COMITE MARITIME INTERNATIONAL

YEARBOOK
1993
ANNUAIRE

SYDNEY I
Documents for the Conference

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PART I

Organization of the CMI

Comité Maritime International

CONSTITUTION

(1992)

PART I - GENERAL

Article 1
Object

The Comité Maritime International is a non-governmental international organization, 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 cooperate with other international organizations.

Article 2
Domicile

The domicile of the Comité Maritime International is established in Belgium.

Article 3
Membership

a) The Comité Maritime International shall consist of national (or multinational) Associations of Maritime Law, the objects of which conform to that of the Comité Maritime International and the membership of which is open to persons (individuals or bodies corporate) who either are involved in maritime activities or are specialists in maritime law. Member Associations should endeavour to present a balanced view of the interests represented in their Association.

Where in a State there is no national Association of Maritime Law in existence, and an organization in that State applies for membership of the Comité Maritime International, the Assembly may accept such organization as a Member of the Comité Maritime International if it is satisfied that the object of such organization, or one of its objects, is the unification of maritime law in all its aspects. Whenever reference is made in this Constitution to Member Associations, it will be deemed to include any organization admitted as a Member pursuant to this Article.

Only one organization in each State shall be eligible for membership, unless the Assembly otherwise decides. A multinational Association is eligible for

Comite Maritime International

STATUTS

1992

Ière PARTIE - DISPOSITIONS GENERALES

Article 1er
Objet

Le Comité Maritime International est une organisation nongouvernementale internationale qui a pour objet de contribuer, par tous travaux et moyens appropriés, à l'unification du droit maritime sous tous ses aspects.

Il favorisera à cet effet la création d'Associations nationales de droit maritime. Il collaborera avec d'autres organisations internationales.

Article 2
Siège

Le siège du Comité Maritime International est fixé en Belgique.

Article 3
Membres

a) Le Comité Maritime International se compose d'Associations nationales (ou multinationales) de droit maritime, dont les objectifs sont conformes à ceux du Comité Maritime International et dont la qualité de membre est accordée à toutes personnes (personnes physiques ou personnes morales) qui, ou bien participent aux activités maritimes, ou bien sont des spécialistes du droit maritime. Chaque Association membre s'efforcera de maintenir l'équilibre entre les divers intérêts représentés dans son sein.

Lorsque dans un pays il n'existe pas d'Association nationale, si une organisation de ce pays pose sa candidature pour devenir membre du Comité Maritime International, l'Assemblée peut accepter une pareille organisation comme membre du Comité Maritime International après s'être assurée que l'objectif, ou un des objectifs, poursuivis par cette organisation est l'unification du droit maritime sous tous ses aspects. Toute référence dans les présents statuts à des Associations membres comprendra toute organisation qui aura été admise comme membre conformément au présent article.

Une seule organisation par pays est éligible en qualité de membre du Comité Maritime International, à moins que l'Assemblée n'en décide autrement. Une

membership only if there is no Member Association in any of its constituent States.

b) Individual members of Member Associations may be appointed by the Assembly as Titulary Members of the Comité Maritime International upon the proposal of the Association concerned, to the maximum of twenty-one per Member Association. The appointment shall be of an honorary nature and shall be decided having regard to the services rendered by the candidates to the Comité Maritime International and to their reputation in legal or maritime affairs. Titulary Members shall not be entitled to vote.

Titulary Members presently or formerly belonging to an association which is no longer a member of the Comité Maritime International may continue to be individual Titulary Members at large, pending the formation of a new Member Association in their State.

c) Nationals of States where there is no Member Association in existence and who have demonstrated an interest in the object of the Comité Maritime International may be admitted as Provisional Members but shall not be entitled to vote. Individuals who have been Provisional Members for not less than five years may be appointed by the Assembly as Titulary Members, to the maximum number of three such Titulary Members from any one State.

d) The Assembly may appoint to Membership Honoris Causa any individual who has rendered exceptional service to the Comité Maritime International, with all of the rights and privileges of a Titulary Member but without payment of contributions.

Members Honoris Causa shall not be attributed to any Member Association or State, but shall be individual Members of the Comité Maritime International as a whole.

e) International organizations which are interested in the object of the Comité Maritime International may be admitted as Consultative Members but shall not be entitled to vote.

PART II - ASSEMBLY

Article 4
Composition

The Assembly shall consist of all Members of the Comité Maritime International and the members of the Executive Council.

Each Member Association and Consultative Member may be represented in the Assembly by not more than three delegates.

As approved by the Executive Council, the President may invite Observers to attend all or parts of the meetings of the Assembly.

Article 5
Meetings

The Assembly shall meet annually on a date and at a place decided by the

association multinationale n'est éligible en qualité de membre que si aucun des Etats qui la composent ne possède d'Association membre.

b) Des membres individuels d'Associations membres visées dans la première partie de cet article peuvent être nommés membres titulaires du Comité Maritime International par l'Assemblée sur proposition de l'Association membre intéressée, à raison de vingt et un au maximum par Association membre. Cette nomination aura un caractère honorifique et sera décidée en tenant compte des services rendus au Comité Maritime International par les candidats et de la notoriété qu'ils auront acquise dans le domaine du droit ou des affaires maritimes.

Les membres titulaires n'auront pas le droit de vote.

Les membres titulaires appartenant ou ayant appartenu à une Association qui n'est plus membre du Comité Maritime International peuvent rester membres titulaires individuels hors cadre, en attendant la constitution d'une nouvelle Association membre dans leur Etat.

c) Les nationaux des pays où il n'existe pas une Association membre mais qui ont fait preuve d'intérêt pour les objectifs du Comité Maritime International peuvent être admis comme membres provisoires, mais n'auront pas le droit de vote. Les personnes physiques qui sont membres provisoires depuis cinq ans au moins peuvent être nommées membres titulaires par l'Assemblée, à concurrence d'un maximum de trois par pays.

d) L'Assemblée peut nommer membre d'honneur, jouissant des droits et privilèges d'un membre titulaire mais dispensé du paiement des cotisations, toute personne physique ayant rendu des services exceptionnels au Comité Maritime International.

Les membres d'honneur ne relèvent d'aucune Association membre ni d'aucun Etat, mais sont à titre personnel membres du Comité Maritime International pour l'ensemble de ses activités.

e) Les organisations internationales qui s'intéressent aux objectifs du Comité Maritime International peuvent être admises en qualité de membres consultatifs, mais n'auront pas le droit de vote.

2ème PARTIE - ASSEMBLEE

Article 4
Composition

L'Assemblée est composée de tous les membres du Comité Maritime International et des membres du Conseil Exécutif.

Toute Association membre et tout membre consultatif peuvent être représentés à l'Assemblée par trois délégués au maximum.

Le Président peut, avec l'approbation du Conseil Exécutif, inviter des observateurs à assister, totalement ou partiellement, aux réunions de l'Assemblée.

Article 5
Réunions

L'Assemblée se réunit chaque année à la date et au lieu fixés par le Conseil

Executive Council. The Assembly shall also meet at any other time, for a specified purpose, if requested by the President, by ten of its Member Associations or by the Vice-Presidents. At least six weeks notice shall be given of such meetings.

Article 6
Agenda and Voting

Matters to be dealt with by the Assembly, including election to vacant offices, shall be set out in the agenda accompanying the notice of the meeting. Decisions may be taken on matters not set out in the agenda, other than amendments to this Constitution, provided no Member Association represented in the Assembly objects to such procedure.

Each Member Association present in the Assembly and entitled to vote shall have one vote. The right to vote cannot be delegated or exercised by proxy.

All decisions of the Assembly shall be taken by a simple majority of Member Associations present, entitled to vote, and voting. However, amendments to this Constitution shall require the affirmative vote of a two-thirds majority of all Member Associations present, entitled to vote, and voting.

Article 7
Functions

The functions of the Assembly are:

a) To elect the Officers of the Comité Maritime International;
b) To admit new members and to appoint, suspend or expel members;
c) To fix the rates of member contributions to the Comité Maritime International;
d) To consider and, if thought fit, approve the accounts and the budget;
e) To consider reports of the Executive Council and to take decisions on the future activity of the Comité Maritime International;
f) To approve the convening and decide the agenda of, and ultimately approve resolutions adopted by, International Conferences;
g) To amend this Constitution;
h) To adopt rules of procedure not inconsistent with the provisions of this Constitution.

PART III - OFFICERS

Article 8
Designation

The Officers of the Comité Maritime International shall be:

a) The President,
b) The Vice-Presidents,
c) The Secretary-General,

Exécutif. L'Assemblée se réunit en outre à tout autre moment, avec un ordre du jour déterminé, à la demande du Président, de dix de ses Associations membres, ou des Vice-Présidents. Le délai de convocation est de six semaines au moins.

Article 6
Ordre du jour et votes

Les questions dont l'Assemblée devra traiter, y compris les élections à des charges vacantes, seront exposées dans l'ordre du jour accompagnant la convocation aux réunions. Des décisions peuvent être prises sur des questions non inscrites à l'ordre du jour, exception faite de modifications aux présents statuts, pourvu qu'aucune Association membre représentée à l'Assemblée ne s'oppose à cette façon de faire.

Chaque Association membre présente à l'Assemblée et jouissant du droit de vote dispose d'une voix. Le droit de vote ne peut pas être délégué ni exercé par procuration.

Toutes les décisions de l'Assemblée sont prises à la majorité simple des Associations membres présentes, jouissant du droit de vote, et prenant part au vote. Toutefois, le vote positif d'une majorité des deux tiers de toutes les Associations membres présentes, jouissant du droit de vote et prenant part au vote sera nécessaire pour modifier les présents statuts.

Article 7
Fonctions

Les fonctions de l'Assemblée consistent à:

a) Elire les membres du Bureau du Comité Maritime International;
b) Admettre de nouveaux membres et nommer, suspendre ou exclure des membres;
c) Fixer les montants des cotisations des membres du Comité Maritime International;
d) Examiner et, le cas échéant, approuver les comptes et le budget;
e) Etudier les rapports du Conseil Exécutif et prendre des décisions concernant les activités futures du Comité Maritime International;
f) Approuver la convocation et fixer l'ordre du jour de Conférences Internationales du Comité Maritime International, et approuver en dernière lecture les résolutions adoptées par elles;
g) Modifier les présents statuts;
h) Adopter des règles de procédure sous réserve qu'elles soient conformes aux présents statuts.

3ème PARTIE - MEMBRES DU BUREAU

Article 8
Désignation

Les membres du Bureau du Comité Maritime International sont:

a) le Président,
b) les Vice-Présidents,
c) le Secrétaire Général,

d) The Treasurer,
e) The Administrator (if an individual), and
f) The Executive Councillors.

Article 9
President

The President of the Comité Maritime International shall preside over the Assembly, the Executive Council, and the International Conferences convened by the Comité Maritime International. He shall be an ex-officio member of any Committee, International Sub-Committee or Working Group appointed by the Executive Council.

With the assistance of the Secretary-General and the Administrator he shall carry out the decisions of the Assembly and of the Executive Council, supervise the work of the International SubCommittees and Working Groups, and represent the Comité Maritime International externally.

In general, the duty of the President shall be to ensure the continuity and the development of the work of the Comité Maritime International.

The President shall be elected for a full term of four years and shall be eligible for re-election for one additional term.

Article 10
Vice-Presidents

There shall be two Vice-Presidents of the Comité Maritime International, whose principal duty shall be to advise the President and the Executive Council, and whose other duties shall be assigned by the Executive Council.

The Vice-Presidents, in order of their seniority as officers of the Comité Maritime International, shall substitute for the President when the President is absent or is unable to act.

Each Vice-President shall be elected for a full term of four years, and shall be eligible for reelection for one additional term.

Article 11
Secretary-General

The Secretary-General shall have particular responsibility for organization of the non-administrative preparations for International Conferences, Seminars and Colloquia convened by the Comité Maritime International, and to maintain liaison with other international organizations. He shall have such other duties as may be assigned by the Executive Council and the President.

The Secretary-General shall be elected for a term of four years, and shall be eligible for reelection without limitation.

Article 12
Treasurer

The Treasurer shall be responsible for the funds of the Comité Maritime International, and shall collect and disburse, or authorize disbursement of, funds as directed by the Executive Council.

The Treasurer shall keep the financial accounts, and prepare the balance sheet

d) le Trésorier,
e) l'Administrateur (s'il est une personne physique) et
f) les Conseillers Exécutifs.

Article 9
Le Président

Le Président du Comité Maritime International préside l'Assemblée, le Conseil Exécutif et les Conférences Internationales convoquées par le Comité Maritime International. Il est membre de droit de tout comité, de toute commission internationale ou de tout groupe de travail désignés par le Conseil Exécutif.

Avec le concours du Secrétaire Général et de l'Administrateur il met à exécution les décisions de l'Assemblée et du Conseil Exécutif, surveille les travaux des commissions internationales et des groupes de travail, et représente, à l'extérieur, le Comité Maritime International.

D'une manière générale, la mission du Président consiste à assurer la continuité et le développement du travail du Comité Maritime International.

Le Président est élu pour un terme entier de quatre ans et est rééligible une fois.

Article 10
Les Vice-Présidents

Le Comité Maritime International comprend deux Vice-Présidents, dont la mission principale est de conseiller le Président et le Conseil Exécutif, et dont d'autres missions leur sont confiées par le Conseil Exécutif.

Le Vice-Président le plus ancien comme membre du Bureau du Comité Maritime International supplée le Président quand celui-ci est absent ou dans l'impossibilité d'exercer sa fonction.

Chacun des Vice-Présidents est élu pour un terme entier de quatre ans, renouvelable une fois.

Article 11
Le Secrétaire Général

Le Secrétaire Général a tout spécialement la responsabilité d'organiser les préparatifs, autres qu'administratifs, des Conférences Internationales, séminaires et colloques convoqués par le Comité Maritime International, et de poursuivre la liaison avec d'autres organisations internationales. D'autres missions peuvent lui être confiées par le Conseil Exécutif et le Président.

Le Secrétaire Général est élu pour un terme de quatre ans, renouvelable sans limitation de durée.

Article 12
Le Trésorier

Le Trésorier répond des fonds du Comité Maritime International, il encaisse les fonds et en effectue ou en autorise le déboursement conformément aux instructions du Conseil Exécutif.

Le Trésorier établit les comptes financiers, prépare le bilan de l'année civile écoulée ainsi que les budgets de l'année en cours et de l'année suivante, et sou-

for the preceding calendar year and the budgets for the current and next succeeding year, and shall present these not later than the 31st of January each year for review by the Executive Council and approval by the Assembly.

The Treasurer shall be elected for a term of four years, and shall be eligible for re-election without limitation.

Article 13
Administrator

The functions of the Administrator are:

a) To give official notice of all meetings of the Assembly and the Executive Council, of International Conferences, Seminars and Colloquia, and of all meetings of Committees, International Sub Committees and Working Groups;
b) To circulate the agendas, minutes and reports of such meetings;
c) To make all necessary administrative arrangements for such meetings;
d) To carry into effect the administrative decisions of the Assembly and of the Executive Council, and administrative determinations made by the President;
e) To circulate such reports and/or documents as may be requested by the President, the Secretary General, the Treasurer or the Executive Council;
f) In general to carry out the day by day business of the secretariat of the Comité Maritime International.

The Administrator may be an individual or a body corporate. If an individual, the Administrator may also serve, if elected to that office, as Treasurer of the Comité Maritime International.

The Administrator, if an individual, shall be elected for a term of four years, and shall be eligible for re-election without limitation. If a body corporate, the Administrator shall be appointed by the Assembly upon the recommendation of the Executive Council, and shall serve until a successor is appointed.

Article 14
Executive Councillors

There shall be eight Executive Councillors of the Comité Maritime International, who shall have the functions described in Article 18.

The Executive Councillors shall be elected upon individual merit, also giving due regard to balanced representation of the legal systems and geographical areas of the world characterized by the Member Associations.

Each Executive Councillor shall be elected for a full term of four years, and shall be eligible for re-election for one additional term.

Article 15
Nominations

A Nominating Committee shall be established for the purpose of nominating individuals for election to any office of the Comité Maritime International.

The Nominating Committee shall consist of:

a) A chairman, who shall have a casting vote where the votes are otherwise equally divided, and who shall be elected by the Executive Council,

met ceux-ci, au plus tard le 31 janvier de chaque année, à l'examen du Conseil Exécutif et à l'approbation de l'Assemblée.

Le Trésorier est élu pour un terme de quatre ans, renouvelable sans limitation de durée.

Article 13
L'Administrateur

Les fonctions de l'Administrateur consistent à:

a) envoyer les convocations pour toutes les réunions de l'Assemblée et du Conseil Exécutif, des conférences internationales, séminaires et colloques, ainsi que pour toutes réunions de comités, de commissions internationales et de groupes de travail,
b) distribuer les ordres du jour, procès-verbaux et rapports de ces réunions,
c) prendre toutes les dispositions administratives utiles en vue de ces réunions,
d) mettre à exécution les décisions de nature administrative prises par l'Assemblée et le Conseil Exécutif, et les instructions d'ordre administratif données par le Président,
e) assurer les distributions de rapports et documents demandées par le Président, le Secrétaire Général, le Trésorier ou le Conseil Exécutif,
f) d'une manière générale accomplir la charge quotidienne du secrétariat du Comité Maritime International.

L'Administrateur peut être une personne physique ou une personne morale. L'Administrateur personne physique peut également exercer la fonction de Trésorier du Comité Maritime International, s'il est élu à cette fonction.

L'Administrateur personne physique est élu pour un terme de quatre ans, et est rééligible sans limite. L'Administrateur personne morale est élu par l'Assemblée sur proposition du Conseil Exécutif et reste en fonction jusqu'à l'élection d'un successeur.

Article 14
Les Conseillers Exécutifs

Le Comité Maritime International compte huit Conseillers Exécutifs, dont les fonctions sont décrites à l'article 18.

Les Conseillers Exécutifs sont élus en fonction de leur mérite personnel, en ayant également égard à une représentation équilibrée des systèmes juridiques et des régions du monde auxquels les Association membres appartiennent.

Chaque Conseiller Exécutif est élu pour un terme entier de quatre ans, renouvelable une fois.

Article 15
Présentations de candidatures

Un Comité de Présentation de candidatures est mis en place avec mission de présenter des personnes physiques en vue de leur élection à toute fonction au sein du Comité Maritime International.

Le Comité de Présentation de candidatures se compose de:

a) un président, qui a voix prépondérante en cas de partage des voix, et qui est élu par le Conseil Exécutif;

b) The President and past Presidents,
c) One member elected by the Vice-Presidents, and
d) One member elected by the Executive Councillors.

Notwithstanding the foregoing paragraph, no person who is a candidate for office may serve as a member of the Nominating Committee during consideration of nominations to the office for which he is a candidate.

On behalf of the Nominating Committee, the chairman shall first determine whether any officers eligible for re-election are available to serve for an additional term. He shall then solicit the views of the Member Associations concerning candidates for nomination. The Nominating Committee shall then make nominations, taking such views into account.

Following the decisions of the Nominating Committee, the chairman shall forward its nominations to the Administrator in ample time for distribution not less than one-hundred twenty days before the annual meeting of the Assembly at which nominees are to be elected.

Member Associations may make nominations independently of the Nominating Committee, provided such nominations are forwarded to the Administrator before the annual meeting of the Assembly at which nominees are to be elected.

Article 16
Immediate Past President

The Immediate Past President of the Comité Maritime International shall have the option to attend all meetings of the Executive Council with voice but without vote, and at his discretion shall advise the President and the Executive Council.

PART IV - EXECUTIVE COUNCIL

Article 17
Composition

The Executive Council shall consist of:
a) The President,
b) The Vice-Presidents,
c) The Secretary-General,
d) The Treasurer,
e) The Administrator (if an individual),
f) The Executive Councillors, and
g) The Immediate Past President.

