

A Brief History

The CMI and its Relationship with IMO, the IOPC Funds and other UN Organizations – By Nigel H. Frawley

The Comité Maritime International (“CMI”) is the oldest organization in the world that is exclusively concerned with the unification of maritime law and related commercial practices. Article 1 of the CMI Constitution provides, in part, as follows:

“..... It is a not-for-profit international organization established in Antwerp in 1897, the object of which is to contribute by all appropriate means and activities to the unification of maritime law in all its aspects.

To this end it shall promote the establishment of national associations of maritime law and shall co-operate with other international organizations.”

The CMI has an Executive Council comprising officers and councillors from around the world. Its members are 56 National Maritime Law Associations, with memberships ranging from 10 to 3,600. In all, the CMI is composed of approximately 11,000 individuals worldwide concerned in one way or another with maritime law. They include lawyers, commercial men and women in the shipping and cargo industries, insurers and brokers, and bankers, amongst others.

In 1897, there existed a partnership between the Belgian Government and the CMI that resulted in the famous series of “Brussels Diplomatic Conferences on Maritime Law”. These intergovernmental conferences considered and ultimately adopted the conventions and protocols drafted by the CMI over the decades prior to the creation of IMO’s Legal Committee, and were held between February, 1905 (Collision and Salvage) and December, 1979 (Hague/Visby Rules and SDRs).

The co-operation of the CMI with IMO started immediately after the stranding of the TORREY CANYON on the Seven Stones reef between the Scilly Isles and Lands End in Southwestern England on March 18, 1967. The British Government requested the Intergovernmental Maritime Consultative Organization (IMCO), as the IMO was then named, to consider the problems raised by that incident. After IMCO defined the matters for study, the CMI established an International Committee to study the liability problem arising out of the incident and to work in co-operation with IMCO. At the same time, a Legal Committee was established by IMCO which agreed that the CMI should be asked to co-operate. A joint meeting of representatives of the two Committees was held in London on September 25, 1967. From that time onwards, until the adoption of the International Convention on Civil Liability for oil pollution damage (CLC) on November 29, 1969, the co-operation between IMCO and CMI was continuous and the CMI, through its International Committee chaired by Lord Devlin, contributed in a significant manner to the drafting of the Convention. Further, the CLC Diplomatic Conference, held in Brussels, was chaired by the President of the CMI, Baron Albert Lilar.

Such co-operation continued with the preparation by the CMI of a draft Convention on Carriage of Passengers and their Luggage by Sea, that was adopted in Athens on December 13, 1974, and of the draft Convention on Limitation of Liability for Maritime Claims (“LLMC”) that was adopted in London on November 19, 1976. In his speech at the first Plenary meeting of the 1976 Diplomatic Conference, the secretary-general of IMCO expressed his gratitude to the CMI and its new president Francesco Berlingieri for their co-operation and assistance, and paid tribute to the late president of the CMI, Baron Lilar, under whose presidency the close working relationship between IMCO and the CMI had been forged.

Another international convention that resulted from the co-operation of the CMI with the newly named IMO has been the Salvage Convention 1989, almost entirely based on a CMI draft. The decision to consider the review of the Salvage Convention, 1910 was triggered by the AMOCO CADIZ wreckage on the coast of France in March 1978, that had caused the hitherto largest oil pollution accident. The CMI offered to study the legal questions arising from the incident, and this was accepted by the IMO. The draft of a new Salvage Convention was prepared by a CMI committee under the chairmanship of Professor Erling Selvig and was submitted to the CMI Conference held in Montreal in May 1981. The revised draft convention approved by the Conference was submitted to IMO. After consideration and approval of the draft, with certain amendments, by the IMO Legal Committee, observers of the CMI attending all sessions of the Legal Committee, a final draft was submitted to a Diplomatic Conference held in London in April 1989 and the convention was approved and entered into force on July 14, 1996. Apart from updating the general rules relating to salvage, the text introduced new provisions to encourage salvors to take the marine environment into account whenever undertaking salvage operations by endeavouring to ensure that salvors receive financial compensation in respect of their efforts to protect the environment.

The CMI has also drafted Conventions for consideration and jointly by IMO and UNCTAD, including the 1994 International Convention on Maritime Liens and Mortgages and the 1997 International Convention Relating to the Arrest of Sea-Going Ships. In addition to its continuing work on maritime conventions, the CMI is involved in the formation and maintenance of codes of maritime and related commercial practice. In 1990, the CMI adopted uniform rules for Sea Waybills and, for most of its existence, it has been custodian of the York-Antwerp Rules for Adjustment of General Average, which were most recently revised by the CMI at its Assembly in Vancouver in 2004. The CMI has worked closely with UNCITRAL to unify standards for electronic document interchange.

CMI work has continued with IMO on several other important issues, including the LLMC 1996 Protocol, Athens Convention 2002, Bunkers Convention, Wreck Removal Convention, and research papers on Places of Refuge for vessels in distress, Fair Treatment of Seafarers, and Guidelines for National Legislation on Piracy and Serious Maritime Crime. Quite recently, while the IMO Legal Committee prepared to consider the Australian proposal to increase the limits in the LLMC, the CMI was asked by the Legal Committee to submit a paper explaining the history of the relationship between the personal injury and the property limits under LLMC. Following submission of the paper, the CMI has been asked to submit a further paper for the next Legal Committee meeting on a related topic.

In the early 1990s the CMI embarked upon a study aiming for a wholesale reform of international maritime transport law. Quite independently, UNCITRAL commenced a similar program a few years later. CMI and UNCITRAL agreed to work together on the project and after 10 years it resulted in the United Nations Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea, 2008, which became known as the Rotterdam Rules.

It should be mentioned that the CMI has co-operated with the International Oil Pollution Compensation Funds (IOPC Funds), having had Observer status with the Funds since the creation of the 1971 Fund in November 1978. The CMI has been represented at most meetings of the various Fund bodies and has taken an active part in their work, in particular in the context of preparations for revisions of the CLC 1969 and Fund Conventions.

The CMI was one of the first NGOs to be granted consultative status by the IMO. It has always regarded it as a privilege to co-operate with and work closely with IMO on many pressing maritime law issues of the day. To that end, it has sent and continues to send Observers to virtually all meetings of the IMO Legal Committee.

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