanks and confidence which was carried unanimously.

There being no further business, the meeting adjourned at 15h40.

**MINUTES OF THE ASSEMBLY
HELD IN VANCOUVER ON 4th June 2004 AT 14h00**

Attending:

<i>Presidents:</i>	Patrick GRIGGS Jean-Serge ROHART
<i>Vice-Presidents:</i>	Karl-Johan GOMBRII Frank L. WISWALL, Jr.
<i>Councillors:</i>	José Maria ALCANTARA Johanne GAUTHIER José Tomás GUZMAN SALCEDO John HARE (Acting Secretary) Stuart HETHERINGTON Henry H. LI Thomas M. REME Gregory TIMAGENIS
<i>Administrator:</i>	Wim FRANSEN
<i>Treasurer:</i>	Benoît GOEMANS

Member Associations:

The delegates registered for and present at the Assembly are set out on Annexure A to these Minutes¹.

President Patrick GRIGGS opened the meeting.

1. Adoption of agenda

The tabled agenda was adopted.

¹ Omitted.

2. Memorials

The President called the Assembly to the memory of Mr John Simms and Mrs Margaret Healy. Members stood in silent tribute.

3. Approval of the Minutes of the Assembly held in Bordeaux on Friday 13th June 2003

The minutes of the Bordeaux Assembly were duly tabled and approved.

Matters arising

There were no matters arising from the minutes.

4. Members

(a) Titulary and Honorary Titulary Members

President Griggs moved for the admission of the following as Titulary Members of the Comité: Tom Broadmore, Mark Gauthier, Karl-Johan Gombrii, Lars Gorton, Noboru Kobayashi, Ian L. Maitland, Warren J. Marwedel, Thomas S. Rue, Jerry Rysanek, Eric Van Hooydonk.

So resolved.

(b) Honorary Vice-Presidents

President Griggs reported that the Executive Council had recommended the appointment of Past President Alan Philip as “President *honoris causa*” and of Henri Voet as “Treasurer *honoris causa*” of the Comité in recognition of their respective contributions to the Comité.

So resolved.

(c) Consultative members

No nominations were received.

(d) Associations of Maritime Law

No new associations but an indication from Norman Martinez at IMLI that he wishes to create a national MLA in Honduras.

Resolved that Mr Norman Martinez be appointed a provisional member of the Comité.

5. Finances

Tabled:

The Report of Senator David Angus

Senator Angus presented the report of the audit committee. He acknowledged the input of Messrs Alan Philip and Patrick Griggs.

The Audit Committee recommended to the Executive Council: first that the audited statements be adopted by the CMI; second that De Mol Mueldermans be appointed auditors for the year ending 2004; third, that the current surplus should be retained as a reserve because of vagaries to which the CMI is exposed, particularly in relation to the payment of dues by member associations.

It was also recommended that the liquidity fund be increased from € 50,000 to € 100,000.

(a) Accounts

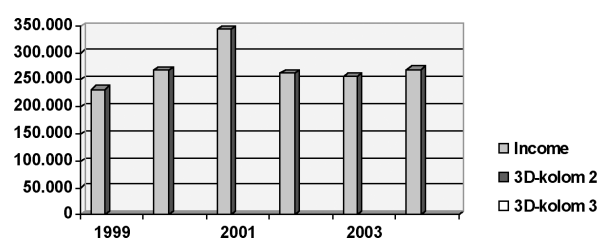
Presentation of accounts year to 31 December 2003
The following documents were remitted to the delegates:

- the Auditor’s Report of 24 May 2004
- the Income and Expenditure Account for the year ended 31st December 2003
- the Balance Sheet for the year ended 31st December 2003
- the Cash Flow Statement for the year ended 31st December 2003
- Notes to the Financial Statements
- Financial Statements and Budgets

The Treasurer recorded thanks to Senator Angus and the entire Audit committee and for his their efforts. He presented a Powerpoint of summary items drawn from the accounts.

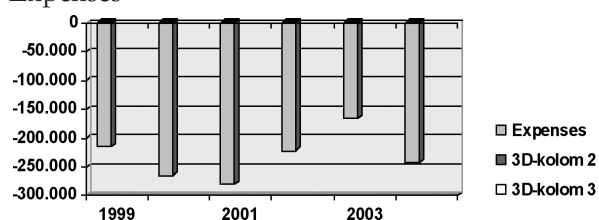
INCOME & EXPENSE ACCOUNT.