Article 18
Functions

The functions of the Executive Council are:
a) To receive and review reports concerning contact with:
   (i) The Member Associations,
   (ii) The CMI Charitable Trust, and
   (iii) International organizations;
b) To review documents and/or studies intended for:

b) le Président et les anciens Présidents du C.M.I.;
c) un membre élu par les Vice-Présidents;
d) un membre élu par les Conseillers Exécutifs.

Nonobstant les dispositions de l'alinéa qui précède, aucun candidat ne peut siéger au sein du Comité de Présentation pendant la discussion des présentations intéressant la fonction à laquelle il est candidat.

Agissant au nom du Comité de Présentation, son Président détermine tout d'abord s'il y a des membres du bureau qui, étant rééligibles, sont disponibles pour accomplir un nouveau mandat. Il demande ensuite l'avis des Associations membres au sujet des candidats à présenter. Tenant compte de ces avis, le Comité de Présentation fait alors des propositions.

Le président du Comité de Présentation transmet les propositions décidées par celui-ci à l'Administrateur suffisamment à temps pour être diffusées cent-vingt jours au moins avant l'Assemblée annuelle appelée à élire des candidats proposés.

Des Associations membres peuvent, indépendamment du Comité de Présentation, faire des propositions, pourvu que celles-ci soient transmises à l'Administrateur avant l'Assemblée annuelle appelée à élire des candidats présentés.

Article 16
Le Président sortant

Le Président sortant du Comité Maritime International a la faculté d'assister à toutes les réunions du Conseil Exécutif avec voix consultative mais non délibérative, et peut, s'il le désire, conseiller le Président et le Conseil Exécutif.

4ème PARTIE - CONSEIL EXECUTIF

Article 17
Composition

Le Conseil Exécutif est composé:
a) du Président,
b) des Vice-Présidents,
c) du Secrétaire Général,
d) du Trésorier,
e) de l'Administrateur, s'il est une personne physique,
f) des Conseillers Exécutifs,
g) du Président sortant.

Article 18
Fonctions

Les fonctions du Conseil Exécutif sont:
a) de recevoir et d'examiner des rapports concernant les relations avec:
   (i) les Associations membres,
   (ii) le "CMI Charitable Trust", et
   (iii) les organisations internationales;
b) d'examiner les documents et études destinés:
   (i) à l'Assemblée,

(i) The Assembly,
(ii) The Member Associations, relating to the work of the Comité Maritime International or otherwise advising them of developments, and
(iii) International organizations, informing them of the views of the Comité Maritime International on relevant subjects;

c) To initiate new work within the object of the Comité Maritime International, to establish Standing Committees, International Sub-Committees and Working Groups to undertake such work, and to supervise them;
d) To encourage and facilitate the recruitment of new members of the Comité Maritime International;
e) To oversee the finances of the Comité Maritime International;
f) To make interim appointments, if necessary, to the offices of Treasurer and Administrator;
g) To review and approve proposals for publications of the Comité Maritime International;
h) To set the dates and places of its own meetings and, subject to Article 5, of the meetings of the Assembly, and of Seminars and Colloquia convened by the Comité Maritime International;
i) To propose the agenda of meetings of the Assembly and of International Conferences, and to decide its own agenda and those of Seminars and Colloquia convened by the Comité Maritime International;
j) To carry into effect the decisions of the Assembly;
k) To report to the Assembly on the work done and on the initiatives adopted.

The Executive Council may establish and delegate to its own Committees and Working Groups such portions of its work as it deems suitable. Reports of such Committees and Working Groups shall be submitted to the Executive Council and to no other body.

Article 19
Meetings and Quorum

At any meeting of the Executive Council seven members, including the President or a VicePresident and at least three Executive Councillors, shall constitute a quorum. All decisions shall be taken by a simple majority vote. The President or, in his absence, the senior Vice-President in attendance shall have a casting vote where the votes are otherwise equally divided.

The Executive Council may, however, take decisions when circumstances so require without a meeting having been convened, provided that all its members are consulted and a majority respond affirmatively in writing.

PART V - INTERNATIONAL CONFERENCES

Article 20
Composition and Voting

The Comité Maritime International shall meet in International Conference upon dates and at places approved by the Assembly, for the purpose of discussing and taking decisions upon subjects on an agenda likewise approved by the Assembly.

(ii) aux Associations membres, concernant le travail du Comité Maritime International, et en les avisant de tout développement utile,
(iii) aux organisations internationales, pour les informer des vues du Comité Maritime International sur des sujets adéquats;

c) d'aborder l'étude de nouveaux travaux entrant dans le domaine du Comité Maritime International, de créer à cette fin des comités permanents, des commissions internationales et des groupes de travail et de contrôler leur activité;
d) d'encourager et de favoriser le recrutement de nouveaux membres du Comité Maritime International;
e) de contrôler les finances du Comité Maritime International;
f) en cas de besoin, de pourvoir à titre provisoire à une vacance de la fonction de Trésorier ou d'Administrateur;
g) d'examiner et d'approuver les propositions de publications du Comité Maritime International;
h) de fixer les dates et lieux de ses propres réunions et, sous réserve de l'article 5, des réunions de l'Assemblée, ainsi que des séminaires et colloques convoqués par le Comité Maritime International;
i) de proposer l'ordre du jour des réunions de l'Assemblée et des Conférences Internationales, et de fixer ses propres ordres du jour ainsi que ceux des Séminaires et Colloques convoqués par le Comité Maritime International;
j) d'exécuter les décisions de l'Assemblée;
k) de faire rapport à l'Assemblée sur le travail accompli et sur les initiatives adoptées.

Le Conseil Exécutif peut créer ses propres comités et groupes de travail et leur déléguer telles parties de sa tâche qu'il juge convenables. Ces comités et groupes de travail feront rapport au seul Conseil Exécutif.

Article 19
Réunions et quorum

Lors de toute réunion du Conseil Exécutif, celui-ci ne délibère valablement que si sept de ses membres, comprenant le Président ou un Viceprésident et trois Conseillers Exécutifs au moins, sont présents. Toute décision est prise à la majorité simple des votes émis. En cas de partage des voix, celle du Président ou, en son absence, celle du plus ancien VicePrésident présent, est prépondérante.

Le Conseil Exécutif peut toutefois, lorsque les circonstances l'exigent, prendre des décisions sans qu'une réunion ait été convoquée, pourvu que tous ses membres aient été consultés et qu'une majorité ait répondu affirmativement par écrit.

5ème PARTIE - CONFERENCES INTERNATIONALES

Article 20
Composition et Votes

Le Comité Maritime International se réunit en Conférence Internationale à des dates et lieux approuvés par l'Assemblée aux fins de délibérer et de se prononcer sur des sujets figurant à un ordre du jour également approuvé par l'Assemblée.

The International Conference shall be composed of all Members of the Comité Maritime International and such Observers as are approved by the Executive Council.

Each Member Association which has the right to vote may be represented by ten delegates and the Titulary Members who are members of that Association. Each Consultative Member may be represented by three delegates. Each Observer may be represented by one delegate only.

Each Member Association present and entitled to vote shall have one vote in the International Conference; no other members or Officers of the Comité Maritime International shall have the right to vote.

The right to vote cannot be delegated or exercised by proxy.

The resolutions of International Conferences shall be adopted by a simple majority of the Member Associations present, entitled to vote, and voting.

PART VI - FINANCE

Article 21
Arrears of Contributions

Member Associations remaining in arrears of payment of contributions for more than one year from the date of the Treasurer's invoice shall be in default and shall not be entitled to vote until such default is cured.

Members liable to pay contributions who remain in arrears of payment for more than three years from the date of the Treasurer's invoice shall, unless the Executive Council decides otherwise, receive no publications or other rights and benefits of membership until such default is cured.

Contributions received from a Member in default shall be applied to reduce arrears in chronological order, beginning with the earliest year of default.

Article 22
Financial Matters

The Administrator shall receive compensation as determined by the Executive Council.

Members of the Executive Council and Chairmen of Standing Committees, International SubCommittees and Working Groups, when travelling on behalf of the Comité Maritime International, shall be entitled to reimbursement of travelling expenses, as directed by the Executive Council.

The Executive Council may also authorize the reimbursement of other expenses incurred on behalf of the Comité Maritime International.

PART VII - TRANSITIONAL PROVISIONS

Article 23
Entry into Force

This Constitution shall enter into force on the first day of January, a.d. 1993.

La Conférence Internationale est composée de tous les membres du Comité Maritime International et d'observateurs dont la présence a été approuvée par le Conseil Exécutif.

Chaque Association membre, ayant le droit de vote, peut se faire représenter par dix délégués et par les membres titulaires, membres de leur Association. Chaque membre consultatif peut se faire représenter par trois délégués. Chaque observateur peut se faire représenter par un délégué seulement.

Chaque Association membre présente et jouissant du droit de vote dispose d'une voix à la Conférence Internationale, à l'exclusion des autres membres et des membres du Bureau du Comité Maritime International.

Le droit de vote ne peut pas être délégué ni exercé par procuration.

Les résolutions des Conférences Internationales sont prises à la majorité simple des Associations membres présentes, jouissant du droit de vote et prenant part au vote.

6ème PARTIE - FINANCES

Article 21
Retards dans le paiement de Cotisations

Les Associations membres qui demeurent en retard de paiement de leurs cotisations pendant plus d'un an depuis la date de la facture du Trésorier sont considérés en défaut et ne jouissent pas du droit de vote jusqu'à ce qu'il ait été remédié au défaut de paiement.

Les membres redevables de cotisations qui demeurent en retard de paiement pendant plus de trois ans depuis la date de la facture du Trésorier ne bénéficient plus, sauf décision contraire du Conseil Exécutif, de l'envoi des publications ni des autres droits et avantages appartenant aux membres, jusqu'à ce qu'il ait été remédié au défaut de paiement.

Les cotisations reçues d'un membre en défaut sont imputées par ordre chronologique, en commençant par l'année la plus ancienne du défaut de paiement.

Article 22
Questions financières

L'Administrateur reçoit une indemnisation fixée par le Conseil Exécutif.

Les membres du Conseil Exécutif et les présidents des comités permanents, des commissions internationales et des groupes de travail ont droit au remboursement des frais des voyages accomplis pour le compte du Comité Maritime International, conformément aux instructions du Conseil Exécutif.

Le Conseil Exécutif peut également autoriser le remboursement d'autres frais exposés pour le compte du Comité Maritime International.

7ème PARTIE - DISPOSITIONS TRANSITOIRES

Article 23
Entrée en vigueur

Les présents statuts entreront en vigueur le 1er janvier 1993.

Article 24
Election of Officers

Notwithstanding any of the foregoing provisions of this Constitution, no election of officers shall be held until the terms of office current at the time of entry into force of this Constitution have expired; at which time the following provisions shall govern until, in accordance with Article 25, this Part VII lapses.

a) Following adoption of this Constitution by the Assembly, the Nominating Committee shall be constituted as provided in Article 15.
b) For purposes of determining eligibility for office, all persons holding office at the time of entry into force of this Constitution shall at the expiration of their current terms be deemed to have served in their respective offices for one term.
c) The President, Secretary-General, Treasurer and Administrator shall be elected as provided in Articles 9, 11, 12 and 13.
d) One Vice-President shall be elected as provided in Article 10 above, and one Vice-President shall be elected for a term of two years. When the two year term expires, the election of Vice-Presidents shall become wholly governed by Article 10.
e) Two Executive Councillors shall be elected as provided in Article 14; two Executive Councillors shall be elected for terms of three years, two shall be elected for terms of two years, and two shall be elected for terms of one year. When the one year terms expire, two Executive Councillors shall be elected as provided in Article 14. When the two year terms expire, two Executive Councillors shall be elected as provided in Article 14. When the three year terms expire, the election of Executive Councillors shall become wholly governed by Article 14.

Article 25
Lapse of Part VII

When the election of all Executive Councillors becomes wholly governed by Article 14 of this Constitution, then this Part VII shall lapse and shall be deleted from any future printing of this Constitution.

Article 24
Elections des membres du Bureau

Nonobstant toute disposition précédente des présents statuts, il n'y aura pas d'élection de membres du Bureau avant l'expiration des mandats dans les fonctions en cours au moment de l'entrée en vigueur des présents statuts; à ce moment, les dispositions suivantes s'appliqueront jusqu'à ce que, conformément à l'article 25, la présente 7ème Partie devienne caduque.

a) Après adoption des présents statuts par l'Assemblée, le Comité de Présentation de candidatures sera constitué conformément à l'Article 15.
b) Pour la détermination des conditions d'éligibilité, toute personne titulaire d'une fonction au moment de l'entrée en vigueur des présents statuts sera, à l'expiration de son mandat en cours, réputée avoir accompli un mandat dans cette fonction.
c) Le Président, le Secrétaire Général, le Trésorier et l'Administrateur seront élus conformément aux Articles 9, 11, 12 et 13.
d) Un Vice-Président sera élu conformément à l'Article 10 ci-dessus, et un Vice-Président sera élu pour un mandat de deux ans. A l'expiration de ce mandat de deux ans, l'élection des Vice-Presidents deviendra entièrement conforme à l'Article 10.
e) Deux Conseillers Exécutifs seront élus conformément à l'Article 14; deux Conseillers Exécutifs seront élus pour un mandat de trois ans, deux seront élus pour un mandat de deux ans, et deux seront élus pour un mandat d'un an. A l'expiration de ces mandats d'un an, deux Conseillers Exécutifs seront élus conformément à l'Article 14. A l'expiration des mandats de deux ans, deux Conseillers Exécutifs seront élus conformément à l'Article 14. A l'expiration des mandats de trois ans, l'élection des Conseillers Exécutifs deviendra entièrement conforme à l'Article 14.

Article 25
Caducité de la 7ème Partie

Lorsque l'élection de tous les Conseillers Exécutifs sera devenue entièrement conforme à l'article 14, la présente 7ème Partie deviendra caduque et sera supprimée dans toute publication ultérieure des présents Statuts.

OFFICERS - COMITE DE DIRECTION

President - Président: Allan PHILIP, Kobenhavn

President ad honorem:
Président ad honorem: Francesco BERLINGIERI, Genova

Vice-Presidents:
Vice-Présidents:
William BIRCH-REYNARDSON, London
Eugenio CORNEJO, Valparaiso
Anatoliy KOLODKIN, Moscow
Tsuneo OHTORI, Tokyo
Jan RAMBERG, Stockholm
Ron SALTER, Melbourne
Jan C. SCHULTSZ, Amsterdam
William TETLEY, Montreal

Secretary General Executive:
Secrétaire Général Exécutif: Norbert TROTZ, Rostock

Secretary General Administrative and Treasurer:
Secrétaire Général Administratif et Trésorier:
Henri Voet, Antwerpen

Honorary Vice-Presidents:
Vice-Présidents honoraires:
Nicholas J. HEALY, New York
J. Niall MCGOVERN, Dublin
Walter MÜLLER, Basel
José D. RAY, Buenos Aires
Jean WAROT, Paris

EXECUTIVE COUNCIL - CONSEIL EXECUTIF

President - Président: Allan PHILIP, Kobenhavn

Secretary General Executive:
Secrétaire Général Exécutif: Norbert TROTZ, Rostock

Secretary General Administrative and Treasurer:
Secrétaire Général Administratif et Trésorier:
Henri VOET, Antwerpen

Members:
Membres:
José Luis GONI, Madrid
Patrick GRIGGS, London
Etienne GUTT, Jandrain, Belgium
Rolf HERBER, Hamburg
Pierre LATRON, Paris
Frank L.WISWALL Jr., Castine, Maine, USA

Administrative Officer:
Conseiller Administratif: Firme Henry VOET - GENICOT, Antwerpen

MEMBER ASSOCIATIONS
ASSOCIATIONS MEMBRES

ARGENTINA

ASOCIACION ARGENTINA DE DERECHO MARITIMO

(Argentine Maritime Law Association)
c/o Dr.José Domingo Ray, 25 de Mayo 489, 5th FL.,
1339 Buenos Aires. - Telex: 27181 - Fax: 313-7765

Established: 1905

Officers:

President: Dr. José Domingo RAY, 25 de Mayo 489, 5th Fl., 1339 Buenos Aires Tel: 311-3011/4 - 313-6620/6617 - Fax: 313-7765 Tlx: 27181

Vice-Presidents:

Dr. Antonio Ramon MATHE, Piedras 77, 6th Fl., 1070 Buenos Aires Tel: 343-8460/8484 - Fax: 334-3677 - Tlx: 22331

Dr. Alberto C. CAPPAGLI Carlos Pellegrini 887 - 1338 Buenos Aires Tel: 322-8336/8796 - 325-3500 - Fax: 322-4122 Tlx: 24328 - 27541

Secretary: Dr. M.Domingo LOPEZ SAAVEDRA, Corrientes 1145, 6th Fl., 1043 Buenos Aires Tel: 325-5868/8704/8407 - Fax: 325-9702

Pro-Secretary: Dr. Fernando ROMERO CARRANZA, L.N. Alem 1067, 15th Fl., 1001 Buenos Aires Tel: 313-6536/9619 - 311-1091/9

Treasurer: Sr. Francisco WEIL, Pte. J.D. Peron 315 - 4th Fl., 1394 Buenos Aires Tel: 342-0081/3 - Fax: 361-7150 - Tlx: 22521

Pro-Treasurer: Dr. Carlos R.LESMI, Lavalle 421 - 1st Fl., 1047 Buenos Aires Tel: 393-5292/5393 - Fax: 393-5889 - Tlx: 25640

Members: Dr. Abraham AUSTERLIC, Sr. Jorge CONSTENLA, Sr. Ferruccio DEL BENE, Dr. Carlos LEVI, Dr. Marcial J.MENDIZABAL, Dr. Alfredo MOHORADE

Honorary Vice-President: Dr. Alberto N. DODERO

Titulary Members:

Jorge BENGOLEA ZAPATA, Dr.Alberto C.CAPPAGLI, Dr.F.Romero CARRANZA, Dr.Domingo Martin LOPEZ SAAVEDRA, Dr.Antonio MATHE, Dr. Mrcial J. MENDIZABAL, Dr.Alfredo MOHORADE, Dr.José D. RAY, Dra.H.S.TALAVERA, Fransisco WEIL.

Membership:

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AUSTRALIA AND NEW ZEALAND

THE MARITIME LAW ASSOCIATION OF AUSTRALIA AND NEW ZEALAND

c/o the Executive Secretary, Christopher QUENNELL,
Norton Smith & Co.
20 Martin Place, Sydney NSW 2000, Australia
Tel: 930 7500 - Telefax: 930 7600

Established: 1974

Officers:

President: Stuart HETHERINGTON, Ebsworth & Ebsworth, GPO Box 713,Sydney 2001, Australia, Tel.: 234.2366 - Fax: 235.3606.

Australian Vice-President: The Honourable Justice R.E.COOPER, Supreme Court of Queensland - George Street, Brisbane 4000 Australia - Tel.: 227 5745 - Fax: 221 7565.

New Zealand Vice-President: Neil WHEELER, P & I Services - P.O. Box 437, Auckland, New Zealand - Tel.: 303.1900 - Fax: 308.9204.

Executive Secretary: Christopher QUENNELL, c/o Norton Smith & Co, 20 Martin Place, Sydney NSW 2000 Australia - Tel.: 930.7500 - Fax: 930.7600.

Assistant Secretary: Rod WHITNELL, Dunhill Madden Butler, 16 Barrack Street, Sydney NSW 2000 Australia - Tel.: 233.3622 -Fax: 235.3099.

Treasurer: Ian MAITLAND, Finlaysons, GPO Box 1244, Adelaide, South Australia.5000, Tel.: 235.7400 - Fax: 232.2944.

Immediate Past-President: Ron SALTER, Phillips Fox, 120 Collins Street, Melbourne VIC 3000 Australia - Tel.: 03.274.5000 - Fax: 03.274.5111

Titulary Members:

The Honourable Justice K.J. CARRUTHERS, I. MACKAY, P.G. WILLIS.

Membership:

560.

