



COMITE MARITIME INTERNATIONAL, AISBL

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

Participating:

President: Karl-Johan Gombrii

Vice Presidents: Stuart Hetherington
Johanne Gauthier

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

Secretary-General: Nigel Frawley

Administrator: Wim Fransen

Treasurer: Benoît Goemans

Apologies: Jean-Serge Rohart and Sergej Lebedev

The President opens the Executive Council meeting.

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



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3. *Management Committee report*

Karl Gombrii referred to the report on this meeting, held on 21 and 22 May 2012 in London.

4. *Finances*

a) *Treasurer's report*

Benoît Goemans refers to the written Treasurer's report.

Questioned about the investments of CMI Benoît Goemans further reported that a thorough investigation of the level of interest rates was made a year ago and that since then the situation remained unchanged. It was suggested that the Audit Committee should be satisfied at the appropriateness of the investments of the CMI and the currency spread and this information should be contained in the annual accounts.

b) *2013 categories of subscriptions*

Benoît Goemans recommended the retention of the level of subscriptions, applying the Rotterdam level minus 10% for early birds. The anticipated deficit was EUR 28.100.

The proposal was approved for recommendation to the Assembly.

c) *Unpaid subscriptions*

The reports of Chris Davis and Jorge Radovich on unpaid subscriptions are noted with satisfaction.

d) *Charitable Trust*

The report of Karl Gombrii on Charitable Trust (see Assembly documentation) was noted with appreciation.

5. *Members*

a) *Nominations for Titulary Membership*

The nominations for titulary membership of Robert G. Clyne, William A. Graffam, José Vicente



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Guzman and Philippe Delebecque received unanimous support.

b) Provisional and Regional Members

Louis Mbanefo who was asked to review the provisional memberships of Kenya, Honduras and the Democratic Republic of Congo reported that as far as Kenya, Uganda, Tanzania and the Seychelles are concerned they are trying to create an East African Regional Association.

In Kenya, Mr Ogola needs to be discontinued as a Provisional Member because he has become a Judge. In Congo no real progress has been made. In relation to Honduras, Norman Martinez should be retained as a Provisional Member. Honduras is a member of IIDM and cannot afford to be a member of both associations.

Jorge Radovich will review and discuss the possibility of a Central American Regional Association for countries such as Costa Rica, Nicaragua, Guatemala and El Salvador to be formed.

c) New NMLAs and current prospects

An application was made by the Ukrainian Bar Association to found a NMLA which received positive comments from Sergej Lebedev. The Executive Council recommended acceptance of that application.

The Indonesian MLA has applied for membership of the CMI. Its membership base used to be too small but today at least three different law firms are involved on the board of the IMLA that has thus become more democratic. The Executive Council recommended acceptance of the application of the Indonesian MLA.

Giorgio Berlingieri will follow up the situation of the Egyptian MLA. Egypt's by-laws do not comply with CMI requirements and we are encouraging a broader based membership to be established.

We have been approached by two groups within India who have formed Indian Associations. We are encouraging them to liaise with each other.

There is no formal application from Poland but the Polish Maritime Law Association would be interested to become a member of the CMI if it can be discharged from its old debts. It was proposed that Pawel Mickiewicz should become a provisional member of the CMI as an individual. This was agreed.



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The Moroccan Maritime Law Association has been dormant for a number of years. Its arrears are EUR 9.112,61. It is composed of three different NMLAs. It was agreed that Executive Council should take steps to start expulsion and make a motion to expel the Moroccan MLA 90 days before the next Assembly pending which Jean-Serge Rohart should be asked to resume discussions with them.

d) *Continued consultation process*

Chris Davis reported on the continued consultation process with potential NLMAs (see Assembly documentation).

e) *Consultative members*

Organisations can become consultative members on the condition that they are international and interested in the objectives of the CMI. We should make an informal approach towards those institutions that have shown an interest through their National Association. A question for debate is whether national bodies (such as arbitral associations) are sufficiently international in their outlook, or whether this should not be a matter of concern for such bodies. Arbitration is an area that CMI has not been overly concerned with and it may be appropriate to encourage such bodies to take an interest in activities for CMI.

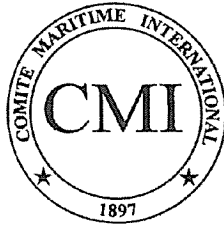
A number of the consultative organisations have out of date information in the CMI Yearbook.

As far as ISU is concerned it was decided that it should be invited to make an application. ISU was approved as observer for the Beijing Conference.

6. *Nominations*

The Nominating Committee has proposed Stuart Hetherington as new President, Giorgio Berlingieri as new Vice-President and Tomotaka Fujita as new executive councillor; Johanne Gauthier to stay on as Vice-President, and Louis Mbanefo and Andrew Taylor to continue in the Executive Council.

The individuals having left the meeting the nominations of the Nominating Committee were discussed and supported by the Executive Council.