Income



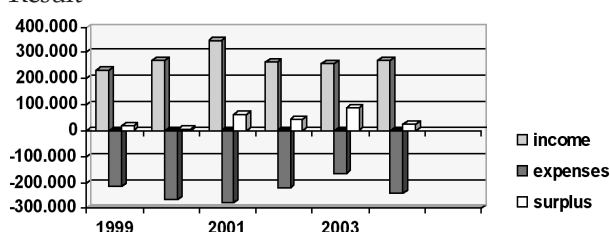
The income is, except for the high in 2001 very stable over the years. The stability results from the fact that most of the revenue originate from the subscription. The amount of the subscription remained, in nominal terms, unamended (in fact a drop in real terms). The top in 2001 was caused by a significant profit generated by the Singapore conference.

Expenses



The expenses dropped significantly over the last two years, mainly as a result of lower air fares, a result of the reduction of the salary cost for the assistant administrator’s full time employment was reduced to 80%. Also, postage and telecommunication costs dropped thanks to an increased use of e-mail.

Result



1999 showed a surplus and 2000 showed no significant surplus. 2001 showed a significant surplus but the surplus would not have been significant without the Singapore conference profit. Without the Singapore profit and slightly higher expenses, 2001 could have ended in a loss. 2002's and 2003's surpluses were significant mainly thanks to historically low air fare rates, as set out above.

Projections for 2004 are for a safe surplus, though travel costs will increase.

Balance sheet

Assets included cash in hand of € 286,771. This reflects about 19 months liquidity cover which compares favourably with a norm of 12 months. Liabilities include approx € 14,000 expenses incurred in 2003 but not yet invoiced on 31st December 2003.

(b) Budget

Report from the Treasurer

Budgets for 2004 and 2005 were presented.

Resolved: That there will be no increase or decrease in dues; € 100 000 should be transferred to the liquidity account. And budget approved.

(c) Subscriptions

(d) Unpaid subscriptions

Karl Johan Gombrii reported that he had been in contact with about 40 member associations. Most have been conscious of their default and willing to rectify the arrears.

The list sent out with the conference differs from the current list in that many associations have since paid.

As of 4 June, China is about to pay its dues. Greece may have already paid. Mexico have reduced their outstandings by some E3200. Spain's outstanding involves an issue from Toledo and VAT in Spain which it is hoped will be resolved shortly.

There are some states who have not responded at all; or they have responded, but without willingness to establish dialogue on addressing the problem. One case has indicated though its members in majority are maritime lawyers, they are not concerned with international affairs.

Indonesia, Mauritania, Morocco, Philippines, Poland and Senegal

Mr Gombrii proposed that membership be suspended and considered for expulsion by next year's assembly if their outstanding dues have not been paid by then. This is in accord with our constitution.

So Resolved.

Thomas Guzman reported that in relation to Latin

American countries he had had a positive response from four associations who sent dues. Some did not care to respond. The executive council has agreed to give the defaulting associations more time to settle.

Resolved that the report of the audit committee and the accounts be adopted.

(e) Appointment of auditors

Resolved that Messrs De Mol Muelderman be re-appointed for the current financial year.

(f) Revision of CMI Constitution / New legal status for CMI

Report by the Treasurer

Mr Goemans reported that by Royal Decree of 9 November 2003 the King of Belgium granted juridical personality to the CMI.

6. Resolutions recommended by the Plenary session of the CMI at Vancouver 4 June 2004

All resolutions recommended by the Plenary (including the adoption of the York-Antwerp Rules 2004) were carried forward to the Assembly and adopted in accordance with the annexures to these minutes.

7. Elections

Senator Angus as the Chair of the Nominations Committee reported the recommendations of the Nominations Committee.

Senator Angus thanked Mr Nigel Frawley for his contribution as past chair of the Nominating Committee.

Under Art 15 the Chair of the committee has to consult with all members concerning vacancies on the council.