BELGIUM

ASSOCIATION BELGE DE DROIT MARITIME BELGISCHE VERENIGING VOOR ZEERECHT

(Belgian Maritime Law Association)
c/o Firme HENRY VOET-GENICOT, Mechelsesteenweg 203 bus 6
B-2018 Antwerpen 1 - Telex: 31653 - Tel.: (03)218.74.64 - Fax: (03)218.67.21

Established: 1896

Officers:

President: Roger ROLAND, Antoon van Dijckstraat 2, bus 5, B-2018 Antwerpen 1 -Tél: 03/232.44.08 - Fax: 03/225.13.58.

Vice-Presidents:
Jozef VAN DEN HEUVEL, Schermersstraat 30, B-2000 Antwerpen 1, Belgique.
Jean COENS, Avocat, Frankrijklei 115, B-2000 Antwerpen 1, Belgique - Tel.: 03/233.97.97/96, Tlx: 72748 EULAW B.
Secretary: Henri VOET Jr., Mechelsesteenweg 203 bus 6, B-2018 Antwerpen 1.
Treasurer: Leo DELWAIDE, Markgravestraat 9, B-2000 Antwerpen Tel.: 32.3.231.56.76 - Fax: 32.3.225.01.30.
Administration Secretary: Messrs. Henry VOET-GENICOT, Mechelse steenweg 203 bus 6, 2018 Antwerpen 1.

Titulary Members:

Claude BUISSERET, Jean COENS, Leo DELWAIDE, Albert DUCHENE, Geoffrey FLETCHER, Paul GOEMANS, Etienne GUTT, Marc A.HUYBRECHTS, Victor JANSSENS, Herman LANGE, Roger ROLAND, Lionel TRICOT, Jozef VAN DEN HEUVEL, Jacques VAN DOOSSELAERE, Philippe VAN HAVRE, Jean VAN RYN, Léo VAN VARENBERGH, Henri F.VOET, Henri VOET Jr.

Membership:

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BRAZIL

ASSOCIACAO BRASILEIRA DE DIREITO MARITIMO

(Brazilian Maritime Law Association)
Rua Mèxico, 111-5° Andar, Sala 501 CEP 20031-141
Rio de Janeiro - RJ. Brasil Tel.: 220.5488 - Fax: 220 7621

Established: 1961

Officers:

President: Pedro CALMON FILHO, Pedro Calmon Filho & Associados, Av. Franklin Roosevelt, 194/801, Rio de Janeiro, RJ.CEP 20021 (Tel.: 220.2323 - Tlx: 21.21606 PCFA BR).
Secretary General: José SPANGENBERG CHAVES
Vice-Presidents: Alvaro MARTINHO PAES da SILVA, Délio MAURY, Gilson FERNANDES TAVARES, Judge Maria Cristina de OLIVEIRA PADILHA

Titulary Members:

Pedro CALMON Filho, Maria Cristina DE OLIVEIRA PADILHA, Carlos DA ROCHA GUIMARAES, Walter de SA LEITAO, Jorge Augusto DE VASCON CELLOS, Stenio DUGUET COELHO, Rucemah Leonardo GOMES PEREIRA, Manoel MOREIRA de BARROS e SILVA, Luis Antonio SEVERO DA COSTA.

Membership:

Physical Members: 350; Official Entities as Life Members: 22; Juridical Entity Members: 20; Correspondent Members: 15.

CANADA

CANADIAN MARITIME LAW ASSOCIATION
ASSOCIATION CANADIENNE DE DROIT MARITIME

c/o John A.Cantello, Osborn & Lange Inc.
360 St.Jacques Ouest - Suite 2000, Montréal, Quebec H2Y 1P5
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Established: 1951

Officers:

President: Professor Edgar GOLD, Huestis Holm, 708 Commerce Tower, 1809 Barrington St., Halifax, N.S. B3J 3K8. Tel.: (902)423-7264, Fax: (902)422-4713.

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Regional Vice-Presidents:

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Sean J.HARRINGTON, McMaster Meighen, 630 Blvd. René-Lévesque W., 7th Floor, Montreal, Quebec H3B 4H7

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Secretary and Treasurer: John A.CANTELLO, Osborn & Lange Inc., 360 St.Jacques W., Suite 2000, Montreal, Quebec H2Y 1P5.

Chairman of Nominating Committee: W.David ANGUS, Q.C.

Canadian Vice-President of the C.M.I.: Professor W.TETLEY, Q.C., McGill University, 3644 Peel Street, Montreal, Quebec, H3A 1W9, Canada. Tel.: (514)398-6619 (office), Fax: (514)398-4659, Tlx: 05-268510, Tel.: (514)733-8049 (home).

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Executive Committee:

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Michael J.BIRD, Owen, Bird, P.O.Box 49130, 595 Burrard Street, 28th Floor, Vancouver, B.C. V7X 1J5

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Guy VAILLANCOURT, Vaillancourt St-Pierre, 3075 des Quatres Bourgeois, Bureau 410, Quebec, Que. G1W 4Y9.

Constituent Members:

Marine Atlantic Inc., c/o J.L.Brean, Q.C., V.P. Law, 1791 Barrington St., Suite 1400, Halifax, N.S., B3J 3L1. The Associa tion of Average Adjusters of Canada, c/o Anthony E.BRAIN, Finna more & Partners Ltd., 276 St.Jacques West, Suite 107, Montreal, Quebec H2Y 1N3. The Association of Maritime Arbitrators of Canada, c/o Clifford H. PARFETT, Marine Surveyors of Canada Ltd., 407 McGill Street, Room 408, Montreal, Quebec H2Y 2G3. The Canadian Board of Marine Underwriters, c/o Douglas McRAE Jr., Marine Underwriters Ltd., 507 Place D'Armes, Suite 1600, Mon treal, Quebec H2Y 2W8. The Canadian Shipowners Association, c/o T.Norman HALL, 350 Sparks Street, Suite 705, Ottawa, Ontarion K1R 7S8. The Shipping Federation of Canada, c/o George ROBICHON, Fednav Limited, 600 de la Gauchetière Street West, Suite 2600, Montreal, Quebec H3B 4M3.
Honorary Members: The Hon.W.R. JACKETT, William A.O'NEIL, Ran. A.QUAIL.
Honorary Life Members: W.David ANGUS, Q.C., William BAATZ, David BRANDER-SMITH, Q.C., John R. CUNNINGHAM, Q.C., A.Stuart HYNDMAN, Q.C., The Hon.Mr. Justice K.C. MACKAY, Bart N.MALOTT, The Hon. G.R.W. OWEN, W.T. SMITH, The Hon. Arthur J. STONE, Prof. William TETLEY, Q.C.

Titulary Members:

W.David ANGUS, Q.C., David BRANDER-SMITH, Q.C., John A.CANTELLO, John R.CUNNINGHAM, Q.C., Nigel FRAWLEY, Ms.Johanne GAUTHIER, Professor Edgar GOLD, A.Stuart HYNDMAN, Q.C., Bart N.MALOTT, Alfred H.E.POPP, Q.C., Robert SIMPSON, William T.SMITH, The Hon. A.J.STONE, Professor William TETLEY, Q.C.

Membership:

Consituent Members: 13 - Regular Members: 291 -Total Member ship including Honoraries & Constituent: 318.

CHILE

ASOCIACION CHILENA DE DERECHO MARITIMO

(Chilean Association of Maritime Law)
Prat 827, Piso 12, Casilla 75, Valparaiso
Tel.: (5632) 252535 - Tlx: 230398 SANTA CL - Fax: 56.32.252622

Established: 1965

Officers:

President: don Eugenio CORNEJO Fuller, Prat 827, Piso 12, Casilla 75, Fax: 5632 252622, Valparaiso.
Vice-President: Alfonso ANSIETA Nunez, Prat 827, Piso 12, Casilla 75, Fax: 5632 252622, Valparaiso.
Secretary: Juan Carlos GALDAMEZ Naranjo, Av.Libertad 63 Oficina 601, Vina del Mar, Fax: 032 680294.
Treasurer: Félix GARCIA Infante, Casilla 173-V, Valparaiso.
Member: José Tomas GUZMAN SALCEDO, Huérfanos 835, Oficina 1601, Fax: 5602 382614, Santiago, Chile.

Titulary Members:

don Alfonso ANSIETA Nunez, don Eugenio CORNEJO Fuller, don José Tomas GUZMAN SALCEDO.

CHINA

CHINA MARITIME LAW ASSOCIATION

CCPIT Bldg., 1 Fuxingmenwai Street
BEIJING 100860 - CHINA
Tel: 8513344/1804 - Fax: 8511369 - Tlx: 222288 TPLAD CN

Established: 1988

Officers:

President: CHEN Zhongbiao (President) China Ocean Shipping (Group) Company Lucky Tower, 3, Dong San Huan Bei Road, Beijing, China Tel.: 4661188/5835 - Fax: 4669859
Vice-Presidents:
CHENG Dejun (Associate Research Fellow), China International Economic and Trade Arbitration Commission CCPIT Bldg., 1 Fuxingmenwai Street, Beijing, China. Tel.: 8513344/1807 - Fax: 8511369 - Tlx: 222288TPLAD CN.
FU Xumei (Associate Professor), Communication and Transportation Department of the Supreme People's Court of the P.R.C. 27, Dong Jiao Min Xiang, Beijing, China Tel.: 5122255/2530
GAO Sunlai (Research Fellow), China Global Law Office, 3rd Floor, SAS Royal Hotel Beijing, 6A East Beisanhuan Road, Beijing 100028, China Tel.: 4663388/307 - Tlx: 222222 CGLO - Fax: 4677891

GUO Dechun (Senior Economist), The People's Insurance Company of China 410, Fuchengmennei Street, Beijing, China Tel.: 6016688/1015 - Tlx: 22102/22532 PICC CH - Fax: 6011869/6012324

LE Tianxiang (Vice President), China National Foreign Trade Transportation Corporation, Jiu Ling Bldg. 21, Xi San Huan Bei Lu, Beijing 100081, China. Tel.: 8415958 - Tlx: 22867 TRANS CN

LEI Hai (Vice President), China Ocean Shipping (Group) Company Lucky Tower, 3, Dong San Huan Bei Road, Beijing Tel.: 4661188/5823 - Fax: 4669859

ZHANG Zhongye (Senior Economist), Department of Policy & Legislation Ministry of Communica tion of the P.R.C. 10 Fuxing Road, Beijing, China Tel.: 3265544/2454

Secretary General: LIU Shujian (Associate Research Fellow), China Maritime Law Association CCPIT Bldg., 1 Fuxingmenwai Street, Beijing, China. Tel.: 8513344/1807 - Fax: 8511369 - Tlx: 222288 TPLAD CN

Deputy Secretaries - General:

Mrs.CHEN Zhenying (Asst. Research Fellow), China Maritime Law Associa tion CCPIT Bldg., 1 Fuxingmenwai Street, Beijing, China. Tel.: 8513344/1804 - Fax: 8511369 - Tlx: 222288 TPLAD CN

MENG Yuqun (Senior Economist), China National Foreign Trade Transportation Corporation, Erligou Kijiao, Beijing, China. Tel.: 8494470 - Fax:8317664.

QU Zhiguang (Asst. Judge), Communication and Transportation Department of the Supreme People's Court of the P.R.C. 27, Dong Jiao Min Xiang, Beijing. Tel.: 5120831

WANG Jian (Deputy Manager), The People's Insurance Company of China 410, Fuxingmennei Street, Beijing Tel.: 6032496

YAN Cunhou (Division Chief), China Maritime Arbitration Commission 6/F Service Bldg. of CIEC 6, East Beisanhuan Road, Beijing. Tel.: 4664433/3072 - Fax: 4677335

Mrs.YU Tianwen (General Manager, LL.M), China Ocean Shipping (Group) Company Executive Division Legal Affairs Department Lucky Tower, 3, Dong San Huan Bei Road, Beijing, China. Tel.: 4661188/5926 - Fax: 4669859 - Tlx: 210740 CPC CN

ZHU Jianxin (Division Chief), Department of Foreign Affairs Ministry of Communications, P.R.C. 10, Fu Xing Road, Beijing, China Tel.: 3265544/2462 - Fax: 3273943 - Tlx: 22462 COMCT CN

Members:

Group members: 89 - Individual members: 1600

COLOMBIA

ASOCIACION COLOMBIANA DE DERECHO MARITIMO COMERCIAL

(Colombian Association of Commercial Maritime Law)
Calle 90, N°12-45 piso 5 Oficina 305, - 76600 Bogota D.E., Colombia
Tlx: 41379 PVLAW CO, Fax: (571) 2171950, Tel.: (571) 2175055

Established: 1980

Officers:

President: Dr. Juan Manuel PRIETO.
Vice-President: Capitan Sigifredo RAMIREZ.
Members of the Executive Committee:
Principals: Dr. Jorge Suescun MELO, Dr. Ricardo SARMIENTO, Dr. Jorge Alberto RODRIGUEZ.
Alternates: Dr. Jaime Canal RIVAS, Dr. Carlos Alfonso RAMIREZ, Dr.Reglio VALENCIA.
Internal Auditor: Admiral (R) Hernando CAMACHO.
Alternate Auditor: Dr. Diego MUNOZ.
Secretary: Dra. Narda Patricia RAMIREZ.

Titulary Members:

Dr. Guillermo SARMIENTO RODRIGUEZ, Capt. Sigifredo RAMIREZ.

COSTA RICA

ASOCIACION INSTITUTO DE DERECHO MARITIMO DE COSTA RICA

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Membership: about 89

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Established: 1963

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Representative members: 38

ISRAEL

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Established: 1968

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JAPAN

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KOREA

KOREA MARITIME LAW ASSOCIATION

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Established: 1989

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Individual members: 90.

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Established: 1993

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Established: 1961

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Established: 1955

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NIGERIAN MARITIME LAW ASSOCIATION

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Established: 1980

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50.

NORWAY

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PERU

ASOCIACION PERUANA DE DERECHO MARITIMO

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Established: 1934

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(Committee of International Maritime Law)
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Established: 1924

Officers:

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Established: 1992

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Established: 1993

Officers:

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PART II

The Work of the CMI

Sydney I
Documents for the Conference

ADMISSIBILITY AND ASSESSMENT OF CLAIMS FOR POLLUTION DAMAGE

REVIEW OF THE LAW OF GENERAL AVERAGE AND YORK/ANTWERP RULES 1974

OFFSHORE MOBILE CRAFT

ADMISSIBILITY AND ASSESSMENT OF CLAIMS FOR POLLUTION DAMAGE

REPORT OF THE CHAIRMAN OF THE INTERNATIONAL SUB-COMMITTEE

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DISCUSSION PAPER[1]

I INTRODUCTION

The aim of this paper is to take up the threads of earlier discussion in the Comité Maritime International on the subject of assessment of claims for pollution damage, and to identify problems and possible solutions for consideration at the Conference in Sydney.

Background

The CMI's current work in this field dates from early 1991 and was prompted chiefly by the decision in 1990 of the US Congress to adopt its own unilateral approach to the compensation of oil pollution damage, rather than adopt the international system contained in the Civil Liability Convention 1969 ("CLC") and the Fund Convention 1971. Whilst CLC has been adopted in no less than 80 countries (57 of which have so far subscribed to the Fund Convention), spills in United States waters are now governed by the US Oil Pollution Act 1990, together with any relevant state legislation.

The scheme of CLC is to impose on the shipowner strict liability for pollution damage, subject to right to limit liability to a fixed amount per ton, or to an overall limit which at present equates to just under US$ 20 million. In Fund Convention countries supplementary compensation is available from the International Oil Pollution Compensation Fund for pollution damage claims up to a maximum which at present equates to about US$ 83 million (including sums recovered from the shipowner). Agreement to increase these figures was reached in the 1984 Protocols, but their entry into force was in practice impossible after the decision of the US Congress to enact its own laws rather than join the international system. In 1992 agreement was reached on new provisions which will enable these changes to enter into force without US participation, and as a result the substance of the 1984 Protocols was re-embodied in what are now known as the 1992 Protocols. When these come into force, the compensation available under both Conventions will be increased to a new overall maximum of some US$ 187 million.[2]

In the period since the Oil Pollution Act 1990 (OPA) was passed, much has been said and written about its various controversial features. For present purposes greatest interest focuses on the comprehensive framework set out in OPA for compensating a much wider range of loss or damage than is usually accepted under the conventions. Among other

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1 Prepared by a Working Group consisting of Prof Norbert Trotz (Chairman), Prof Edgar Gold, Anthony Bessemer Clark, Lloyd Watkins, Ian White, Charles Anderson and Colin de la Rue and adopted by the International Sub-Committee on March 25, 1994.

2 In the *Haven* proceedings in Italy it has been contended that the Fund's limit of liability calculated in accordance with the free market value of gold is in fact some US$ 630 million, but this contention is accepted neither by the Fund nor, it is believed, by most of its member states.

things, the Act will permit claims to be made for environmental damage assessed by intricate and theoretical methods. The precise methodology will be prescribed by Natural Resource Damage Assessment (NRDA) Regulations to be promulgated under OPA by the US National Oceanic and Atmospheric Administration (NOAA), following a pattern of similar regulations issued in 1986 by the US Department of Interior under the Comprehensive Environmental Response Compensation and Liability Act 1980 (CERCLA).[3] Although these new laws apply only to spills in US waters, they are of considerable potential interest elsewhere.

One particular reason for this interest lies in the fact that the international conventions define "pollution damage" only in very general terms. A modified definition agreed in the 1984 Protocols (and re-affirmed in those of 1992) is more specific in its treatment of environmental damage, but still leaves scope for courts to decide for themselves how the wording should be interpreted and applied in practice. Over the years there have been relatively few difficulties in deciding questions of liability, but often there has been argument in convention countries on issues of quantum, and as to the type of damage which may be recovered.[4]

The scope for argument reflects the relative paucity of legal authority in many countries — whether by decided cases or by specific legislation — to determine how traditional jurisprudence should be adapted to deal with the relatively modern problems posed by marine pollution. As environmental issues have increasingly attracted public and political attention, so the question has arisen whether America's innovations in this field could or should be emulated elsewhere.

Questionnaire and Colloquium

Against this background National Associations were circulated in 1991 with a report and Questionnaire in which numerous issues were canvassed on the subject of liability for pollution damage. An analysis of the replies led to a discussion paper which was debated at the CMI Colloquium on this subject in Genoa in September 1992. The problems then discussed were grouped under three main heads, namely

(A) financial loss;

(B) claims for non-pecuniary losses; and

(C) preventive measures, clean-up and restoration.

The subject of *financial loss* involved discussion of the question what claims for pure economic loss should be treated as recoverable, and which should be dismissed as too remote or indirect. The topic of *non-pecuniary* claims provoked much debate over problems involved in claims for environmental damage (other than for reinstatement costs actually incurred), such as claims of the type contemplated by the US NRDA regulations,

3 The draft Rules proposed by NOAA were published on January 7, 1994 (59 FR 1062). These are subject to written comments which may be submitted up to July 7, 1994.

4 See Appendix I for the text of relevant definitions in OPA 90, CLC 1969, the 1992 CLC Protocol, and the voluntary industry schemes TOVALOP and CRISTAL.

including in particular the allowance of "non-use" damage and the valuation thereof. Under the heading of *preventive measures, clean-up and restoration* there was discussion of various questions affecting the reasonableness of the measures concerned, or the cost thereof, such as: claims by government agencies or public bodies for fixed costs which would have been incurred in any event; claims for the cost of measures which were unnecessary or which did more harm than good; claims for the cost of meticulous reinstatement of the damaged site, and the option of alternative site restoration.