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7. *Work in progress*

a) *General Average (GA interest rate)*

The interest rate is recommended at 2,75% per annum in a note to be forwarded to the General Assembly with a recommendation to approve.

b) *Piracy*

Andrew Taylor will be reporting on Piracy at the Conference. There is limited activity in this area for CMI.

c) *Fair Treatment of Seafarers*

Giorgio Berlingieri will address the subject at the Conference. Olivia Murray, who chairs the IWG, has been unavoidably detained from attending the Conference by work commitments.

d) *Salvage Convention*

Stuart Hetherington who is heading the IWG dealing with the possible revision of the 1989 Salvage Convention stresses that this is a contentious issue and there will be an interesting debate at the Conference.

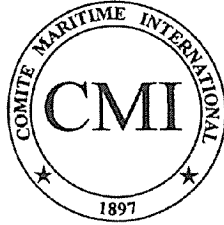
e) *Judicial Sales of Ships*

Karl Gombrii and Henry Li expressed the opinion that this instrument should probably become a convention but so far IMO has not expressed much interest. A stand-alone convention would need another sponsoring UN body or a State willing to take it to a Diplomatic Conference.

Henry Li hopes that a draft is ready for adoption by the Plenary Session and expects his work to conclude. The finished product (if that materializes) is to be submitted to the National Maritime Law Associations at the Plenary on Friday for resolution.

f) *Arrest Convention*

It was decided to discontinue the IWG dealing with this subject. (John Hare has stepped down as Chairman of the IWG). The Arrest Convention 1999 is being treated by some States as a model law.



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g) *Implementation and Interpretation of International Conventions*

It was decided to give further consideration to this IWG at Friday's Executive Council meeting.

b) *Marine Insurance*

The IWG presses forward with its work on mandatory insurance. The chairman needs more replies to their Questionnaire. The Executive Council will continue watching out for new insurance developments.

i) *Cross Border Insolvencies*

Chris Davis noted that the work is on-going and that topics of both commercial and academic interest are being dealt with.

j) *Limitation of Liability*

Gregory Timagenis reported in person on the work of this IWG and was applauded by the Executive Council on the enormous amount of efforts made by him and his group. He confirmed that the work on Procedural issues had concluded. He advised that certain substantive issues had been identified in the answers to Questionnaires.

A new IWG may therefore be created in order to establish Guidelines on purely substantive matters. Alternative scenarios for such work may be an instrument or protocol to cover the shortcomings in the Convention or an interpretation of the uncertain issues. He favoured the latter. Frank Smeele of the Netherlands MLA is among those having shown an interest. It was suggested that Helen Noble, President of the Irish Maritime Law Association, be requested to report on the substantive issues that have been identified by MLAs in response to a questionnaire and Executive Council will then consider the creation of a new IWG.

k) *Arctic/Antarctic Legal Regimes*

Nigel Frawley referred to the Assembly documentation but recommended that the IWG should be expanded as to include various professors specialized in this field for which there is a growing interest from all national states concerned.



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8. *Publications*

a) *Handbook of Maritime Conventions*

Karl Gombrii reported that LexisNexis is no longer interested in publishing the Handbook of Maritime Conventions. The CMI secretariat though is regularly questioned as to where the Handbook can still be found. IMLI has been identified as a possible publisher. Patrick Griggs is in discussion with IMLI. Frank Wiswall has been asked to provide materials.

b) *The Yearbook Parts I and II*

Giorgio Berlingieri reported that the Yearbook Part I is available. It appears there is an insufficient number of Yearbooks at the conference to distribute to all delegates (250 copies) owing to cost and other logistical factors. 200 more copies are on their way to the Secretariat in Antwerp for distribution as necessary.

c) *Newsletters*

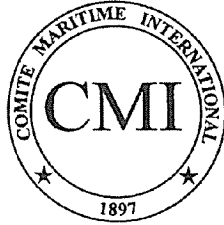
The Newsletters that have been sent to the CMI secretariat will be sent to all CMI Members in the not too distant future.

d) *Jurisprudence on Maritime Conventions*

Giorgio Berlingieri and Benoît Goemans reported that Francesco Berlingieri would wish to be discharged from collecting and publishing case law on maritime conventions in the not too distant future. Benoît Goemans presented a paper as to the need of employing a lawyer on a part-time basis to collect case law on Maritime Conventions from the various regions covered by CMI-membership, to select relevant judgments, prepare a summary thereof and have them published.

This idea was approved by Executive Council and Benoît Goemans was invited to investigate whether a suitable person can be found and to give an estimation of the office and employment cost to be expected.

Executive Council expressed its gratitude to Francesco Berlingieri on the work performed over the decades.



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9. *Young Members*

Concerns were expressed that there is a perception that young CMI requires membership. Questions were raised as to whether CMI really wanted to create a sub-culture within CMI. We want to encourage younger maritime lawyers to attend conferences and CMI events and participate in working groups and the work of the CMI.

