

Report to the CMI Assembly – Dublin, 1 October 2013 (updated from report to ExCo 31 Aug 2013)

After consultation with ICS, in April 2013 the President of CMI sent letters to the Presidents of the NMLAs¹ introducing the joint action to be taken towards getting governments to ratify eleven maritime conventions that are of primary interest to CMI/ICS and the IMO. In a first stage, NMLAs were asked to contact their governments and provide information about their intentions and time frame for ratification, as well as any reasons for not doing so and what could the NMLAs and ICS affiliates do about that.

Later that month, the joint initiative was presented by Patrick Griggs to the 100th session of the IMO Legal Committee.

To date, substantive response has been received from **ten NMLAs**² and a further nine³ have written to confirm receipt and/or comment on this initiative. That leaves about 31 NMLAs who have not even acknowledged the letter. Reminders were sent out by the President in September 2013 and it is reasonable to expect further input from NMLAs in the next few months.

Of the ten NMLAs who replied substantively:

- eight have addressed all conventions in one go and two (Italy and South Africa) are taking it in stages (we have no problem with that);
- about half have given reasons why their governments are not ratifying conventions. We'd like to **receive reasons from all**. It's important to assess where the problem lies so as to adjust our future approach accordingly;
- few have addressed whether there is something that they or the ICS affiliate in their country could do to promote ratification, and the answer was that little can be done other than, in general terms, to advise their governments. Our task will have to be to **think of and recommend more specific action** at national level.
- one NMLA (South Africa) seem to have the ear of their government to a significant degree.

It is important that NMLAs, together with the local member of the ICS, make contact with their governments in any event. Institutional memory is short in some countries and it may be that the officials currently in charge of maritime conventions are not familiar with the NMLA's work.

Further, it is necessary for NMLAs to realise that this is not an exercise of reporting about the status of ratification of conventions in their jurisdiction. We are writing back to those associations with "incomplete" replies explaining that the value of their work in this first stage is in assessing the reasons for not ratifying and in making suggestions as to what could be done. Any future reminders to those NMLAs who have not responded at all should be in the same spirit.

On substance, and judging from the small number of replies available to date:

- PAL PROT, LLMC PROT, MARPOL Annex VII, MLC and FAL are areas where work is least likely to be necessary, as ratification has either been completed or is a matter of time (with the policy decision already taken by the respective governments).

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¹ These were sent out to NMLAs in 29 countries where there is also an affiliate of the ICS and in 21 countries where there isn't one.

² Netherlands, South Africa, Spain, France, Malta, Turkey, Nigeria, Norway, China, Italy (in chronological order).

³ Argentina, Belgium, Finland, Germany, Ireland, Japan, Rep. of Korea, Panama and the United States.

Page 2 – Report to the CMI Assembly – Dublin, 1 October 2013

- The conventions with nil or small rate of accession are HNS, Rotterdam Rules, Wreck Removal and the 1999 Arrest Convention – for different reasons, which is where our work is likely to have to concentrate.

- the impact of European Union membership is obvious both ways, e.g. towards implementation of the Athens Protocol pre-ratification (via the Passenger Liability Regulation) but also as a hindrance to ratification of conventions which include provisions on civil jurisdiction.

Going forward:

We will wait to hear substantively from more MLAs. It would not be fair to draw conclusions before we've received reasons for not ratifying these 11 conventions from, say, one half of our membership. We will then consult with the ICS and, jointly, with the IMO on how best to tackle the causes behind failure to ratify.

CMI and ICS will then each approach their members individually with a view to proposing and discussing solutions (as may result from the analysis of the reasons for not ratifying). When feedback is received from our member associations, we will discuss it with the IMO Legal Department and see whether the IMO can address the individual countries' concerns directly with its government. If so, CMI and ICS will step back during such time as this is done. If not, CMI and ICS will each revert to their respective member and ask them to lobby their government directly. When further feedback is received, we will again discuss it with IMO and decide what further steps are worth taking.

After the above is over and done with, we will monitor accession by those States who have indicated they are willing to proceed. In respect of states not willing to accede, CMI/ICS will each write periodically (perhaps every year) to their respective member to check whether circumstances have changed in a way that would make it feasible to promote accession.

Separately, and independently of the above, we will be discussing further with the IMO's Technical Cooperation Division about how CMI and ICS could assist them in promoting accession to conventions. This could be, for instance, by way of people from our two organisations making presentations on conventions to government officials in the countries where the TCD is active. In that regard, we may ask members of the NMLAs with a proven track record in a particular convention to volunteer to attend a TCD function on CMI's behalf. For instance, there are regional seminars hosted by the IMO which are attended by the Heads of the Maritime Administrations of a wider geographical area and these could be **a good forum for the CMI and ICS to provide their expertise**.

A further report will be presented at the next CMI colloquium or conference.

*Deucalion Rediadis, Rapporteur
Dublin, 1 October 2013*

Louis Mbanefo, Chairman