Developments since 1992

In the light of the discussion in Genoa a draft of the present Paper[5] was prepared by the Working Group and considered at a meeting of the International Sub-Committee at its meeting in Brussels on September 23, 1993.[6] As a result of those discussions further deliberations were held in the Working Group and a revised draft of this Paper was produced, with modifications mainly in the areas of environmental damage and restoration.[7] The revised draft was considered by the International Sub-Committee at a meeting in London on March 25, 1994. Certain further amendments were then agreed, and the final text of the Paper was adopted in its present form.[8]

The three aspects of the subject reviewed in this Paper are Economic Loss (Section II), Environmental Damage and Restoration (Section III), and Clean-Up and Preventive Measures (Section IV). In each case a reminder is given of the present law, followed by an outline of the problems which have arisen in practice, before consideration is given to the options for possible solutions.

It will be seen that one of the options considered is the possibility of the CMI endorsing Guidelines available for adoption by any parties concerned with promoting a fair and uniform approach to the payment of claims for pollution damage. A possible draft of such Guidelines is annexed as Appendix V. Although the problems discussed in this Paper may arise in all forms of marine pollution, for simplicity the draft Guidelines are limited to pollution by oil.

The draft in Appendix V is a modified form of earlier versions appended to previous drafts of this Paper.[9] The Appendix is not to be treated as forming part of the Paper, since it remains for discussion whether any Guidelines at all are desirable, and if so what their precise terms should be. However the demand for Guidelines has grown con-

5 Draft dated August 10, 1993.

6 For a Note of the meeting see Appendix II.

7 Draft dated February 10, 1994.

8 For a Note of the meeting see Appendix III.

9 Drafts dated August 10, 1993; December 2, 1993; February 10, 1994. Several modifications were made by the International Sub-Committee at its meeting on March 25, 1994.

siderably during the course of the CMI's work in this field. At its sessions in June 1993 and subsequently, the Executive Committee of the IOPC Fund has had to address several important questions of principle relating to claims arising from the *Haven, Aegean Sea* and *Braer* incidents, particularly in relation to claims for pure economic loss. The view has emerged that the willingness to pay such claims, dating back as far at least as the *Tanio* case (1980), has progressively led to a situation where the very problems must be faced which courts of law have long striven to avoid. Considerable difficulty has been encountered in enunciating clear and consistent statements of principle to differentiate between recoverable and irrecoverable claims. There are fears that the international system may be jeopardised if there is excessive uncertainty over rights of recovery, or if uniformity and principle are seen to be lacking in decisions made by national courts or indeed by the Fund itself. At the same time there has been a tendency for the boundaries of recovery to be progressively extended, and the levies imposed by the IOPC Fund in 1993 were by far the largest in its 15-year history. These developments are of importance not only among contributors to the Fund, but also to other interested parties concerned with claims which may fall outside the scope of the Fund Convention, but nevertheless be affected by the precedent of published decisions taken by the IOPC Fund.

Against this background it was decided by the Fund Assembly, at its 16th session in October 1993, that a Working Group should be established to study the criteria for admissibility of claims for compensation.[10] The first meeting of the Fund's Working Group[11] took place in London on 7th-9th February 1994. Several valuable papers were submitted in advance of the discussion, including Notes by the Director dealing with General Issues and Questions Relating to Pure Economic Loss,[12] a Review of Decisions taken by the IOPC Fund in 1979-93,[13] and Environmental Damage Claims;[14] Notes by delegations representing Poland, France, Spain and the United Kingdom;[15] and three papers dealing with the technical aspects of the subject submitted by the International Tanker Owners' Pollution Federation Ltd.[16] Both in the written submissions and in the debate itself there were many calls for clearer criteria or guidelines to assist in determining what claims are admissible for pollution damage.

The CMI had observer status at the Working Group of the IOPC Fund. It did not submit a formal paper, but many delegations were aware of

10 See IOPC Fund document FUND/A.16/32.
11 The Seventh Intersessional Working Group of the IOPC Fund.
12 Document FUND/WGR.7/2.
13 Document FUND/WGR.7/3.
14 Document FUND/WGR.7/4.
15 Documents FUND/WGR.7/5-8.
16 Documents FUND/WGR.7/9/1-3 dealing respectively with Preventive Measures and Property Damage, Economic Loss, and Environmental Damage.

its work in this field, and references to it were made both in written submissions and in oral debate.[17] Clearly it is important that the two organisations should work in close collaboration with each other, and that their respective efforts should lead to a consistent conclusion. To this end the draft Guidelines in Appendix V to this Paper include modifications which are intended to reflect ideas canvassed in the discussions at the IOPC Fund.[18] Since the preparation of this Paper the IOPC Fund's Working Group has held a further meeting, in May 1994, to prepare a report for consideration by the Fund Assembly in October. In response to an invitation from the Fund, the CMI submitted to the meeting a short paper describing its work in this field, and making available for consideration the draft Guidelines contained in Appendix V. The CMI Working Group intends to circulate a supplementary note of these and other developments at a later date.

The Director of the IOPC Fund has been invited to take part in the Sydney Conference, and it is hoped that he will be able to do so. Assuming it is accepted in principle that Guidelines would fulfil a useful purpose, it will undoubtedly be very helpful to have the benefit in October of any further drafting improvements suggested in the light of the latest work of the IOPC Fund.

II ECONOMIC LOSS

A. Present law

Position under the Civil Liability and Fund Conventions

It will be seen that the CLC definition gives no guidance as to how far, if at all, claims may be made for economic loss. Most legal systems allow recovery of claims for profits or earnings lost as a result of damage to the claimant's property, but in many jurisdictions claims for "pure economic loss" would strictly be disallowed. Despite this it has been commonplace for P & I Clubs and the IOPC Fund to pay such claims. Typical examples are those of fishermen who lose earnings as a result of reduced catches of wild fish, and hoteliers who lose bookings as a result of damage to an environment in which they have no proprietary interest.

This practice is reflected in the revised definition of "pollution damage" contained in the 1992 Protocols (and originally contained in the ill-fated 1984 Protocols). This provides that "pollution damage" means:

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17 For a report of the meeting of the Fund's Working Group see document FUND/WGR.7/10.

18 Particular account has been taken of working papers submitted by the Chairman during the course of the debates in the Working Group, to summarize the main points on which there was general agreement: see documents FUND/WGR.7/WP1 and 2.

"loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, *provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken...*" (emphasis added).

The words underlined make it clear that loss of profit may be recovered when it results from impairment of the environment. At the Colloquium in Genoa there was a suggestion that these words do not necessarily allow claims for pure economic loss, as distinct from loss of profit resulting from damage to the claimant's property. It would be unusual, though by no means impossible, for a claimant to enjoy a proprietary interest in the affected environment. Whilst the above definition is not worded as clearly as might have been wished, most commentators believe that the intention of the draftsman was to allow recovery of loss of profit resulting from impairment of the environment irrespective of whether the claimant had any proprietary interest therein.

Position in the national laws of the USA and other common law countries

In legal systems all over the world there have long been constraints on recovery for economic loss, due to concerns that otherwise the floodgates would be open to an uncontrollable deluge of remoter claims. In common law countries the traditional constraint stems from a distinction between consequential loss, i.e. economic loss sustained as a result of damage to the plaintiff's property, and "pure economic loss", *i.e.* loss sustained without accompanying physical damage.

Originally this distinction was observed as a hard-and-fast rule, setting a boundary between recoverable and irrecoverable loss. Whilst this approach could lead to arbitrary results, it nevertheless offered a clear line of demarcation, and for this reason came to be known in the United States as the "bright line rule". (Other common law countries do not appear to have used the same terminology, but for ease of reference the term "bright line rule" is adopted in this Paper as a shorthand description of a rule which disallows recovery of pure economic loss, and which therefore compensates economic loss only in cases where it results from damage to the claimant's property.)

In the United States the bright line rule is exemplified by the decision in *Robins Dry Dock & Repair Co -v- Flint* (1927),[19] where a shipyard negligently damaged the propeller of a ship during routine maintenance, and the US Supreme Court dismissed the time charterer's claim for loss of profits during the period of repairs. The same result has frequently been reached in other jurisdictions: see for example *The Mineral Transporter* (1985),[20] where the Privy Council (on appeal from the Supreme

19 275 U.S. 303 (1927).
20 [1985] 2 All E.R. 935.

Court of New South Wales) held that a time charterer of a ship could not recover loss of profits from the owners of another vessel which collided with it.

The approach of the common law courts has not precluded recovery in cases where the relationship between the parties is sufficiently close to impose on the defendant a duty of care. So for example pure economic loss has long been recoverable where the plaintiff has relied on a negligent misstatement by the defendant.[21] But in the absence of such a relationship claims for pure economic loss have normally been regarded as too remote, even where the plaintiff has at the same time suffered recoverable physical damage and consequential loss.[22] Dissatisfaction with the state of the law in this area has stimulated many attempts by courts in various common law countries to find some alternative demarcation: see for example the decision of the High Court of Australia in *Caltex Oil (Australia) Pty. Ltd. v. The Dredge "Willemstad"* (1976),[23] and the decision by the Supreme Court of Canada in *Norsk Pacific Steamship Co Ltd v. Canadian National Railway Co. (The Jervis Crown)* (1992), in which concepts of proximity are explored in preference to the exclusionary rule requiring accompanying physical damage. Unfortunately, the judgments in these cases reveal marked differences of approach, and the jurisprudential problems involved have led courts in the UK to reaffirm a more restrictive approach to claims for pure economic loss.[24]

Despite this process of retrenchment, there is strictly speaking no general rule, even in the UK, disallowing recovery of claims for pure economic loss. Today the theoretical emphasis is less on the nature of the loss and more on the nature of the relationship between the plaintiff and the defendant: in general what is required for recovery is some factor, beyond mere foreseeability, which results in the relationship between the parties being sufficiently close to impose on the defendant a duty to take care not to cause the pure economic loss suffered by the plaintiff.[25] The focus on the duty of care creates a theoretical difficulty in transposing principles from the law of negligence into the context of strict liability, which exists independently of any such duty. However this theoretical difficulty may be less problematic if it is borne in mind that, in practice, it does still remain critically important in negligence cases to categorise the nature of the plaintiff's claim: for largely policy reasons, a plaintiff claiming for pure economic loss will normally have much greater difficulty in persuading the court that there was a sufficiently close relationship between him and the defendant to justify recovery. Outside recognised

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21 *Hedley Byrne & Co Ltd v. Heller & Partners Ltd* [1964] AC 465, HL.

22 See for example *Spartan Steel and Alloys Ltd* -v- *Martin & Co.* [1973] 1 QB 27, where the English Court of Appeal held that there is no principle of English law allowing pure economic loss to be recovered in such cases by way of "parasitic" damages.

23 (1976) 136 CLR 529.

24 See *Murphy v. Brentwood District Council* [1990] 3 WLR 414, where the House of Lords took the unusual step of departing from one of its own previous decisions.

25 *Ibid.*

categories of case the successful claims for pure economic loss have been very few, and very different on their facts from those involved in pollution damage. Pollution incidents have sometimes led to claims for pure economic loss by literally thousands of parties, and they can therefore present the very kind of scenario in which the courts are probably as anxious today as in the past to avoid "opening the floodgates". It is therefore very doubtful whether it would be held in such a case that the shipowner is legally liable for claims for pure economic loss, whether on the basis of negligence or of strict liability.

The United States appears so far to be the only common law country in which claims for pure economic loss have been considered in the context of marine pollution. A leading authority is the *Testbank* case (1985),[26] where a collision between two ships in the Mississippi River Gulf outlet caused a spill of hazardous chemicals and led to closure of the outlet for nearly three weeks: after an extensive review of the authorities, the US Court of Appeals (Fifth Circuit) dismissed claims for economic loss (other than those of fishermen) in the absence of physical damage to any proprietary interest of the claimants.[27] The decision was followed in the more recent *World Prodigy* case (1993)[28] concerning a spill in June 1989, and indeed by US District Court Judge Russel Holland when dismissing claims under US maritime law by cannery employees and seafood interests for damages arising from the *Exxon Valdez* incident in March 1989.[29]

These decisions all relate to incidents which occurred prior to the US Oil Pollution Act 1990, which allows recovery for loss of profits or impairment of earning capacity caused by damage to the environment.[30] It is not entirely clear whether this provision abrogates entirely the pre-existing case-law based on the bright line rule, nor, if so, what new line of demarcation (if any) is to be drawn instead.

An incident occurring after the enactment of OPA was considered in the *Jupiter* case (1992).[31] The vessel in that case suffered an explosion and fire whilst unloading gasoline at Bay City, Michigan. As a result of the incident she broke loose from her moorings and partially sank in the channel, which was thereby closed for over a month. Claims for economic losses were made by commercial users of the river and an attempt was made to support these by reference to the relevant provisions in OPA.[32] In dismissing these claims the judge observed that only one of the many claimants had alleged "injury, destruction, or loss" to their property. His brief remarks appear open to more than one interpreta-

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26 752 F.2d 1019 (1985).

27 Commercial fishermen are subject to a recognised exception: see *Union Oil Co v. Oppen* 501 F.2nd 558 (9th Cir.1974).

28 (AMC May 1993 No 5 - 1413).

29 Decision of January 26, 1994.

30 See Section 1002 (b)(2)(E), set out in Appendix I.

31 *Petition of Cleveland Tankers Inc (The Jupiter)*, 791 F. Supp. 669 (E.D. Mich. 1992).

32 See Appendix I.

tion. The decision may readily be supported on the ground that the alleged economic losses did not result from contamination of the environment but rather from blockage of the river channel by the wreck of the vessel. In cases however where economic losses are caused by contamination, it is generally thought to be open to courts in the USA to hold that OPA allows recovery irrespective of any proprietary interest in the damaged natural resources. If this is right then the position in respect of economic loss claims may well be broadly the same in the United States under OPA as in convention countries under the revised definition of "pollution damage" contained in the Protocols.

Position in the national laws of civil law countries

In civil law countries the "bright line" rule is not applied because there is no differentiation between losses which do or do not result from physical damage. Indeed, "physical damage" is not a relevant criterion, or at least it does not have the same meaning as in the common law. However there are other criteria which differ from country to country. In many civil law jurisdictions liability arises and compensation is due if property or any other proprietary interests (or rights) are infringed. Thus, pure economic loss which is not the consequence of the infringement of such a right would not be recoverable. In the context of the development of environmental law attempts have been made to go beyond the traditional boundaries, but the solutions are manifold and it would go beyond the purpose of this paper to reflect all these developments. However, in other civil law countries traditional rules are different from those mentioned above. In French law, for example, traditionally any damage caused in case of liability is recoverable subject to certain conditions and criteria. The traditional criteria are that the loss should have been a direct and certain result of the alleged wrongdoing by the defendant. On this basis there is in principle no reason why economic loss should be irrecoverable on the mere ground that it is unaccompanied by physical damage, or by the infringement of property or any other proprietary interests (or rights). A notable difference for instance between the French system and the common law is that the common law courts have inclined towards a clear but arbitrary rule, whilst in civil law jurisdictions the general nature of the relevant criteria leaves a great deal to the discretion of the judge in the particular case.[33] The French courts are therefore in principle more open to claims for pure economic loss than their common law counterparts, but they have tended to take a relatively restrictive approach in determining whether the quantum of the plaintiff's claim is sufficiently direct and certain. For these reasons it is possible that, in the final analy-

33 For a valuable review of French law in this context see the Note submitted by the French delegation to the Seventh Intersessional Working Group of the IOPC Fund (document FUND/WGR.7/6/Add.1), and especially the Annex thereto dealing with economic loss in French law.

sis, the financial result does not differ significantly in one system as opposed to the other.[34]

B. Problems

In recent years an age-old problem has become increasingly acute in the context of pollution claims: how is the line to be drawn between those claims for economic loss which should be paid, and those which should be dismissed as too remote?

To illustrate the problem the example may be given of a substantial spill outside a commercial port and fishing centre, which also pollutes adjacent tourist resorts. If a fishing ban needs to be imposed and fishermen suffer loss of income as a result, it has in practice often been found very hard to resist their claims, despite legal arguments against "pure economic loss". The same would apply to hoteliers in the immediate vicinity of the affected tourist resorts, even though they have no proprietary interest in the affected coastline. However, if these claims are conceded, should compensation be paid also to hoteliers who are not in the immediate vicinity, but who nevertheless suffer loss of income because tourists shy away from the region as a whole? What should be done about fishermen who are able to fish as normal outside the exclusion zone, but who suffer reduced catches, or who fetch only reduced prices because in the wake of the spill demand has plummeted for fish from the area?

Questions of *geographic remoteness* may be interlinked with difficult issues of causation, particularly in cases where media attention to the spill has caused disproportionate damage to the image of the local tourist or fishing industries. This problem is illustrated by a press release issued by the town of Valdez in Alaska in March 1990, nearly a year after the *Exxon Valdez* grounding. This urged the world's press "to avoid repeating errors and myths" in covering the anniversary of the spill. It noted that the lost wildlife was but a small fraction of the total populations in Prince William Sound, and that the affected shoreline was "remote and outside the area likely to be seen by seaborne tourists".[35] Similar problems have been encountered after recent highly publicised spills in Europe, thereby raising the issue whether compensation should be paid for the cost of a publicity campaign designed to remedy "loss of image" of this type.[36]

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34 For a comparative analysis of the treatment of claims for economic loss in common law and civil law systems, see Tetley, *Damages and Economic Loss in Marine Collision: Controlling the Floodgates* 22 J.Mar.Law & Com. 539, (1991).

35 See J.G. Mielke, *Oil in the Ocean, The Short- and Long-term Impacts of a Spill* (Congressional Research Report, July 24, 1990).

36 One of the issues is whether the cost of such a campaign is recoverable under CLC Art. I.7 as a "preventive measure", if its effect is to prevent or minimize economic loss which would otherwise be recoverable as "pollution damage". Whilst it has been said that this would go beyond the original intention of the draftsman, there is much to be said for the logic of this analysis.

Questions of what might be called *economic proximity* or *directness* arise when claims are presented (for example) by fish processors, who buy the fish from the fishermen and sell them in packaged form. If claims for lost earnings are paid to parties such as these, should they be paid also to employees of processing firms who are made redundant as a result of a spill? What about wholesalers to whom the processed food is sold, and others occupying still remoter positions along the economic chain? Similarly in the tourist industry a variety of claims may be contemplated, ranging from that of the ice cream salesman on the polluted sea front, to those of travel agents in distant countries who specialise in arranging holidays to the affected region.

Outside the tourist and fishing industries there may be others who are no less affected. If claims are paid to the owners of fishing trawlers who have to remain in port, what about cargo vessels which are prevented from sailing by an oil slick outside the mouth of the harbour? In one case claims have been made by ship agencies for losses resulting from the diversion of vessels which had been booked for entry into an affected port.[37] If claims of this sort are allowed, it is not difficult to foresee a wide range of others which may follow in their wake in future.

Need for suitable tests

In many and perhaps most instances it is possible for those paying compensation to form an instinctive judgment whether a particular claim ought reasonably to be paid or not. Hitherto, a flexible attitude on the part of the Clubs and the IOPC Fund has in practice normally resulted in compromise settlements. Nevertheless, there have long been fears that the absence of clearly defined principles might lead with time to an uncontrolled expansion of claims in this field. A failure to maintain an acceptable level of consistency in the treatment of claims may lead to "leapfrogging", and thus cause the floodgates to open too wide. Anxieties of this sort have been stimulated by the experience of three recent cases in Europe: the *Haven* (Italy, 1991), the *Aegean Sea* (Spain, 1992), and the *Braer* (UK, 1993). Each of these cases has resulted in a wide variety of claims for economic loss, many of which have highlighted problems of the kind outlined above. In combination they have shown that the scope of recovery could become very wide indeed if appropriate limits are not defined, and accordingly they have added fresh urgency to the need for suitable tests to govern such claims.

One important restriction is the requirement in CLC that pollution damage must have been caused "by contamination" resulting from the escape or discharge of oil.[38] It is not enough to show merely that it was caused by the incident (i.e. the collision, stranding or similar occurrence which led to the pollution).[39] So, for example, if the facts of the US

37 *The Aegean Sea* — see Fund document FUND/EXC.35/10 at p.11.