10. *Singapore Regional Office*

Karl Gombrii reminded the Executive Council that there is a need to have a regional office in Singapore to attract the Asian region and make CMI better known in the growing Asian maritime market.

He reported that in view of the costs of such a regional office the authorities in Singapore are willing to support 70% of all office and employment costs. It is anticipated that Lawrence Teh, lawyer in Singapore, would be the person heading the Singapore regional office.

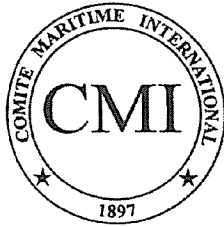
There was recognition that CMI has been seen in the past as being Eurocentric. There was concern that CMI should not be seen to be over concentrating on one region or become too dependent on finances from an external source.

Stuart Hetherington stresses that there is no intention to establish the head office of CMI in Singapore and that it should remain in Belgium.

Karl Gombrii will inform the General Assembly on Friday October 19 2012 that the Executive Council is making satisfactory arrangements to have a regional office in Singapore as per the mandate it received to that effect from the Assembly held in Oslo on 27th September 2011. It will explore whether there is a need for similar regional offices in other parts of the world, such as Latin America and Africa or whether a rotation of a single regional office to different parts of the world would be as advantageous and less costly. At this time there is a particular need in Asia to facilitate and encourage the formation of more NMLAs.

11. *Revisions to York Antwerp Rules 2004*

Karl Gombrii reported on the steps taken to revise YAR 2004, which will be discussed at the Conference.



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12. *Conference at Beijing and Shanghai Add-On*

Nigel Frawley and Song Dihuang reported on arrangements for the Conference and Shanghai “Add-on”.

13. *Standing Committees, International Working Groups and International Subcommittees*

At the next Executive Council meeting we should decide whether to revise the IWG on Offshore Industry or not. The appointment of Prof. Wang Pengnan to the IWG on marine insurance was ratified.

14. *Other Business*

a) *Future Seminars, Colloquia and Conferences*

The Irish MLA celebrates its 50th anniversary in Dublin in October 2013 and its President Helen Noble proposed a CMI Assembly and a Symposium to be held in combination with the bi-annual Seminar on maritime law that will be organised in Dublin in the month of September/October 2013. Subject to finding a suitable date the Executive Council is in favour of accepting this proposal with gratitude.

b) *Albert Lilar Prize*

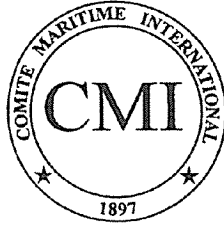
Wim Fransen reported that a prize will be awarded by the Foundation Albert Lilar to an author of an innovative book on maritime law.

c) *Website*

Stuart Hetherington reported that Giorgio Berlingieri will take over responsibility for the CMI website (as his successor) and stressed the need to constantly update the website.

d) *Administration*

Karl Gombrii and Stuart Hetherington reported that Hilde van de Wiele has taken over from Pascale Sterckx as Assistant Administrator of the CMI, and she will be asked to undertake training in order to be able to up-date the website.



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e) *Closer relations with IMO and other international organisations*

Karl Gombrii and Stuart Hetherington recommend that CMI should develop closer relations with IMO and other international organisations. A list of liaison persons will be established..

f) *Directors and Officers Insurance*

This item was moved to the second Executive Council meeting at Beijing on Friday 19th October 2012.

g) *ICC/CMI Members re Maritime Arbitration*

This item was moved to the second Executive Council meeting at Beijing on Friday 19th October 2012.

h) *Proposal for a Young CMI Seminar in South America in 2013*

This item was moved to the second Executive Council meeting at Beijing on Friday 19th October 2012.

15. *Next Executive Council meeting*

- a) A second Executive Council meeting will be held in Beijing on Friday 19 October 2012 at 4.30 p.m.
- b) A virtual Executive Council meeting will be held in 2013 at a date to be discussed at the Executive Council meeting following on from the Assembly meeting on Friday 19 October 2012 in Beijing.

16. *Next Assembly and Conference*

The next CMI Assembly will be discussed at the next Executive Council meeting following the Assembly meeting on Friday 19 October 2012 in Beijing. The next CMI Conference will be held in New York in 2016.



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17. Termination

Stuart Hetherington, as the new President elect of the CMI expressed Executive Council's gratitude to Karl Gombrii for his hard work and devotion as President of the CMI over the last four years and, previously, as Vice-President and Executive Councillor.

By virtue of the Nominating Committee's report, assuming the Assembly supports it, this would have been Jean-Serge Rohart's last Executive Council meeting as he will no longer be the immediate Past President and therefore must step down as a member of the Executive Council. He was unable to attend the Conference in Beijing due to business commitments but was thanked in his absence for all his contributions to the CMI, as President and Executive Councillor over many years.

The meeting closed.

President
Stuart Hetherington

Secretary General
Nigel Frawley