Two Executive Councillors' first terms expire. There is no automatic re-election to a second term. The Nominations Committee satisfied itself that the re-election of Messrs Stuart Hetherington and Gregory Timagenis was warranted. Both are willing to be re-elected and have confirmed their commitment to a second term.

Due notification was sent to all national associations confirming that re-election of both was appropriate. Twenty three replies supporting re-electing of Messrs Hetherington and Timagenis were received.

Nominations were called for from the floor. There being none, Senator Angus proposed re-election of Messrs Hetherington and Timagenis; Ray Hayden of the USA MLA seconded.

So resolved.

The Presidency

The contribution of Patrick Griggs was acknowledged, especially in the earlier parts of his

term when reform of the structures and operation of the CMI presented enormous challenges. Mr Griggs leaves a rejuvenated and refinanced CMI, thanks to his efforts during his presidency.

Senator Angus proposed a vote of thanks to Mr Griggs. Mr Griggs was given a standing ovation by the Assembly.

Senator Angus proposed Jean Serge Rohart for the Presidency.

Senator Angus reported that Mr Rohart had indicated his willingness to accept appointment. Notification was duly sent to member associations which were fully supportive.

There being no other nominations

The election of Jean Serge Rohart as President of the Comité Maritime International was moved by Senator Angus, and seconded by Prof Marc Huybrechts of Belgium.

So elected.

Mr Griggs replied with thanks and congratulations to M Rohart.

[The meeting was thereupon taken over by Mr Rohart, as President]

8. Publications

Report of Prof Wiswall received.

Handbook of Maritime Conventions now received and may be ordered from the Secretariat.

The CMI archives are being reduced to CD ROM
The CMI has surplus copies of the various Travaux Préparatoires which will be distributed to a small number of academic institutions where maritime law is taught and researched as a significant subject.

9. Work in progress

The Assembly noted and endorsed the reports submitted to the plenary session.

(a) *UNESCO Draft Underwater Cultural Heritage*
Patrick Griggs read a report prepared by John Kimball, Rapporteur, as follows:

“The UNESCO Convention was adopted on November 2, 2001, by the Plenary Session of the 31st General Conference. The Convention provides that it will enter into force three months after the deposit of the twentieth instrument of ratification, acceptance, approval or accession with the Director-General of UNESCO. Thus far, the Convention has been ratified only by Panama and Bulgaria.

It remains uncertain whether the Convention will enter into force, particularly since it is not supported by most of the major maritime countries. The CMI's objections to the Convention were outlined in the Committee's report of March 17, 2003 (CMI Yearbook-2002 at 154).”

(b) *Offshore Underwater Mobile Craft*
Report of Richard Shaw

During the CMI Conference at Vancouver in May-June 2004 the opportunity was taken for an informal meeting of this group on Thursday 3rd June. Present were Messrs Nigel Frawley, Edgar Gold and William Sharpe (Canada), Prof. Hisashi Tanikawa (Japan), Michael White QC (Australia), and Richard Shaw (UK) in the chair. It was recognised that since the IMO Legal Committee at its meeting in October 2001 removed this subject from the work programme due to the pressure of other work, the CMI Executive Council had decided to incur no further expenditure on this topic for the moment, but had no objection to the Working Group continuing in existence.

The Canadian Maritime Law Association has prepared a draft international instrument and a commentary on its clauses, and these documents, together with a helpful summary of the present position, was tabled at the meeting. It was agreed that the working group should remain in contact, and that the Chairman would mention this subject at the Plenary Session of the Conference, and would invite any delegates of National Maritime Law Associations with an interest in this work to contact either Mr Frawley nhfrawley@earthlink.net or Mr Shaw Richard.Shaw@soton.ac.uk.

Mr Shaw reported accordingly to the Plenary Session. It is hoped that it will be possible to include the documents tabled in the Vancouver II Year Book.

10. Various

(a) *CMI Planning committee*

The report of the Planning Committee was tabled, and adopted.

Future projects identified included the re-establishment of the monitoring of the EU shipping measures and continued efforts to promote interest in maritime law through co-operation with IMLI and other similar institutions.

(b) *New MLA's*

None

(c) *Future CMI fora*

The following dates for future CMI events were noted:

- Assembly 2005: Paris, second week of April 2005.
- Cape Town Colloquium: 13th-15th February 2006
- CMI 39th International Conference: Athens/Piraeus May 2008

There being no further business, the assembly closed at 17h00.