38 See the definition in Art. I.6, set out in Appendix I.

39 For the full definition of "incident" see CLC Art. I.8.

Jupiter case[40] were to be repeated in a convention country it is thought likely that the same result would be reached — i.e., that there could be no recovery for pure economic losses resulting from the blockage of a river channel by the wreck of a vessel, merely because oil escaped at the time of the casualty: contamination rather than blockage (or other factors) must be the cause of the loss.

This restriction has been emphasized at recent Sessions of the Executive Committee of the IOPC Fund, when it considered claims resulting from the above three incidents and discussed the extent to which "pure economic loss" should be recoverable. It is beyond the scope of this Paper to review in detail the individual claims or specific decisions of the Executive Committee, but it is clear that the requirement of damage "by contamination" is not alone sufficient to answer all the questions involved: cases may readily occur in which contamination is a factor but in which difficult judgements are involved in determining whether there is a sufficiently close causal link.

Consequences of opening the flood-gates

If the absence of such a principle does unfortunately open the floodgates to an unacceptably wide range of claims, the consequences will not be limited to an extra burden on those responsible for the cost of oil spills. It must of course be appreciated that the limits of liability prescribed by CLC and the Fund Convention require a pro rata reduction of claim settlements in cases where the limits are exceeded by the aggregate of admissible claims.[41] The position must therefore be considered not only between industry on the one hand and the victims on the other, but also among the victims themselves. Payment of remoter claims may not be equitable if the result is to diminish the compensation paid to those in the front line of pollution damage.

It should also be borne in mind that the legal position in relation to pollution by oil may influence future development of the law governing pollution by other hazardous and noxious substances. In this context it should be appreciated that there are many hazardous substances which pose a much greater threat than oil of causing economic loss due to business interruption resulting from fire or explosion, or due to the cost of evacuating an area endangered by an escape (or threatened escape) of toxic substances. An unduly wide approach to oil pollution cases could therefore lead to serious consequences in the context of HNS.

C. Options for possible solutions

(i) Options

A search for greater certainty in this field would appear to involve the following options:

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40 See p. 97, ante.

41 See CLC Art. VII.4, which requires the limitation fund to be distributed to claimants in proportion to the amounts of their established claims.

1. To adhere to the "bright line" rule and to disallow in future any claims for pure economic loss;
2. To allow all claims for any economic loss shown to have been caused by a spill;
3. To devise a new test of remoteness, directness, foreseeability or proximity which will allow recovery of some claims for pure economic loss but not others; and
4. To adhere to the "bright line" rule subject to certain modifications to it.

(1) and (2) Total allowance or disallowance of claims for pure economic loss

The first two of these options represent extreme solutions which will probably attract little support unless, perhaps, the other alternatives are thought unworkable. These other alternatives are therefore now examined in further detail.

(3) The possibility of a new universal test of remoteness for pollution claims

The mood of many participants in the Genoa Colloquium was well summarised by one American delegate, who commented that the traditional "bright line" rule could no longer be considered sufficient in the context of pollution claims, and that what was needed was a new bright line rule. This begs the questions whether in fact a new line can be found, whether it draws the boundary of recovery at an acceptable point, and whether the line is indeed sufficiently "bright" to enable a clear conclusion to be reached in each case.

Causation and directness

In the context of the conventions a degree of guidance may be derived from the requirement that the pollution damage should be caused "by contamination" resulting from the escape of oil.[42] If suitable emphasis is attached to these words, they may be found to provide a straightforward answer to some of the remoter types of claim postulated above. However they will not necessarily be sufficient on their own in borderline cases.

Issues of causation beg the question what degree of directness is required to justify recovery. The definition of "pollution damage" in CLC 1969 does not expressly require loss or damage to be *directly* caused by contamination, and this may be contrasted with the industry schemes TOVALOP and CRISTAL, in which the corresponding definition does require economic loss to have been "actually sustained as a direct result of contamination...". Directness of causation is the test most favoured in civil jurisdictions for controlling remoter claims, and indeed a requirement of directness was included in an initial draft of the definition of "pollution damage" reviewed at the 1984 Diplomatic Conference. Its omission from the final version in the Protocols did not reflect any wish

42 See CLC Art. I.6, set out in Appendix I below.

to extend the scope of recovery to remoter claims, but resulted from disagreement among the delegates over its true effect.[43] It must therefore be doubted whether a concept of directness will on its own provide sufficient precision to satisfy the demand for greater certainty in this field.

Foreseeability

Generally it is accepted, at least in common law countries, that unforeseeable losses are too remote to be recovered. However it would not necessarily be right to say that all foreseeable losses should be paid. For one thing, the boundaries of foreseeability may readily be extended from one case to the next. This is particularly so in a field attracting so much public attention as pollution damage: losses which were unforseen in the past are less of a novelty when repeated in future. But apart from these practical considerations, a test of foreseeability may in any event be considered too wide a criterion to govern claims for pure economic loss. In the law of negligence it is generally true that any damage, whether physical or economic, should be foreseeable in order to be recoverable from the wrongdoer who caused it.[44] A feature of claims for economic loss is that, to avoid opening the floodgates, the courts generally look for some additional factor, apart from mere foreseeability, to justify recovery.[45]

Proximity

If the experience of the common law courts is anything to go by, a test of proximity is at present the only viable contender as an alternative to the "bright line" rule. Either alone, or perhaps in combination with a civil law requirement of direct causation, it would permit account to be taken of all the relevant circumstances including degrees of geographic, economic and causative remoteness. However, whilst providing sufficient flexibility to allow payment of economic loss claims in some cases but not in others, it would inevitably involve a large element of judgement in each case. It cannot therefore be pretended that this approach would provide more than a limited contribution to certainty and consistency of results in this field.[46]

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43 See further Jacobsson and Trotz, *The Definition of Pollution Damage in the 1984 Protocols to the 1969 Civil Liability Convention and the 1971 Fund Convention* (1986) J.Mar.Law & Com. Vol 17, No 4, 467, at pp. 489-90.

44 See *e.g. Palsgraf v. Long Island Railroad* 248 N.Y. 339 (1928), where an employee of a railway company carelessly knocked a package out of the hands of a passenger at a railway station. Unknown to him the package contained fireworks which exploded when the package fell to the ground, and caused a shock wave which overturned a weighing machine onto the plaintiff, who was standing at some distance along the platform. The New York Court of Appeals *held* that the defendants were not liable to the plaintiff, because he was outside the scope or those who might foreseeably be injured by the dropping of the package.

45 See *Murphy v. Brentwood District Council* [1990] 3 WLR 414, 446 (Lord Oliver).

46 In *Murphy* the House of Lords spoke of the need for a sufficient degree of "proximity" between the plaintiff and the defendant. However the expression was described as comprehending an "elusive element", and as one which "persistently defies definition": see Lord Oliver at p.447.

(4) The possibility of adhering to the bright line rule, subject to limited exceptions

Those favouring this option would in effect seek to maintain the advantages inherent in the bright line rule, but to adapt it to a pollution context by allowing certain limited exceptions to it - *i.e.*, cases in which pure economic loss may be paid.

This option probably approximates most closely to the current approach of courts in the US and the UK. In the United States the general rule is subject to a recognised exception in the case of commercial fishermen who lose earnings as a result of pollution: see *Union Oil Co v. Oppen* (1974).[47] Both in the US and the UK a few other exceptions exist, although immaterial in an environmental context.

Indeed this approach is reflected in the current practice in the settlement of oil pollution claims. Although no attempt has been made as yet to enunciate any universal principle of remoteness applying to claims under the conventions, the P & I Clubs and the IOPC Fund have for some years been paying claims for pure economic loss by fishermen, hoteliers and other similar claimants. However the Fund's statements of policy in this field have been carefully limited to broad categorisations of claims which have been paid in the past. In practice compensation has not normally been extended to claimants whose livelihoods do not depend directly on earnings from coastal or sea-related activities.

In determining what exceptions to the general rule are acceptable, account may usefully be taken of the principle which in some jurisdictions (such as Germany) may result in an award of compensation for damage to or infringement of some recognised legal right.[48] In most cases this principle will probably have much the same effect as the relevant common law rules, for in general it is limited to possessory rights and other similar rights which are exclusive to the claimant.[49] However, in German law this principle has been applied to protect the claimant's "established trade",[50] in cases where this has been damaged or interrupted by the wrongdoer: although its main scope of application is competition law, there has been a limited number of tort cases in which it has resulted in awards of pure economic loss which would probably have been irrecoverable at common law.[51]

A similar approach has found some support in the IOPC Fund. In

47 501 F.2d 558 (9th Cir.1974).

48 See for example the so-called "injury of any other right", as recognised in German law (*Verletzung eines sonstigen Rechts*).

49 In both systems a right of possession to damaged property would be sufficient to found a claim for economic loss (see *The Winkfield* [1902] P. 42 for the common law rule). Both systems would also deny recovery to a claimant with no more than a non-possessory contractual right, such as that enjoyed by a time-charterer of a ship (see cases cited at p. 95, ante).

50 The *Recht am eingerichteten und ausgeübten Gewerbebetrieb*.

51 See decisions of the *Bundesgerichtshof* 14.01.1971 and of the Bundesverwaltungsgericht 01.12.1982, both of which are pollution cases involving awards to claimants from the fishing and aquaculture industries.

the *Haven* incident claims for lost earnings were presented by the operators of beach facilities ("bagni") along the Italian coast, and the Executive Committee accepted that these claims were in principle admissible on the ground that the claimants had suffered an infringement of their recognized legal right, viz to operate the facility on the beach.[52] Other similar instances can readily be envisaged - *e.g.* fishermen with permits to harvest specified areas, or parties holding licences to operate hotels and other tourist establishments.

Care is undoubtedly needed to avoid an unduly broad approach, as might be involved if (for example) the right infringed is not truly exclusive to the claimant.[53] It may also be necessary to ensure that variations between different legal systems do not lead to inconsistencies resulting from the recognition of an established right in one country but not in another: whilst a particular business activity may in some countries be permitted only to those holding a licence or having some recognised legal right, in other parts of the world the same activity may be open to all citizens in the absence of any relevant restriction. Subject to appropriate safeguards to meet these points, a rigid requirement of physical damage to tangible property may be thought inappropriate and unnecessary.

(ii) Review of options

Most would probably agree that none of the options canvassed above offers a complete solution to the problems involved.

Assuming that options (1) and (2) are discarded, it follows that a demand exists for a system which would allow claims for pure economic loss to be paid in some cases but not in others. Options (3) and (4) both offer possible ways of distinguishing between recoverable and irrecoverable claims. There are advantages and disadvantages with each of these two options.

Option (3) offers the advantage of a test which can be related more readily to the existing legal framework. Most relevant compensation laws or schemes employ a notion of causation in the definitions they give of recoverable claims. Criteria such as directness, foreseeability and proximity address the question how close the link of causation must be in order to justify recovery. Such criteria may be more readily defended in principle than rules of a purely pragmatic nature, and they also preserve sufficient flexibility to deal with each case on its merits. However there is a problem involved in deciding exactly what test to adopt, bearing in mind that some concepts, notably that of directness, have been found

52 See Record of Decisions of the 35th Session of the Executive Committee, Fund document FUND/EXC.35/10, at p. 4.

53 The difficulties involved in drawing a clear line of demarcation are illustrated in Germany by one case in which the court rejected claims resulting from interruption of the electricity supply (BGHZ 29.65), and another in which it refused to apply this principle to a claim by a stevedoring company for losses resulting from the blockade of a port entrance due to the bursting of a dam (BGHZ 86, 152).

in the past to mean different things to different people. General criteria may also be insufficiently precise to be of much practical use, on their own, in addressing the problems involved. In particular it is questionable how far they truly assist in the making of a decision, as distinct from its subsequent rationalization.[54]

Option (4) offers the advantages of greater clarity and certainty. In the particular context of pollution, the possibility exists of defining specific cases in which pure economic loss may be paid, by reference to specific types of claim or claimant commonly encountered in practice. A disadvantage lies in the fact that the bright-line rule is not widely recognised in civil law countries, and that even in common law jurisdictions it does not strictly constitute a hard-and-fast rule. An approach based on specific exceptions to the bright line rule might appear excessively arbitrary unless supported by general criteria. It may also be unduly rigid, unless care is taken to preserve adequate flexibility when defining specific categories of recoverable claim, recognising the scope for unforeseen situations to arise at a later date.

In conclusion it may be thought that an amalgam of options (3) and (4) offers the best way forward. General criteria may assist in making what may sometimes amount to a discretionary judgment to accept or reject a specific claim, and to this extent, at least, they may have an important role to play in controlling the boundaries of recovery. At the same time, a degree of additional clarity may be achieved through broadly defined examples of specific cases in which pure economic loss may or may not normally be paid.

Guidelines

Part II of Appendix V illustrates the type of Guidelines which might be adopted to combine the advantages both of option (3) and of option (4). It is believed that in general these would largely to reflect the current practice in payment of claims for economic loss Such Guidelines would of course not be legally binding in a court of law, but the same is true for example of resolutions adopted by the IOPC Fund. Material of this nature may nevertheless carry weight with a court which is confronted for the first time with an intractable problem, and which wishes to act in accordance so far as possible with principles accepted at international level. An accompanying discussion paper may also carry weight if it canvasses not only the legal issues, but also contains an authoritative statement of the various policy considerations involved in the particular con-

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54 Commenting on a French decision concerning direct causation one jurist noted: "La cour déclare ce préjudice direct. Cette affirmation est sans portée, car les juges, comme les auteurs, déclarent un préjudice direct ou indirect suivant qu'il leur plaît ou non d'allouer une indemnité ." (Translation: "The court found the damage to be direct. This statement is of no real significance, for the judges, like other legal authorities, declare a loss to be direct or indirect according to whether they are minded to grant a claim for damages.") See further Tetley, *Damages and Economic Loss in Marine Collision: Controlling the Floodgates* 22 J.Mar.Law & Com. 539, (1991), at p. 578.

text of the international system for compensating pollution by oil. If Guidelines of this nature were couched in appropriate terms, and if they were subject to periodic review in the light of experience, they may be thought to strike an appropriate balance between two competing demands, viz for greater certainty and uniformity in dealing with claims, whilst at the same time retaining sufficient flexibility to adapt to change and determine each case on its merits. Further discussion of their possible legal status and practical use is set out in a note at Appendix IV.

III ENVIRONMENTAL DAMAGE AND RESTORATION

A. Present law

Position in Convention countries

So far as environmental damage is concerned, the current CLC definition does not address the question precisely what types of claim may be made.[55] It is generally assumed that the costs actually incurred in clean-up or reinstatement may be recovered — although these terms are not actually employed in the CLC definition — and this is reinforced by the fact that since at least 1984 it has been agreed that the cost should be recoverable of reasonable measures actually taken (or to be undertaken) to reinstate the affected environment. There is scope to clarify precisely what is meant by such terms as reinstatement and restoration, and to develop the criteria by which the reasonableness of any restoration measures should be judged. Nevertheless a tolerably clear distinction can be drawn between claims for the actual costs incurred in clean-up and reinstatement on the one hand, and on the other, general claims intended to reflect the supposed value of the environment, or the use of it, which have allegedly been lost or damaged. Claims of this latter kind are necessarily speculative since they cannot be assessed by reference to any recognised economic yardsticks, and frequently depend on abstract or theoretical notions.

It appears that in most convention countries such claims would be likely to fail, either in the absence of any party with locus standi to bring proceedings, or due to the difficulties involved in quantifying a claim of this nature. There have nevertheless been several instances of such claims being advanced. Perhaps the best known is an incident from 1979, the first of two cases involving the Soviet tanker *Antonio Gramsci*. This led to a claim by the authorities in the USSR for environmental damage calculated in accordance with the so-called "methodika" formula prescribed by national legislation. This provided for compensation to be paid at a rate of 2 roubles per cubic metre of polluted water, the amount

55 For the text of CLC Art. I.6 see Appendix I.

of which was to be estimated by reference to the quantity of oil spilt in Soviet waters. The experience of this case led the IOPC Fund to adopt in 1980 a Resolution stating that:

> "The assessment of compensation to be paid by the International Oil Pollution Compensation Fund is not to be made on the basis of an abstract quantification of damage calculated in accordance with theoretical models".

This approach was reinforced in the revised definition of "pollution damage" adopted in the 1984 Protocols, and now carried forward into the 1992 Protocols. This definition contains the proviso that:

> "compensation for impairment of the environment .... shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken .....".[56]

Pending entry into force of the Protocols it is still sometimes asserted that general claims for damage to the environment are recoverable if national law so provides: see for example the second *Antonio Gramsci* incident in the USSR (1987), and in Italy the *Patmos* and *Haven* incidents (1985 and 1991 respectively). However, once the Protocols are in place there will be little doubt that such claims fall outside the conventions.

Whilst the Protocols will therefore clarify the position under the conventions, the question does remain in some countries whether claims of this type can or should be allowed under national law, independently of CLC, or whether the convention provides the sole and exclusive remedy for all environmental claims resulting from the incident. As will be seen below, the allowance of such claims outside the conventions does cause considerable problems.[57]

Position in the United States

The Protocols' exclusion of general claims for environmental damage is in stark contrast with the position now prevailing in the United States. Even if a shipowner pays full compensation for the cost of the clean-up and restoration after a spill in US waters, and for economic losses caused by the pollution, he still remains exposed to further categories of claim permitted by OPA: this permits public trustees to bring claims for loss of or damage to natural resources, and for loss of use of natural resources, including the sometimes considerable cost of assessing the alleged loss or damage.[58] As previously mentioned, these assessments are to be made in accordance with NRDA regulations currently in preparation under the auspices of NOAA.[59] This aspect of OPA is one of the most hotly debated features of the new legislation.

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56 See Appendix I for the full text.

57 See p. 114 *et seq.* for a discussion of the problems encountered as a result of such claims in legal proceedings following the *Haven* incident in Italy in 1991.

58 See Section 1002(b)(2)(A), set out in Appendix I.

59 The draft Rules proposed by NOAA were published on January 7, 1994 (59 FR 1062).

These regulations will seek among other things to place a financial value on the claims of those who do not depend on the environment for their earnings, but who use it for other reasons such as leisure activities (e.g. sports fishermen and bird watchers). Moreover they are not confined to loss of amenity, but must extend also to include the so-called "non-use" values of "option", "existence" and "bequest": see *State of Ohio v Department of Interior* (1989).[60] "Option" value is defined as the dollar amount which would willingly be paid by people who are not currently using a resource, in order to preserve the option to use that resource in future; "existence" value is the amount people will pay just to know that the resource is there, and "bequest" value the amount they would pay to have it available for their children, after their death. A well known but highly controversial method of ascertaining these values is by population surveys conducted in accordance with the process known as Contingent Valuation Methodology (CVM).[61]

Another current controversy in the United States concerns the nature of the amendments which ought now to be made to the NRDA Regulations promulgated under CERCLA by the Department of Interior, in order to take into account the *Ohio* decision. The court's principal ruling was to condemn an earlier regulation which provided for damages to be based on the "lesser" of restoration costs on the one hand, and use/non-use values on the other. It is now being debated whether a new draft regulation over-corrects the previous deficiency by providing for aggregate damages consisting of both elements combined. There is a widely held view that the true effect of *Ohio* is to require a distinct preference in favour of restoration costs as the primary measure.[62]

B. Problems

(i) General

Arguments for and against non-pecuniary claims

Supporters of the approach in the USA will argue that a loss may be real enough, even if it cannot readily be measured in financial terms. In most countries the courts have found conventional ways of compensating other forms of non-pecuniary loss, such as loss of physical amenity due to personal injuries, and associated pain and suffering. They would further argue that although no private proprietary interests may have been damaged, a public loss has nevertheless been suffered for which compensation should be paid to a public trustee.

Opponents of this system question whether the payment of such claims represents a proper use of the finite sums available for compensating pol-

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60 880 F.2nd 432 (US Court of Appeals, D.C. Cir.1989).

61 For further discussion of CVM see p. 110 below et seq.

62 A full discussion of these issues is set out in a detailed submission to the US Department of the Interior by the American Petroleum Institute, which has met with widespread support.

lution damage. The real victims of a spill should not suffer reduced claim settlements through the need to compete with notional claims of this sort. By definition, "non-use" values do not represent any tangible cost, nor even any loss of amenity, but merely reflect subjective public opinion of largely emotional values. The "damages" paid to the public treasury do not constitute compensation in the normal sense, but are more akin to a criminal fine. However the designation of the procedure as a claim for civil compensation renders the outcome far less predictable for the shipowner and his insurers, and may readily lead to a financial burden many times greater than any amount sustainable as a penalty or fine.

Contingent Valuation Methodology

The tendency towards inflated claim figures in this area has been highlighted by debate over the reliability or otherwise of Contingent Valuation Methodology. The public surveys employed by this approach involve hypothetical questions designed to calculate respondents' "willingness to pay" (WTP) to prevent pollution of specified natural resources, or to bring about improvements in them. The survey typically provides a detailed description of the resource being valued, the baseline level at which it is provided, and the method of payment by which respondents might "purchase" more of the resource, such as a one-off tax or an increase in prices. An average WPT is then calculated, which is multiplied by the relevant population to produce a total value.

There is a substantial body of expert opinion which rejects CVM as excessively abstract and unreliable. The measurement of these values is regarded as highly problematic when many individuals will be non-users or very infrequent users of the resource concerned, and when a number of recognised factors will tend to inflate the stated value which respondents will place on the resource concerned.

Studies have shown for example that if people are asked how much they would hypothetically be prepared to pay for membership of an organisation concerned with environmental affairs, and are later presented with an opportunity to make an *actual* contribution, the actual WTP is significantly less than the hypothetical figure previously stated.[63] The absence of budget constraints means that respondents provide answers which do not take account of the expenditures which they would have to forego in order to pay for the programme, nor of the fact that it is only one of many similar programmes which could be devised for numerous other resources liable to be damaged in the course of a year. Fre-

63 See Seip, Kalle and Strand (1992), *Willingness to Pay for Environmental Goods in Norway: A Contingent Valuation Study with Real Payment*, (paper prepared for the SAF Centre for Applied Research, Dept of Economics, University of Oslo). Similar conclusions were reached in a study concerning willingness to contribute to the Montana Nature Conservancy: see Duffield and Patterson, *Field Testing Existence Values: An Instream Flow Trust Fund for Montana Rivers*, (paper presented at the annual meeting of the American Economic Association, New Orleans, January 1991).

quently there is a tendency towards symbolic responses which are intended to express approval of the environmental programme in question (or disapproval of those responsible for pollution), and which are therefore an unreliable guide to WTP (the so-called "warm glow" effect). It has also been observed that the "embedding" phenomenon results in answers which do not adequately reflect the comparative scale of environmental damage, and which for example will place not significantly different values on populations of 2,000 and 200,000 birds.[64]

Another controversy with CVM concerns the extent of the "market" to be canvassed. In conventional market research this may be determined by practical constraints affecting the sponsors of the survey, but in the hypothetical context of damage assessment it is more problematic to decide what limits should be placed on the size of population to be sampled and brought into the calculation of non-use values. The potential problems are apparent from a CV survey conducted after the *Nestucca* spill in the Pacific Northwest in 1988, when various forms of natural resource damage were sustained, including the deaths of an estimated 50,000 seabirds.[65] The survey was conducted among residents in the two jurisdictions affected by the spill, namely the State of Washington and British Columbia, and sought to establish the WTP for each household to prevent the recurrence of a similar spill in future. The resulting figure of approximately US$95,[66] when multiplied by the number of households in these two jurisdictions, implied a total figure of some hundreds of millions of dollars. A sum of this magnitude is of course enormous enough in itself, but it would clearly have been many times greater if the survey had not been confined to these two jurisdictions and had extended throughout the United States.[67] Whilst a lower WTP would doubtless be indicated by respondents residing further away from the spill, the huge number of households throughout the nation would still have been likely to produce a total running into billions of dollars. This begs the question whether it is logical or satisfactory if identical damage in two different places results in dramatically different financial assessments, for reasons which reflect not only the incomes and attitudes of those answering CV surveys in the two different locations, and different population densities, but also variations in the geographic size of the jurisdictions where the damage occurred.

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64 See in particular Desvousges, et al, *Measuring Natural Resource Damages with Contingent Valuation: Tests of Validity and Reliability*, (paper presented at the Cambridge Economics Inc Symposium, Contingent Valuation: A Critical Assessment, Washington D.C., April 1992).

65 See Rowe, Shaw and Schultz, *"Nestucca" Oil Spill*, Chap. 20 in *Natural Resource Damages: Law and Economics* (Eds. Kevin M. Ward and John W. Duffield), New York, John Wiley & Sons (1992).

66 Payable over a period of five years, this being the estimated interval between spills of moderate size in the Pacific Northwest.

67 The scope of the Nestucca study may have been dictated by the fact that its sponsors were agencies in the State of Washington and the province of British Columbia (see the Blue Riband report, cited in footnote 68 *infra*, at p. 4605).

These and related issues were considered at length in 1992 by a Blue Riband panel of six academic experts appointed by NOAA to examine CVM. Their report was published in January 1993,[68] and has been taken into account by NOAA in preparing its proposed NRDA Rules to apply under OPA.[69] The report acknowledged several significant problems inherent in CVM, and identified a number of stringent guidelines which would need to be followed before the results could be accepted as reliable. The panel concluded that under these conditions CVM could provide useful information which in combination with other evidence could help judges and juries assess natural resource damages caused by oil spills. This conclusion echoes the decision in the *State of Ohio v Department of the Interior* (1989) when the Court of Appeals rejected a general challenge of the methodology in the context of the regulations issued under CERCLA.[70]

Despite the very qualified support which CVM has thereby received, it is to be noted that in both of these instances its evaluation has taken place against a backdrop in which the underlying legislation was already in place. This is a field in which many will say that the devil lies in the detail. When the detail of CVM came to be examined by the Court of Appeals, and more recently by the panel appointed by NOAA, the option was no longer available of concluding that the system was unworkable, and that it would be a mistake to enact a statutory right to recover damages of this type. Speakers from the United States at the Colloquium in Genoa acknowledged the deficiencies inherent in CVM but observed that the methodology could not easily be rejected when the compensation of such claims was a legal requirement, and when no superior methodology appeared to exist. It is against this background that proposed NRDA Regulations were published by NOAA in January this year. In the accompanying commentary CVM is described as "the only known methodology for measuring the passive use component of total resource value",[71] and so, perhaps inevitably, its use is sanctioned in the proposed regulations, subject to certain guidelines.[72] In the short term it remains to be seen whether commentators will accept the proposed guidelines as sufficiently stringent to guard against problems of the kind noted above. In the longer term it appears likely that the reliability of CVM studies will remain a bone of contention in litigation, though at present this problem remains confined to the USA.

Problems

Against this background would now appear to be two principal problems.

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68 January 15, 1993 (58 FR 4601).

69 See proposed Rules published on January 7, 1994 (59 FR 1062).

70 880 F.2nd 432 (US Court of Appeals, D.C. Cir.1989).

71 59 FR 1062, at 1074.

72 Ibid, at 1182-3.

First and more generally there is the question how best to deal with the conflict which has emerged in the 1990s between the contrasting systems of law represented by the international conventions on the one hand, and by US domestic law on the other. Are these two systems to be left to grow further apart, or does any scope remain for fostering some limited degree of uniformity?

Secondly, and more specifically, there is the question what standpoint should be adopted in countries which find themselves politically drawn towards adopting a similar system. Doubtless there will be many nations for which OPA will have little appeal, and which will be content with the international system. There is nevertheless some concern that political interest in environmental issues will continue to grow in the decade ahead, and that in a growing number of countries public opinion will not be satisfied by a system which is perceived to provide an inadequate remedy for public grievance over environmental damage. The question then arises whether the very different systems represented by OPA and the conventions are the only available options, or whether some alternative formula can and should be devised which will satisfy political demands, whilst at the same time proving easier than OPA for shipowners and their insurers to live with.

(ii) Judgments in convention countries for sums which are not recoverable as "pollution damage"

The above discussion leads to the question whether it is open to a CLC state to enact legislation providing for a wider right of recovery than that allowed by CLC itself, and wider than that permitted in other contracting states. If by virtue of such legislation the national court awards damages which would not be recoverable in another CLC state, how does that award affect (a) the shipowner's right of limitation, and (b) the IOPC Fund, assuming that it is involved in the case? (Similar problems may arise in future under any HNS convention adopted with a two-tier system of compensation.)

In this connection it will be appreciated that whilst the owner undertakes strict liability for pollution damage, as a *quid pro quo* he is entitled to limit his liability for such damage to the amounts prescribed by the convention. This right is buttressed by the provision that the convention is to provide the sole and exclusive remedy against the shipowner for damage of this type.[73] If however a claim falls outside the scope of "pollution damage", there is arguably no bar to domestic legislation pro-

73 CLC Art. III.4 provides that "No claim for compensation for pollution damage shall be made against the owner otherwise than in accordance with this Convention."

viding for its recovery outside CLC, and equally no basis for the shipowner to require the claimant to prove against the CLC fund.

In principle there is nothing surprising about this, since there is no doubt that losses which are not caused by contamination are to be dealt with quite separately: *e.g.* claims for loss of life or property damage caused by any impact, fire or explosion involved in the incident. It is however quite another matter to justify a régime in which the shipowner's liability for the consequences of contamination is not restricted to his CLC limit, but may extend to further environmental claims in addition to those recoverable under CLC. It seems unlikely that this possibility was either intended by the draftsman of CLC, or foreseen by those responsible for the 1976 London Convention on the Limitation of Liability for Maritime Claims, with the result that it is doubtful whether any basis at all exists on which the shipowner could limit liability for such additional claims.[74] In effect this may well result in preferential treatment being given to such claims, in comparison with others required to prove against the CLC fund. This situation is particularly ironic when the reason why such claims fall outside the conventions in the majority of countries is not that they are thought worthy of special treatment, but on the contrary that they are not thought worthy of recovery at all. The allowance of such claims outside the CLC limit has the further effect of disturbing the agreed apportionment of the burden of spills between the shipping industry on the one hand and the oil industry on the other. It also adversely affects the insurance market's capacity to respond.

Given the relatively loose definition of "pollution damage" as it currently stands, scope exists for national courts to determine that a generous award results from a wide interpretation of this term, rather than from a decision to make an award outside the scope of the conventions.[75] This could be said to alleviate the problems mentioned above, but greater generosity in some countries than others tends to undermine the mutuality which must exist among Fund member States, and an unduly wide interpretation of "pollution damage" may not be acceptable to the international community. Problems of this nature have been highlighted by the *Haven* incident, in which the Italian Government has put forward a general claim for damage to the environment. This is support-

74 It would appear at best doubtful whether a general claim for damage to the environment (other than actual costs of reinstatement) could be brought within any of the categories of claim which are subject to limitation, as prescribed by Art. 2 of the 1976 Convention.

75 This was the approach taken by the Court of Appeal of Messina in its final judgment in the *Patmos* case, delivered on December 14, 1993. The court held that under the Civil Liability and Fund Conventions the term "pollution damage" embraces deterioration and destruction in whole or in part of the environment and includes any damage caused to the coast and to the interest of the coastal states which relate to the environment, such as interest in the preservation of marine biological resources, both insofar as fauna and flora are concerned. *Quaere* whether the same view will be taken by the Italian courts once the 1992 Protocols are in force.

ed by reference to Italian legislation which provides for the damages to reflect any fault or misconduct on the part of the shipowner. The IOPC Fund has taken the position that an award reflecting such factors cannot be recoverable under the Fund Convention and must be held to fall outside the definition of "pollution damage". If this conclusion is reached then an award of this nature is likely to cause unintended problems of the type outlined above.

Difficulties of the sort will still arise even after the 1992 Protocols are in force, since although these do make it clear that environmental claims fall within the definition of "pollution damage", this is subject to the proviso that compensation is payable only for the actual costs of reinstatement. Accordingly, if domestic legislation leads to a more generous award, the national court may have no option but to rule that part of its award is made on a separate footing outside CLC.

The question therefore arises how, if at all, these problems can be addressed and avoided in future.

C. Options for possible solutions

When the International Sub-Committee met in Brussels in September 1993 it was felt that scope existed to develop the concepts of "restoration" and "reinstatement", and to reinforce the principle that the actual costs thereof should mark the boundary between recoverable and irrecoverable claims, to the exlusion of any claims for interim loss of use, or in respect of non-use values.[76] This was thought appropriate in the light particularly of the following factors:

(i) Outside the United States the international community has already agreed — both in the 1984 Protocols and again in those of 1992 — that compensation for impairment of the environment is to be limited (apart from loss of profit) to the reasonable cost of measures of reinstatement actually undertaken or to be undertaken.[77] The development of a new remedy outside these boundaries would therefore be unlikely to find general support.

(ii) Even if it were supported, the existence of such a remedy outside the conventions would be likely to cause problems of the type encountered in the Haven incident, and upset the balance which the conventions were designed to achieve in apportioning the financial burden of oil spills between the different parties concerned and sources of compensation.[78]

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76 Whilst the term "restoration" has been widely used in the United States, "reinstatement" is the notion referred to in the 1984 (now the 1992) Protocols. On a technical level they may sometimes convey slightly different shades of meaning, but for the purposes of this paper they are used interchangeably.

77 For the text of the Protocol definition setting out this principle see Appendix I.

78 For further details of these problems see p. 114 et seq. above.

(iii) The imponderables surrounding general claims for damage to the environment can cause prolonged uncertainty as to the total amount of admissible claims, and thereby delay considerably the settlement of claims which are indisputably valid. By contrast, when the British Government made it clear that it would not be advancing any claim for environmental damage caused by the *Braer* incident, this made it much easier for those paying compensation to quantify the approximate likely cost of the spill, and to make interim claim payments within only a few weeks of the casualty.

(iv) Although the law of the United States contemplates damage awards assessed by theoretical methods, it was nevertheless stressed in the *State of Ohio* case that there should be a distinct preference in favour of restoration costs as the primary measure of damages.[79]

(v) An examination of CVM leaves no doubt of the difficulties and dangers involved in attempting damage assessments independently of the real-life economics involved in actual restoration.

(vi) There is widespread concern that awards assessed in the United Stated in accordance with NRDA regulations are essentially of a punitive rather than compensatory character; moreover, if they are inappropriately classified as a civil remedy in damages, they are not governed by the financial limits normally associated with a penalty or fine, but remain subject to unpredictable and inflationary tendencies.

(vii) If the focus is concentrated on restoration, this should be of greater benefit to the environment than financial windfalls to public treasuries.[80]

(viii) It is widely believed that the laudable desire of the public and politicians to preserve natural resources is driven too powerfully by emotion and outrage, rather than by a realistic technical and scientific appraisal of the relevant facts. There is a pressing need for the technical issues to be more widely understood, and for these to form the basis of decisions on matters of restoration.[81]

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79 880 F.2nd 432 (US Court of Appeals, D.C. Cir.1989), at p. 444 et seq.

80 See the 1993 Draft Work Plan of the Exxon Valdez *O*il Spill Trustees, setting out various projects on which they proposed to expend part of the funds paid to them by Exxon in settlement of their claims for natural resource and service damages from the spill. Several of these projects have little, if any, connection with the incident or its consequences: e.g. plans to eliminate or reduce looting and vandalism at archeological sites in the vicinity of the spill, following an increase in such incidents through greater public knowledge of these sites in the period since the spill.

81 For a valuable indication of the gulf which often exists between public perception and reality in relation to the effects of oil spills, see J.G. Mielke, *Oil in the Ocean, The Short- and Long-term Impacts of a Spill* (Congressional Research Report, July 24, 1990).

(ix) There is also a pressing need for the public and its lawmakers to understand clearly the finite nature of the funds available to pay for pollution, and the risk that a highly effective system for compensating genuine claims may disintegrate if overburdened with large-scale damages for esoteric claims assessed by theoretical methods.

Against this background, it may be thought that the most constructive contribution that the CMI can make to a uniform and satisfactory development of the law is to concentrate on possible ways of developing the concept of restoration. In particular there may be scope for such work to complement the Protocols if elaboration of the notion of "reinstatement" serves to reinforce its acceptance as the proper measure and appropriate limit of recovery.

This is an area in which terminology routinely used by lawyers and others may seriously mislead in the absence of clear definitions. References to "loss" of or "damage" to natural resources, or "injury" to or "impairment" of the environment may seem reasonable enough to non-scientists as abstract concepts, but in the complex reality of the marine environment they may be found on closer inspection to be largely meaningless. Given the highly complex nature of many ecosystems, it is frequently difficult to establish the precise extent and likely duration of "damage" caused by a marine oil spill, and to distinguish this from changes brought about by a variety of other factors, both natural and man-made (*e.g.* over-fishing). The extensive research that has been conducted into the biological effects of marine oil spills demonstrates that a variety of factors in combination will determine the severity of the environmental impact of a one-off event. Among the most important are the type of oils; the amount of oil and degree of oil loading; the biological and physical characteristics of the area, and the season or time of year. In many cases it has been demonstrated that a single major oil spill has a relatively short-term impact, especially on the biological productivity of an area, due mainly to the natural recovery potential of many marine species. However, this is frequently an unacceptable conclusion for those determined to demonstrate that the spill must have caused serious environmental "damage", and references to such damage are often made without any reliable evidence of any causal link. A perception of damage may also be readily be formed by a public with emotive attachments to the more attractive members of the biological community: this is never better illustrated than during major oil spills, when the public outrage resulting from the picture of an oiled bird or otter is out of all proportion to the real "damage" caused to the environment.

The same factors impose significant limits on the extent to which man can repair "damage" which he has caused. Attempts to achieve a meticulous restoration of a "damaged" site will, in many cases, both be impossible and unreasonable, especially if natural recovery is likely to be rapid. The concept of "restoration", in the context of reinstating a damaged site to its pre-existing condition, can mean different things to different people. According to a recent scientific definition-

"Recovery is marked by the re-establishment of a healthy biological community in which the plants and animals characteristic of that community are present and are functioning normally."[82]

This definition recognises that ecosystems are naturally in a constant state of flux, and that a biological community which has recovered its health may not have exactly the same composition or age structure as before. So for example a damaged mangrove forest would be regarded as restored when young plants are once again functioning normally, and there would be no support for a disproportionately expensive and potentially futile attempt to replant the area with mature trees.

Alternative site projects

One of the issues for consideration in this context is the question whether the cost of the measures is a factor to be taken into account in assessing their reasonableness. Is a claimant entitled to recover the full cost incurred in an effort to recreate with meticulous precision the exact state of a damaged site before the pollution occurred? Is there a point beyond which further restoration efforts should be considered disproportionately expensive, in comparison with other alternative solutions? If so, should a claim be allowed for the cost of protecting an alternative undamaged site, or providing an alternative amenity?

Questions of this nature came up for consideration in the *Zoe Colocotroni* case which was heard in 1980 by the First Circuit of the US Court of Appeals.[83] The matter concerned an oil tanker which had run aground as a result of her unseaworthy condition, causing pollution on the coast of Puerto Rico. At first instance, the government authorities of Puerto Rico were awarded some US$ 6m, of which $ 78,000 was needed to compensate them for the cost of clearing the spill. The remainder related to the cost of restoring the environment to its former condition, comprising $ 500,000 as the cost of re-planting mangroves, and some $ 5.5m as the estimated cost which would theoretically be involved if the marine organisms killed by the spill were to be replaced.[84]

The Court of Appeals refused to endorse this approach and laid greater emphasis on the need for a sense of proportion in assessing such costs. It recognized that there might be circumstances where full restoration of the damaged area might be physically impossible or disproportion-

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82 See *Guidelines on Biological Impacts of Oil Pollution* (1991), published by the International Petroleum Industry Environmental Conservation Association. For further discussion of the scientific elements of recovery see Clark, *Marine Pollution* (Clarendon Press, 1992), esp. at p. 157.