ANNEXURE TO THE MINUTES OF THE CMI ASSEMBLY

RESOLUTIONS OF THE ASSEMBLY AS RECOMMENDED BY THE PLENARY SESSION

GENERAL AVERAGE

The Assembly of the Comité Maritime International, duly represented by the delegates representing the National Maritime Law Associations of the states recorded as being in attendance:

Take due note of the work done by the International Sub-Committee on General Average and of the deliberations and conclusions of the meetings of the Committee at Vancouver at the 38th International Conference of CMI;

Resolve that the York-Antwerp Rules 1994 be amended as tabled, including the amendment to Rule VI, and that the York-Antwerp Rules hereafter be known as The York Antwerp Rules 2004;

Resolve further that the York-Antwerp Rules 2004 be applied in the adjustment of claims in General Average as soon as practicable after 31 December 2004.

Rule VI - Salvage Remuneration

(a) Salvage payments, including interest thereon and legal fees associated with such payments, shall lie where they fall and shall not be allowed in general average, save only that if one party to the salvage shall have paid all or any of the proportion of salvage (including interest and legal fees) due from another party (calculated on the basis of salvaged values and not general average contributory values), the unpaid contribution to salvage due from that other party shall be credited in the adjustment to the party that has paid it, and debited to the party on whose behalf the payment was made.

(b) Salvage payments referred to in paragraph (a) above shall include any salvage remuneration in which the skill and efforts of the salvors in preventing or minimising damage to the environment such as is referred to in Art 13 paragraph 1(b) of the International Convention on Salvage, 1989 have been taken into account

(c) Special compensation payable to a salvor by the shipowner under Article 14 of the said Convention to the extent specified in paragraph 4 of that Article or under any other provision similar in substance (such as SCOPIC) shall not be allowed in general average and shall not be considered a salvage payment as referred to in para (a) of this Rule.

Rule XI—Wages and Maintenance of crew and other expenses putting in to and at a port of refuge etc

(a) Wages and maintenance of master, officers and crew reasonably incurred and fuel and stores

consumed during the prolongation of the voyage occasioned by a ship entering a port or place of refuge or returning to her port or place of loading shall be allowed as general average when the expenses of entering such port or place are allowable as general average in accordance with Rule X(a).

(b) For the purpose of this and the other Rules wages shall include all payments made to or for the benefit of the master, officers and crew, whether such payments be imposed by law upon the ship-owners or be made under the terms of articles of employment.

(c) (i) When a ship shall have entered or been detained in any port or place in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, or to enable damage to the ship caused by sacrifice or accident to be repaired, if the repairs were necessary for the safe prosecution of the voyage, fuel and stores consumed during the extra period of detention in such port or place until the ship shall or should have been made ready to proceed upon her voyage, shall be allowed as general average, except such fuel and stores as are consumed in effecting repairs not allowable in general average.

(ii) Port charges incurred during the extra period of detention shall likewise be allowed as general average except such charges as are incurred solely by reason of repairs not allowable in general average.

(iii) Provided that when damage to the ship is discovered at a port or place of loading or call without any accident or other extraordinary circumstance connected with such damage having taken place during the voyage, then fuel and stores consumed and port charges incurred during the extra detention for repairs to damages so discovered shall not be allowable as general average, even if the repairs are necessary for the safe prosecution of the voyage.

(iv) When the ship is condemned or does not proceed on her original voyage, fuel and stores consumed and port charges shall be allowed as general average only up to the date of the ship's condemnation or of the abandonment of the voyage or up to the date of completion of discharge of cargo if the condemnation or abandonment takes place before that date.

Rule XI(d) to be maintained.

Rule XIV(b)

Where temporary repairs of accidental damage are effected in order to enable the adventure to be completed, the cost of such repairs shall be allowed as general average without regard to the saving, if any, to other interests, but only up to the saving in expense which would have been incurred and allowed in general average if such repairs had not been effected there. Provided that for the purposes of this paragraph only, the cost of temporary repairs falling for consideration shall be limited to the extent that the cost of temporary repairs effected at the port of loading, call or refuge, together with either the cost of permanent repairs eventually effected or, if unrepaired at the time of the adjustment, the reasonable depreciation in the value of the vessel at the completion of the voyage, exceeds the cost of permanent repairs had they been effected at the port of loading, call or refuge.