83 *Commonwealth of Puerto Rico -v- The S.S. Zoe Colocotroni* U.S. Court of Appeals, 628 F.2d 652 (1st Cir.1980).

84 It was not suggested that these measures would actually be undertaken. In Convention countries that would be a bar to recovery, since only the cost of measures actually undertaken, or to be undertaken, qualify for compensation. However the case remains of potential interest where the claimant intends to carry out the proposed measures, but their reasonableness is in doubt.

ately expensive. It suggested that an alternative measure of damages might be appropriate if a more reasonable course would be to create a similar environment at an alternative site. As examples, it postulated the possible acquisition of comparable lands or public parks, or re-forestation of a similar proximate site, where the presence of oil would not pose the same hazard to ultimate success.

These judicial remarks may be welcomed insofar as they stress the need for a sense of proportion in assessing the reasonableness of restoration measures. However the replies to the CMI Questionnaire indicate that in some jurisdictions it would run counter to normal principles of *restitutio in integrum* to treat alternative site projects as a sufficient remedy. These reservations go hand in hand with scientific objections that alternative projects (including the hypothetical examples instanced by the Court of Appeals in *Zoe*) may not in practice be technically feasible, and may do nothing to promote the recovery of the damaged area.[85] There are concerns that it would be wrong in principle to deny a proper claim for reinstatement of a damaged site on the mere ground that a substitute amenity can be created more cheaply; and, conversely, that it would be a retrograde step to encourage claims for the cost of projects which have no adequate connection with the damage actually caused by the incident.

In the final analysis it may be concluded that where expenditure is incurred on measures which are out of proportion to the expected benefits, or to their prospects of success, then it may not satisfy a requirement of reasonableness. However it would not be an acceptable practice to judge the reasonableness of reinstatement costs or measures by reference to the cost of measures at alternative sites.

Guidelines

The appropriate clean-up and restorative response in any particular case will depend upon the environment in question and the nature and extent of the impact. This cannot be legislated for in advance, but requires clear but flexible criteria to be established that can be interpreted in an objective manner by experts. In general terms it may be suggested that any restoration plan should be relevant to the damage caused by the incident, and that the proposed measures should be reasonable from a technical viewpoint, having regard to the type of environment concerned, the available techniques and the prospects of success.

It may be thought that the CMI has a role to play in developing criteria along these lines, and it is with this in mind that draft Guidelines have been prepared as set out in Part III of Appendix V.

85 In rare cases it may be possible to promote recovery of injured species by collateral measures in the vicinity of the affected area, such as the control of predator species. However such measures may only lead to fresh objections.

IV PREVENTIVE MEASURES AND CLEAN-UP

A. Present law

It will be recalled that "pollution damage" as defined by CLC

"includes the cost of preventive measures and further loss or damage caused by preventive measures".[86]

"Preventive measures" are defined as

"any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage".[87]

The 1991 Questionnaire raised a number of detailed issues under this head, many of which proved from the replies (and subsequent discussion) to be relatively uncontroversial.

It is generally accepted, for example, that the above words embrace not only preventive measures in the narrow sense (*e.g.* steps taken to remove oil from a stricken tanker after an incident has occurred), but also measures of clean-up and restoration (which minimize the damage caused by pollution).

Most commentators would also agree that the reference to "reasonable measures" should in principle allow recovery for the reasonable cost of measures or equipment which were necessary and appropriate in the particular circumstances, judged on the basis of a technical appraisal at the time any relevant decisions were taken. A claim should not be refused by reason only that preventive or clean-up measures prove ineffective, or mobilized equipment proves not to be required. The question of reasonableness should be judged by reference only to the technical merits of the measures or equipment concerned, and the particular circumstances existing at the time in question, without regard to any extraneous motives such as publicity considerations or political factors.

The CLC definition does not explicitly provide that the test of reasonableness governs both the measures themselves, and the costs incurred. This raises the question what the position would be if the claimant were to undertake reasonable measures (*e.g.* to employ a clean-up contractor), but were to pay an unreasonably high price (*e.g.* because the price quoted was agreed and paid without any attempt to invite tenders from other contractors, who would have been willing to do the same work for a lower charge). Most replies to the Questionnaire indicated that not only the measures themselves but also their cost would be governed by a test of reasonableness. However in some countries (*e.g.* France) it appears that a different approach may be adopted, and that damage would

86 Civil Liability Convention 1969 Art. I.6.
87 Civil Liability Convention 1969 Art. I.7.

qualify for full compensation if its actual occurrence and its linkage with the alleged pollution were both established.

There was also general consensus on certain other specific points - *e.g.* that compensation is normally payable for the reasonable cost incurred in disposing of oil or related dé bris; that where equipment or material is reasonably purchased after an incident for the purpose of preventive or clean-up measures, compensation is payable for the cost of acquisition, but subject always to a deduction for the residual value of such equipment or material after completion of the measures; and that compensation is payable for consequential loss or damage unavoidably caused by clean-up measures, such as damage to roads and embankments caused by heavy machinery.

Certain other matters remain problematic, notably the position concerning claims for fixed costs of government and other public bodies.

B. Problems

A recurrent issue concerns the extent, if any, to which government and other public bodies should be permitted to recover fixed costs which they would have incurred in any event, such as salaries paid to their employees engaged in clean-up measures, or the cost of maintaining plant and machinery for use in clean-up operations (*e.g.* oil combating vessels). *Fixed* costs are discussed here in contrast to the additional costs which may be incurred in response to a spill, the latter being relatively uncontroversial.

Probably the best known legal authority on this issue is the decision of the New South Wales Supreme Court in the *Stolt Sheaf* and *World Encouragement* cases (1982),[88] when it was held that the recovery of costs under local legislation was not limited to disbursements incurred by way of payments to third parties, but could include compensation for the use of the claimant's own personnel, plant or equipment. It was made clear in the judgment that this did not entitle the claimant to make a "commercial charge", but only to recover the actual cost incurred.

It remains an open question whether the same conclusion should be reached in respect of claims under CLC. An assessment of the "actual cost incurred" in practice involves difficult questions in deciding to what extent the claimant's normal overheads may be apportioned to the incident concerned. Whilst salaries can be apportioned with relative ease to the period of the operations, more difficulty surrounds the question what other overheads, if any, may reasonably be attributed to the incident and included as part of the cost. The problems are still greater in relation to plant and equipment, the capital cost of which is less easily apportioned to the period of their use in response to a particular incident. These difficulties beg the question whether claims for fixed costs should be allowed at all, and if so, what principles should govern their assessment.

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88 *Maritime Services Board of New South Wales v. Posiden Navigation Inc (The Stolt Sheaf and The World Encouragement)* [1982] 1 NSWLR 72, Yeldham J.

C. Options for possible solutions

The problems surrounding claims for fixed costs were examined in 1981 by an Intersessional Working Group established by the IOPC Fund Assembly. The Group was not unanimous on the question whether costs of this type should be paid. However it was agreed by most delegations that a reasonable proportion of fixed costs should be recoverable, since it was in the interests not only of the particular State but also of those paying compensation that a response force should be maintained in order to react quickly and cheaply in the event of a spill. If claims for fixed costs were disallowed, governments would be discouraged from maintaining such a force and would tend to rely on private contractors. Whilst the expense of engaging outside firms would be recoverable as additional costs, it was thought likely by the Working Group that the total cost would then be much higher.

Current practice

For these policy reasons the current practice of the IOPC Fund is to allow claims for fixed costs, but to adopt a restrictive approach when calculating claims of this sort. Only those expenses are allowed which correspond closely to the clean-up period in question and which do not include remote overhead charges.[89]

Attempts have sometimes been made to quantify claims by reference to rates prescribed by standard government tariffs, but in practice these have not proved acceptable since they have tended to include remote overheads, and because they approach too closely to a commercial charge. In line with the Australian decision in the *Stolt Sheaf* and *World Encouragement* cases, a reasonable rate of hire should compensate the claimant for the actual cost to it, but should not include any element of profit thereon.[90] An alternative method sometimes suggested is to calculate a suitable proportion of the annual allowance made for depreciation of the assets concerned, but there does not seem to be any legal precedent for this approach, and a number of issues may readily arise concerning the assumptions made in such a calculation.

Guidelines

Given that clean-up operations are very frequently undertaken by public bodies, and that claims of this nature are a recurrent source of difficulty, this is an area in which much may be gained from standardising the proper approach. If such claims are in principle to be paid on policy grounds, it follows that any relevant restrictions are to a large extent rules of practice rather than law. Part III of Appendix V includes provisions illustrating the kind of Guidelines which, with sufficient support, could contribute to such standardisation.

Prof. Norbert Trotz, Chairman
Colin de la Rue, Rapporteur

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89 See IOPC Fund Annual Report 1988 at p. 59.

90 See *Maritime Services Board of New South Wales v. Posiden Navigation Inc (The Stolt Sheaf and The World Encouragement)* [1982] 1 NSWLR 72, Yeldham J, discussed at pp. 121 *ante*.

APPENDIX I

RELEVANT PROVISIONS GOVERNING THE SCOPE OF RECOVERY FOR POLLUTION DAMAGE

A. CIVIL LIABILITY CONVENTION 1969

Article 1

6. "Pollution damage" means loss or damage caused outside the ship carrying oil by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, and includes the costs of preventive measures and further loss or damage caused by preventive measures.

7. "Preventive measures" means any reasonable measures taken by any person after an incident has occurred to prevent or minimize pollution damage.

8. "Incident" means any occurrence, or series of occurrences having the same origin, which causes pollution damage.

[The above terms have the same meaning for the purpose of claims against the IOPC Fund: see Art 1.2 of the Fund Convention 1971.]

B. 1992 CLC PROTOCOL

Article 2

3. Paragraph 6 is replaced by the following text:

6. "Pollution damage" means:

   (a) loss or damage caused outside the ship by contamination resulting from the escape or discharge of oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken to be undertaken;

   (b) the costs of preventive measures and further loss or damage caused by preventive measures.

C. INDUSTRY SCHEMES

The TOVALOP Supplement and the CRISTAL Contract both define "Pollution Damage" as follows:

> "Pollution Damage" means (i) physical loss or damage caused outside the Tanker by contamination resulting from the escape or discharge of Oil from the Tanker, wherever such escape or discharge may occur, including such loss or damage caused by Preventive Measures, and/or (ii) proven economic loss actually sustained, irrespective as to accompanying physical damage, as a direct result

of contamination as set out in (i) above, including the Costs of Preventive Measures, and/or (iii) Costs actually incurred in taking reasonable and necessary measures to restore or replace natural resources damaged as a direct result of an Incident, but excluding any other damage to the environment.

(See TOVALOP Supplement Paragraph I(1); CRISTAL Contract Clause I(M).) Additionally the Rules of Cristal Limited contain the following interpretative rule:

2.4 Interpretation of Pollution Damage

The term "proven economic loss actually sustained" as used in Clause 1(M) of the Contract shall not include any remote or speculative economic loss or economic loss based upon theoretical calculations of any form.

The term "Pollution Damage" shall also include loss or damage, and reasonable measures taken to prevent further loss or damage, caused by airborne particles of Oil emanating from a Tanker.

Except as herein provided, the term "Pollution Damage", as defined in the Contract, shall include reasonable and necessary Costs actually incurred to restore or replace natural resources damaged as a direct result of an Incident but shall not include any other damages to the environment.

D. US OIL POLLUTION ACT 1990

Section 1002. ELEMENTS OF LIABILITY

(a) IN GENERAL. — Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) that result from such incident.

(b) COVERED REMOVAL COSTS AND DAMAGES.

(1) REMOVAL COSTS. - The removal costs referred to in subsection (a) are-

(A) all removal costs incurred by the United States, a State, or an Indian tribe under subsection (c), (d), (e), or (l) of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, under the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.), or under State law; and

(B) any removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan.

(2) DAMAGES - The damages referred to in subsection (a) are the following:

(A) NATURAL RESOURCES. - Damages for injury to, de-

struction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee, a State trustee, an Indian tribe trustee, or a foreign trustee.

(B) REAL OR PERSONAL PROPERTY. - Damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property.

(C) SUBSISTENCE USE. - Damages for loss of subsistence use of natural resources, which shall be recoverable by any claimant who so uses natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources.

(D) REVENUES. - Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by the Government of the United States, a State, or a political subdivision thereof.

(E) PROFITS AND EARNING CAPACITY. - Damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant.

(F) PUBLIC SERVICES. - Damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil, which shall be recoverable by a State, or a political subdivision of a State.

APPENDIX II

MEETING OF CMI INTERNATIONAL SUB-COMMITTEE ON POLLUTION DAMAGE IN BRUSSELS ON 23RD SEPTEMBER 1993

Attendance

Chair: Norbert Trotz

Rapporteur: Colin de la Rue

Members: Anthony Bessemer Clark (United Kingdom)
Hisashi Tanikawa (Japan)
Niall McGovern (Ireland)
Leo Delwaide (Belgium)
Sergio Turci (Italy)
Hans Heinrich Nö ll (Germany)
Nigel H. Frawley (Canada)
Stuart Hetherington (Australia and New Zealand)

Observers: D.J.L. Watkins (International Group of P & I Clubs)
Ian White (International Tanker Owners Pollution Federation Ltd)
Jesper Martens (International Chamber of Shipping)
Gaetano Librando (IMO)
J. Hooper (USA)
J. Moseley (USA)
F. Wiswall (USA)

The Chairman introduced the Discussion Paper and explained the further work that had been done since the comprehensive debate which took place in Genoa in September 1992. He also explained that the Director of the IOPC Fund was unable to be present, and reported his latest views as expressed in various meetings with the Chairman.

The Chairman then outlined the matters for decision at the meeting and asked initially for delegations to state their position as to whether the subject should go forward to the Conference in Sydney. There was unanimous agreement that it should.

There followed a discussion as to whether it would be appropriate for the Paper to be limited to pollution by oil, or whether it ought to extend also to other hazardous and noxious substances. Agreement was expressed with the observation on page 23 of the Paper that any developments in relation to oil would inevitably affect later discussions on HNS. It was agreed that it would be wrong for this Sub-Committee to try to address the many serious problems which for some years have defied solution in the IMO, or to widen its work to embrace new areas of enquiry. However it was accepted that it would be wrong to narrow the scope of this work so that its results are incapable of applying to HNS, and that the Sub- Committee should look over its shoulder to the possible implications of its work in that field.

A paper was introduced by Mr Turci of Italy outlining various problems arising particularly from the *Haven* incident. In speaking to the paper he drew attention particularly to the difficulties experienced where claims which are indisputably valid remain unpaid for a lengthy period, due to the need to ascertain the total amount of all established claims before distributing the available compensation. This could operate unfairly on those with irresistible claims in cases where problems and delays are caused by disputes over speculative claims for damage to the environment. To relieve this problem it was proposed that a system of priorities might be devised to give preference to some types of claim (e.g. the cost of clean- up) over others.

Economic loss

The meeting then addressed the subject of economic loss, and debated in the first instance the four options which had been canvassed as possible solutions to the problems identified in the Paper. No other alternatives were suggested.

There was no support for options 1 or 2 (total allowance or disallowance of pure economic loss). It was also recognised that there were very serious problems inherent in option 3 (an attempt to develop a new test of remoteness): it would be very difficult to reach consensus among lawyers from different legal backgrounds, and moreover any test would be insufficiently precise. There was therefore strong support for option 4 (retention of the "bright line" rule, coupled with clearly defined exceptions to it). It was agreed that option 3 should be retained for the purposes of discussion in Sydney, but that the documents should go forward as presently worded under the heading "review of options" - *i.e.* expressing a preference for option 4.

Guidelines

This being the view of the Sub-Committee it became relevant to consider Part 1 of the Guidelines annexed to the Paper.

During this discussion there were various observations as to the use to which any Guidelines might be put. Doubts were expressed as to their utility, and as to whether courts of law would regard themselves as bound by them in any way.

There was however a good deal of support for the view that a set of Guidelines might well serve a valuable practical purpose as distinct from a purely legal function. Among those responsible for payment of claims it might well be beneficial (and minimise any undesirable "leap-frogging") if agreement could be reached on the terms of a document recording the extent to which claims in practice are (or should be) paid at the present time, regardless of the legal position. Such a document might also be of value in the event of a court being called upon to rule on an issue of economic loss in a pollution context. Such proceedings would be likely to involve issues which are not only of great legal difficulty, but also of considerable importance to the international community. To the extent that policy considerations are involved — and the court's perception of the risk that its decision might "open the floodgates" - it might be help-

ful for the court to be apprised of the extensive study of this subject currently undertaken at international level in the CMI. If this work were to lead to a conclusion that option 4 is the most acceptable solution to the problems involved, it would follow that courts would be encouraged to adopt or preserve the "bright line" rule as a fall-back to apply in controversial cases. Such encouragement may be lacking unless the court is reassured that this convenient rule of law is not always rigidly observed in practice. Reassurance of this sort would be available in an authoritative form if the court received evidence (or took judicial notice) of Guidelines agreed at international level and adopted by those responsible for payment of claims.

The Sub-Committee proceeded with a detailed discussion of the text of Part I of the Guidelines annexed to the Paper. On a number of drafting points it was suggested that the document could, as a matter of strict legal construction, be abbreviated without losing its intended effect. Given however that the document would be intended to serve a wider practical purpose, there was support for the proposition that it should spell out as fully as possible the different types of claim which are regarded as acceptable. The result of a long discussion was that several modifications of the draft wording were agreed. These are to be incorporated in a revised text to be considered at the next meeting of the Sub-Committee.

Damage to the environment

The Sub-Committee next considered the problems identified in the Discussion Paper under this head, viz the question whether any scope remains to assimilate the two very different systems now applying inside and outside the United States; and whether any middle course could be devised as an alternative available to any governments which may find in future that the solution offered by the Protocols is unacceptable, and that they are drawn towards the US model.

The Sub-Committee was in favour of proceeding to Sydney with this subject but was initially less optimistic that anything concrete would emerge on this issue from the conference. On this basis it was suggested at first that the time devoted to it in Sydney should be relatively small in comparison with that devoted to economic loss, where prospects of a concrete outcome were more favourable.

Doubts were however expressed whether the Discussion Paper had canvassed the most appropriate solutions. In particular there were reservations as to whether it would be wise or necessary to canvass the possibility of a civil penalty which would apply in circumstances going beyond the limits of recovery set by the Protocols, and which might lend at least some credence to the US system for assessing claims for damage to natural resources. It was suggested that the subject of restoration, which had been dealt with in the Discussion Paper alongside preventive and clean-up measures, would be better addressed under the heading of damage to the environment. The Sub-Committee saw scope to develop the concept of restoration, and to urge it as the primary way of dealing with this issue, not only in view of the Protocols, but also on the proper construction of the *State of Ohio* decision in the US.

Dr White of ITOPF volunteered to join the Working Group to develop a suitable text on this aspect of the subject, and this was gratefully accepted. The Working Group will therefore revise the Discussion Paper so as to compare and contrast restoration and CVM as satisfactory and unsatisfactory solutions to the problems which it identifies. In so doing the point is to be made that if the law goes beyond restoration then in essence it seeks to punish the polluter rather than compensate any victims.

Further meeting

It was not possible at this meeting to complete a full discussion of all the matters raised in the Discussion Paper, and consequently a further Sub-Committee meeting is to be convened no later than the early part of 1994.