Rule XX

Delete paragraph (a) and re-letter (b) and (c).

Rule XXI

Delete the following words in Rule XXI – “at the rate of 7 per cent per annum”.

Add (a) before first paragraph.

Add the following new second paragraph to Rule XXI:

(b) Each year the Assembly of the Comité Maritime International shall decide the rate of interest which shall apply. This rate shall be used for calculating interest accruing during the following calendar year.

Rule XXIII –Time bar for Contributions to General Average

(a) Subject always to any mandatory rule on time limitation contained in any applicable law:

(i) Any rights to general average contribution including any rights to claim under general average bonds and guarantees, shall be extinguished unless an action is brought by the party claiming such contribution within a period of one year after the date upon which the general average adjustment was issued. However, in no case shall such an action be brought after six years after the date of termination of the common maritime adventure.

(ii) These periods may be extended if the parties so agree after the termination of the common maritime adventure.

(b) This rule shall not apply as between the parties to the general average and their respective insurers.

TRANSPORT LAW

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Approve the report of the International Sub Committee on Issues of Transport Law; and **Authorise its circulation** within the informal consultation group created at the 13th session of UNCITRAL Working Group III; and generally the continued cooperation with UNCITRAL in the development of the transport law project.

SUA

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Fully support the extension of the scope and applicability of the Convention to prohibit and suppress both acts of terrorism against, on or from ships, and the maritime transport of weapons of mass destruction, and the endeavour to accomplish these objectives whilst respecting and securing the rights of innocent seafarers and the obligations of States Parties to protect their sovereign and commercial interests.

Endorse and commend the work of the Legal Committee of the IMO in formulating amendments to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol, done at Rome on 10th March 1998.

SHIPBOARD CRIMINAL OFFENCES

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves:

Having considered the responses to the Questionnaire on this subject circulated jointly by the CMI and the International Maritime Organization to the members of both organizations together with submissions to and Reports of the IMO Legal Committee on this subject from its 86th through 88th Sessions;

and having examined the issues in detail at its 38th International Conference in Vancouver, BC, together with various means of dealing with the problem;

Resolves that the Comité establish a Joint International Working Group to draft a model national law concerning such offences and that, upon approval of the text of such model national law by the Assembly, it be promulgated to the national Member Associations of the CMI with the request that the model law be reviewed and adapted by them and presented to their respective Governments together with recommendations for its enactment.

REVISION OF CLC AND FUND CONVENTIONS

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Take due note of the work completed by the International Working Group dealing with the revision of the CLC and Fund Conventions, and of the discussions during the sessions devoted to oil pollution at the 38th International Conference of the CMI.

Request that the Working Group continue to monitor developments within the IOPC Fund and to contribute to the review and revision of the CLC and Fund Conventions.

MARINE INSURANCE

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Take due note of the work completed by the International Working Group on Certain Issues of Marine Insurance Law (IWG), and of the discussions during the sessions devoted to marine insurance at the 38th International Conference of the CMI;

Request that the IWG continue to monitor developments in the law and practice of marine insurance, and periodically to report thereon to the Executive Council and to the Assembly of the CMI;

Request that the IWG continue efforts to produce CMI Guidelines for the Formulation of Marine Insurance Laws dealing with the issues covered by its present research; to undertake research into such further issues of marine insurance as may be requested by the Executive Council, proposing such further guidelines as may be appropriate; and to submit any such guidelines, formulated in accordance with the brief received by the IWG at Singapore, to the

CMI in assembly for consideration and possible approval.

PLACES OF REFUGE

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Take due note of the work completed by the International Sub-committee ("ISC") on places of refuge and of the discussions during and documents submitted to the sessions devoted to places of refuge at the 38th International Conference of the CMI.

Recommend that the ISC continue its work in cooperation with the Legal Committee of the IMO, other international organisations and all interested parties.

And further that the ISC submit a report to the IMO and to the Executive Council of the CMI, upon Places of Refuge, including liability and compensation.

BAREBOAT CHARTERS

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Take note of the report submitted to the 38th International Conference of the CMI at Vancouver in June 2004.

Request that the IWG continue its work in cooperation with the Legal Committee of the IMO.

IMPLEMENTATION OF SALVAGE CONVENTION

The Assembly of the Comité Maritime International held at Vancouver on 4 June 2004 resolves to:

Take note of the report submitted to the 38th International Conference of the CMI at Vancouver in June 2004.

Request that the IWG continue its work in cooperation with the Legal Committee of the IMO.

MINUTES OF THE MEETING OF THE EXECUTIVE COUNCIL HELD IN VANCOUVER ON 4TH JUNE 2004 AT 17H30

Attending:

<i>President:</i>	Jean-Serge ROHART
<i>Immediate Past-President:</i>	Patrick J.S. GRIGGS
<i>Vice-Presidents:</i>	Karl-Johan GOMBRII Frank L. WISWALL, Jr.
<i>Councillors:</i>	José Maria ALCANTARA Johanne GAUTHIER Patrick GRIGGS José Tomás GUZMAN S. John HARE (Acting Secretary) Stuart HETHERINGTON Henry H. LI Thomas M. REME Gregory TIMAGENIS
<i>Administrator:</i>	Wim FRANSEN
<i>Treasurer:</i>	Benoît GOEMANS

1. (a) *Apologies*

The President recorded apologies from Messrs Alan Philip and Francesco Berlingieri.

(b) *Approval of Minutes of the Executive Council Meeting held in Vancouver on 30 May 2004.*

Approved as tabled and corrected.

2. *"Things to do"*

John Hare is to prepare a draft to do list arising out of the Council meetings of 30 May and 4 June to submit to the President who would then circulate the list to Council members.

3. *Appointment of Secretary General*

The decision that it would not be in the interests of the CMI to allow Marko Pavliha leave of absence until after October 2004 was endorsed. Mr Rohart reported that Mr Nigel Frawley of Canada had offered his services as Secretary General. Prof Wiswall confirmed that in terms of the constitution the Executive Council was empowered to appoint an acting Secretary General to hold office until the next CMI Assembly.

Resolved to accept the resignation of Mr Marko Pavliha and to appoint Mr Nigel Frawley Acting Secretary General of the Comité Maritime International on a term to run until the Paris 2005 Assembly. € 10,000 disbursement allowance per annum was approved for Mr Frawley.

It was noted that a permanent appointment to the post of Secretary General will require a nomination 120 days before the Assembly at which the appointment is to be made. The President will take the necessary constitutional procedures with the Nominations Committee in time to meet this 120 day deadline.

4. *Review Conference and future work programme*

Mr Rohart outlined proposed changes in the composition of the management function groups of the CMI. He undertook to circulate the list for the information of councillors in due course. It was suggested that the list be divided into separate sections for CMI administrative committees / groups and work in progress groups.

5. *Dates and locations for future CMI event*

The following dates were agreed:

ExCo Hamburg, 5th or 6th November 2004

ExCo &

Assembly Paris, 7th-8th/14th-15th April 2005

ExCo, Assembly & Colloquium

Cape Town 13th-15th February 2006

John Hare tabled a calendar prepared in a format in which Pascale Sterckx would be able to maintain a CMI diary of events. All Councillors were asked to submit dates that warrant inclusion in this running calendar to the CMI office so that Ms Sterckx can circulate an updated calendar from time to time.

6. *Appointment to Nominations Committee*

Two positions are vacant, following the resignations of Profs Berlingieri and Philip. One of these positions may be filled by the sitting Vice Presidents, and the other by the Executive Council.

Mr Bent Nilsen would become Chair of the Nominations Committee, the other members being Mr Griggs, Prof Zhu Zengjie and, upon his nomination by the Vice Presidents, Mr John Kimball.

Resolved that Mr Alexander von Ziegler be asked by the Executive Council to serve on the Nominations Committee.

7. *Functions List update*

See item 4 above.

8. *Conference guidelines*

Mr Griggs will update the guidelines that he prepared after Singapore, and circulate in due course.

9. *Guidelines for monitoring of MLA's*

John Hare tabled proposed guidelines for the monitoring of national associations for consideration and adoption at the next Council meeting.

There being no other business, the meeting adjourned at 18h45.