APPENDIX III

MEETING OF CMI INTERNATIONAL SUB-COMMITTEE ON POLLUTION DAMAGE IN LONDON ON 25TH MARCH 1994

Attendance

Chair:	Norbert Trotz
Rapporteur:	Colin de la Rue
Members:	Lord Mustill (United Kingdom) Anthony Bessemer Clark (United Kingdom) Hisashi Tanikawa (Japan) K. Shinya (Japan) Niall McGovern (Ireland) Peter Wetterstein (Finland) Philippe van Havre (Belgium) Emmanuel Fontaine (France) Charles Anderson (USA) Alex Landrup (Denmark) G. Bryninckx (Netherlands)
Observers:	D.J.L. Watkins (International Group of P & I Clubs) Ian White (International Tanker Owners Pollution Federation Ltd) Jesper Martens (International Chamber of Shipping) Gaetano Librando (IMO)
Apologies:	Chinese MLA Hans-Heinrich Nöll (Germany) Mäns Jacobsson (International Oil Pollution Compensation Fund)

The meeting had before it a revised version of the Discussion Paper

dated February 10, 1994. The Chairman opened the meeting by reminding those present of the timing considerations involved in printing and distributing the report in preparation for the conference in Sydney. Time would not permit a further meeting, and it was therefore necessary to agree any changes to the document at the present meeting.

A Note of the Sub-Committee's previous meeting, in Brussels on 23rd September 1993, was agreed as set out in Appendix II of the Paper. The Chairman reminded the meeting of similar issues under consideration by a Working Group of the IOPC Fund. He advised of an invitation which the CMI had received to submit a formal document to the next meeting of the Fund's Working Group, describing the work on this subject of the CMI. The question arose how the efforts of the two organisations could best be dovetailed with each other. He outlined two alternative courses of action, namely:

(i) for the CMI to proceed as on past occasions when it had acted in collaboration with the IMO, namely by submitting to the IOPC Fund a draft document, the final form of which would be a matter for the IOPC Fund to decide;
or

(ii) for the CMI to proceed at the conference in Sydney to adopt guidelines of its own, leaving to the IOPC Fund the option of adopting either the same guidelines, or instead a modified version.

The second course of action would involve some risk of two conflicting documents emerging, and this risk could be avoided if the CMI were to proceed in accordance with the first alternative. However the CMI had been concerned with this work ever since 1991, and despite the important role of the IOPC Fund the CMI's work was not limited to claims under the Fund Convention. Its activities had attracted interest among various organisations and international bodies concerned generally with pollution damage, whether by oil or by other hazardous and noxious substances. It also embraced similar problems arising in the law of the United States, which are outside the international system established by the Civil Liability and Fund Conventions.

A decision would be required at the meeting as to which alternative to recommend to the Executive Council.

A decision would also be required as to the general form of any document which the CMI should submit in response to the invitation received from the IOPC Fund — the final decision on this matter resting with the Executive Council. The CMI had been asked to submit its document no later than April 8th, which was prior to the next scheduled meeting of the Executive Council, but arrangements were in hand for a decision to be made by post.

Discussion Paper

The meeting then turned to the text of the draft discussion paper dated February 10, 1994. At the chairman's request, the rapporteur reminded the Sub-Committee of the main changes to the report since its previous meeting in September 1993. Following that meeting, the CMI's Wor-

king Group had been expanded to include Dr White and Mr Anderson, who had contributed to the new text at page 41 *et seq* dealing with options for possible solutions to the problems involved with claims for environmental damage. The focus had been sharpened on possible ways in which to refine the concepts of restoration and reinstatement, and this was reflected in changes to the draft guidelines appended to the Paper.

The rapporteur pointed out that when the draft of February 10 was issued, it had not been possible to include a report of developments at the meeting of the IOPC Fund's Working Group, which had taken place only shortly beforehand. He had attended that meeting as the CMI's observer, and others attending the present meeting of the Sub-Committee had also been in attendance either as delegates or as observers on behalf of international organisations. A written report of the meeting of the Fund's Working Group had just been received (document Fund/WGR.7/10), and copies of this were distributed to the meeting. Subsequent to the distribution of the February 10 draft, the CMI's Working Group had agreed on certain proposed changes to take account of developments at the meeting of the Fund's Working Group. Copies were distributed at the meeting of a document showing the proposed changes.

These changes were concerned principally with the following matters:

(1) further text for inclusion at the end of Section I, to refer to developments at the Working Group of the IOPC Fund, including papers submitted thereto;

(2) an amendment to the discussion of the present law on economic loss, in Section II, to include discussion of the position in civil law countries and in particular French law as outlined in a paper submitted to the IOPC Fund by its French delegation; and

(3) various amendments to the draft guidelines intended to bring them more closely into line with criteria identified by the IOPC Fund's Working Group.

These documents were then discussed by the Sub-Committee, which approved the draft Paper of February 10, with the amendments thereto proposed by the Working Group, subject to various modifications including the following principal changes:

(1) Amendment of the title of the paper, to include reference to the "Admissibility and Assessment of Claims...".

(2) Insertion of a statement that the problems discussed in the Paper might arise in all forms of marine pollution, but that for simplicity the draft guidelines were limited to pollution by oil.

(3) A revision of the section dealing with the present law of economic loss in common law countries. Such a revision should (a) make it clear exactly what is meant by reference to the "bright line rule", (b) explain more fully in the text (rather than in the footnotes) that even in common law countries there is no hard and fast rule against recovery of pure economic loss, albeit considerable doubt surrounds any right to recover such loss in pollution cases, and

(c) draw attention to the theoretical problem involved in drawing any analogy with principles developed in the law of negligence, when responsibility for pollution is normally incurred on a strict liability basis.

(4) An amendment of the new text dealing with the law of economic loss in civil law countries, to make it clear that the law of France is in principle wider than that in common law countries, although a restrictive approach to matters of quantum may lead to a comparable financial result.

(5) Revision of the section dealing with a review of the options for possible solutions to the problems involved with economic loss, to reflect the fact that the course proposed by the Paper (as reflected in the draft Guidelines) in fact involves an amalgam of options (3) and (4), rather than simply option (4).

(6) In Section III of the Paper, in the first paragraph under the heading "C. Options for possible solutions", a modification to make it clear that the costs of restoration or reinstatement referred to in the text were intended to be limited to the actual costs incurred in taking measures of restoration or reinstatement, to the exclusion of any claims for interim loss of use or in respect of non-use values.

(7) Modification of the conclusions reached on the subject of alternative site restoration, to give a more negative assessment of this concept, and to make it clear that it would not be an acceptable practice to judge the reasonableness of reinstatement costs or measures by reference to it.

(8) An amendment in the discussion of the present law of preventive measures and clean up, to state more positively that in principle recovery should be allowed for the reasonable cost of measures or equipment which were reasonably considered necessary or appropriate in the particular circumstances.

Guidelines

Having agreed the main text of the discussion paper with these amendments, the Sub- Committee then discussed in detail the wording of the draft guidelines appended to it. After a long discussion the text of the guidelines was agreed, subject to several drafting changes. [The details of these drafting changes are not recorded here, but a document highlighting the amendments is available from the rapporteur on request].

Patmos case

The Chairman distributed copies of a letter he had received from Prof. Berlingieri, giving details of the final decision of the Court of Appeal in Messina in the Patmos case. It was noted that this information was of considerable interest in relation to the discussion at p.38 *et seq* of the February 10 draft [p. 114 et seq of the present Paper].

Collaboration with the IOPC Fund

The Sub-Committee then discussed the form of collaboration with the IOPC Fund to be recommended to the Executive Council. The Chairman reminded the Sub-Committee of the two alternative course of action outlined at the beginning of the meeting. The importance was unanimously recognised of striving to ensure that no conflict emerged between the criteria developed in the CMI and in the IOPC Fund. At the same time it was felt that the scope of the CMI's work extended beyond the boundaries of the Civil Liability and Fund Conventions, and that it would be appropriate for any guidelines adopted at the conference to be promulgated under the auspices of the CMI. It was felt that the risk of conflicting guidelines could be minimised if the CMI draft were made available to the IOPC Fund in advance of the next meeting of its Working Group, coupled with a paper emphasising that the document remains at present no more than a draft. An invitation could be extended to the Fund for representatives of the CMI's Working Group to meet with representatives of the Fund's Working Group, or its Secretariat, to discuss any modifications which the IOPC Fund might wish to recommend, or might require for its own purposes. It was noted that an invitation to participate in the Sydney conference had been extended to the Fund Director, and that there were plans for him to attend. It was therefore envisaged that the conference would have the opportunity of considering any modifications proposed in the light of the developments in the intervening months at the IOPC Fund. At that point the appropriate procedure could again be reviewed.

On this basis it was also agreed to recommend to the Executive Council that the CMI should present a document to the IOPC Fund, in response to its invitation, appending the draft guidelines and summarising the CMI's work.

APPENDIX IV

NOTE ON GUIDELINES

At page 92 of the discussion paper it is pointed out that the draft Guidelines in Appendix V are not to be treated as part of the Paper, since it is a matter for discussion at the Conference whether any guidelines at all are desirable. For the purpose of that discussion this note sets out the possible benefits of guidelines as contemplated by the Working Group.

It is envisaged that a document such as that in Appendix V should serve a practical purpose rather than have any legal force. It is borne in mind that the great majority of claims arising from pollution incidents have been settled without litigation. Nevertheless, there are concerns that it is possible for unwelcome trends to unfold quite independently of court decisions or other formal legal developments: uncertainty over the appropriate criteria may lead to the international system being overbur-

dened by an uncontrolled expansion in the level of settlements, and undermined by dissatisfaction over inconsistencies in the treatment of claims.

The absence of any clear consensus on these issues causes difficulty in informing claimants of the compensation to be expected under the international system. This was illustrated in the Braer incident, when potential claimants were invited by US lawyers to bring proceedings in New York. The suggestion was made that the law of the United Kingdom did not allow recovery of pure economic loss. Whilst this was broadly correct, it was not certain that the normal strict rule would necessarily be applied if the point were tested in the context of pollution claims under CLC. It also did not fairly reflect the normal practice in the settlement of claims, and indeed many pure economic loss claims arising from the incident have in fact been paid. However, at the time of the incident it was not easy to make an authoritative statement to this effect in the absence of any recognised document to which reference could be made. In the event the claimants decided against proceedings in the USA, but the incident is indicative of the problems which may arise if claimants (or politicians) do not have a clear picture of the benefits available under the international system.

It is also envisaged that guidelines dealing with preventive and clean-up measures may be of practical value to technical experts attending the scene of a spill, where not infrequently there may be discussion as to whether any measures proposed by local authorities or others are reasonable or appropriate. On such occasions it may be helpful if reference can be made to an independent and internationally agreed document addressing the main technical considerations, insofar as they are relevant to legal issues of compensation.

If an issue addressed in the guidelines were to come up for decision in the courts of a convention country, there is a prospect that (a) the point has never previously been considered in the courts of that country, or at any rate the relevant national law is uncertain; (b) the role of the court will in effect be to declare new law rather than apply existing rules; (c) its decision may in some degree be influenced by the view it takes of policy considerations; and (d) it may be concerned to adopt an approach which so far as possible is consistent with that taken in other countries. In these circumstances it is to be hoped that the court may be assisted by the final product of a comparative law study of this subject undertaken in the CMI over a four year period, with many nations participating, and by any guidelines drawn up as a result of this work.

If agreement can be reached on any guidelines it is not suggested that these would alter legal rights or bind courts of law in any way. It is however envisaged that an internationally accepted document may be of value in any examination of the relevant legal issues, and help to promote a uniform international practice in assessing claims for pollution damage.

If the guidelines were to be formally endorsed by organisations concerned with the payment of claims (such as the IOPC Fund, the P&I Clubs, organisations representing their reinsurers, CRISTAL and others), it would provide concrete evidence of the accepted practice in the settle-

ment of claims. Whilst it would always be open to the court to declare such a practice as incorrect under the national law concerned, the risk of controversial decisions would doubtless be lower than is the case at present, when no satisfactory guidelines exist, and a court may understandably conclude that there is a vacuum which can be filled only by judge- made law. If the present vacuum can instead be filled by internationally agreed guidelines, it may be hoped that this will reduce the tendency towards divergencies at national level, and promote the uniformity which is so important in this field.

Granted that the guidelines are intended to be of practical use, rather than a formal legal document, it has been thought appropriate for them to go beyond mere statements of general principle, and to state the position with respect to specific types of claim commonly encountered in practice. However it is emphasised that the current draft is illustrative only, and that it is of course fully open to discussion whether its precise terms can be improved.

APPENDIX V

CMI DRAFT GUIDELINES ON ADMISSIBILITY AND ASSESSMENT OF CLAIMS FOR OIL POLLUTION DAMAGE

PART I: GENERAL

1. Compensation for pollution damage shall be paid in accordance with the following Guidelines.
2. The importance is to be recognised of maintaining a uniform application in contracting states of the Civil Liability Convention 1969, the Fund Convention 1971, together with any amendments thereof, and to that end due weight should be attached to any relevant policy or resolutions of the IOPC Fund.
3. In every case it is the duty of a claimant to take reasonable steps to avoid or mitigate any loss, damage or expense incurred as a result of an incident, and any failure to do so may result in compensation being correspondingly refused or reduced.

PART II: ECONOMIC LOSS

4. For the purpose of these Guidelines the following definitions are employed:

   "Consequential loss" means financial loss sustained by a claimant as a result of physical loss of or damage to property caused by contamination by oil;

"Pure economic loss" means financial loss sustained by a claimant otherwise than as a result of such physical loss of or damage to property;

(c) "Property" means anything in which the claimant has a legally recognised interest by virtue of a proprietary or possessory right.

5. In principle compensation is payable for consequential loss. Pure economic loss may be compensated in certain cases, but normally only as set out below.

6. Pure economic loss may be compensated when caused by contamination by oil, and may be accepted as so caused when a reasonable degree of proximity exists between the contamination and the loss. In ascertaining whether such proximity exists, account is to be taken of all the circumstances, including (but not limited) to the following general criteria:

(a) the geographic proximity between the claimant's activities and the contamination;

(b) the degree to which the claimant is economically dependent on an affected natural resource;

(c) the extent to which the claimant's business forms an integral part of economic activities in the area which are directly affected by the contamination;

(d) the scope available for the claimant to mitigate his loss;

(e) the foreseeability of the loss; and

(f) the effect of any other concurrent causes contributing to the claimant's loss.

7. Pure economic loss is not recoverable by reason only that a causal connection is shown between the incident (as opposed to contamination resulting therefrom) and the financial loss; the loss must be caused by contamination resulting from the escape or discharge of oil from the ship involved in the incident.

8. (a) The specific categories of recoverable claim for pure economic loss are not necessarily closed, but normally they will be limited in accordance with the foregoing principles to claims by parties who depend for their profits or earnings on commercial exploitation of the affected coastal or marine environment; such parties will normally be confined to those involved in:

(i) fishing, aquaculture and similar industries;

the operation of hotels, restaurants, shops, beach facilities and similar tourist establishments;

(iii) the operation of salt-extraction plants, power stations and similar installations reliant on the intake of seawater for production or cooling processes.

Those involved in the aforesaid activities shall be limited to owners, operators and their employees.

the peril was caused by engine breakdown on the grounds that abuse of the rules and owners' negligence was often connected to such cases, did not receive much support. It was felt that this contravenes the fundamental principle that general average arises from the existence of a situation of peril, irrespective of the cause of the peril. Furthermore, if following an engine breakdown a tug is engaged on "no cure - no pay" terms, there will be a valid case of salvage, and a change in Rule A will not invalidate the admission in GA of the salvage reward under Rule VI.

RULE B

There was no support to delete rule B in total, but support to amend the word "expenses" to "expenditure" to bring it into line with rule A. This will be considered by the Drafting Committee.

There was also general support to move this rule to rule A as a new last paragraph so that a new rule on tug and tow could be introduced as a new rule B.

This new rule on tug and tow is dealt with later in this report.

RULE C

After extensive discussions about general average and environmental damage the ISC generally supported a British MLA proposal to amend the second paragraph of rule C and introduce a new Rule XI (d) as indicated below under the heading "Rule XI (d) - General Average and Environmental Damage"

A British MLA proposal to amend the second paragraph to read:

> "Demurrage, loss of market and any loss or damage sustained or expense incurred by reason of delay, whether on the voyage or subsequently, shall not be admitted as general average".

received general support and a similar proposal of a slightly different wording by the United State MLA (Genav-42) was withdrawn.

RULE D

The ISC noted a resolution approved at the AIDE-general assembly to recommend that consideration be given within the CMI forum to amend Rule D so as to make rights of recourse subject to the settlement under an adjustment on the grounds of equity and to accelerate the settlement of general average cases.

No such proposal has been tabled at CMI.

The representative of IUMI reported that there is a strong opposition against the proposal in the insurance market.

It was also pointed out that such a rule would be contrary to mandatory rules in several countries and that in some countries it may be held invalid under the Hague-Visby Rules or the Hamburg Rules.

The ISC could therefore not support this idea.

The ISC also recalled its previous views that there were many cases

where GA could be avoided, if at an early stage P&I clubs (and owners) recognize that eventual collection of cargo's GA contribution was unlikely, and tried finding solutions whereby these losses were distributed without the need for a full adjustment.

The representative of the group of P&I clubs reported that the P&I clubs for some years in practice have "loaned" to owners 80% of cargo's proportion subject to certain restrictions:

1. No "loan" is made earlier than three months from the issue of an adjustment.
2. Adequate GA security must have been obtained from cargo.
3. The shipowner must sign a "loan" agreement to repay on demand.

This, however, is no rule and therefore owners have no right to such a loan or advance, it is a discretionary payment.

RULE E

The British MLA proposed an addition to rule E providing for a time-limit for the notification of claims and the production of documents to the average adjusters. The full text is set out in Genav-36.

This proposal had general support.

The drafting committee, however, was instructed to endeavour to produce a shorter and more simplified wording.

Another British MLA proposal was to provide for a time-limit for the commencement of suit in cases where a party wishes to determine after issue of the adjustment, whether or not a GA contribution is payable.

It was pointed out that such a provision may be in conflict with mandatory law in some countries and the proposal did not have much support.

RULE F

The United States MLA tabled a proposal (Genav-42) making it clear that the principal expense would have to be "reasonably incurred". The United States MLA will not maintain this proposal, if the proposed paramount rule that sacrifice or expenditures must be reasonably made is carried. The ISC recalled its discussion about this proposal and did not support any such amendment of Rule F.

At the initiative of the British MLA the ISC discussed a proposal for an alternative text of rule F contained in AIDE's report page 28, under which also an additional loss shall be treated as General Average up to savings reached. As pointed out in AIDE's report there are cases where losses have been sustained with the object of saving expenses, e.g. where there is a forced sale of cargo at a port of refuge, resulting in financial loss to cargo interests, but saving detention expenses and the cost of reloading the cargo. Such cases are not frequent, but in practice they can be regulated by a special agreement.

The purpose of any clause as the proposed would be to validate the present practice of admitting such losses by special agreement.

The committee did not support the introduction of substituted losses; it was feared that it could expand the scope of GA and may open the door to abuse. The committee therefore felt that this was a matter, which should continue to be regulated by a special agreement.

Finally the ISC was in agreement that the word "extra" in first line of rule F should be changed to "additional" to express more clearly what has always been the intention and also is expressed in the French text, which uses the word "supplémentaire".

RULE G

A United States MLA proposal (Genav-42) to exchange the values of losses and contributions into United States Dollars had no support and was withdrawn.

The committee favoured that if a non-separation agreement should be included in the York-Antwerp Rules, this should be done by way of adding further provisions to rule G.

B. NUMBERED RULES

RULE I — Jettison of cargo

A British MLA proposal (Genav-36) to amend the present rule to extend allowance to deck cargo in all circumstances, even if the cargo is carried on deck in accordance with the customs of trade, found no support in the ISC, which recalled the general observation that it would not be wise to make any amendment of the YAR, unless it was felt seriously needed.

RULE II — Damage by jettison and sacrifice for the Common Safety

A US proposal (Genav-42) to change the title was withdrawn.

The ISC recalled that at its earlier meeting there was sympathy for the view that the rule is superfluous and should be deleted. However, since such a change is not seriously needed, there was no support for deletion in the ISC anymore.

A British MLA proposal to change the opening words to read "loss or damage sustained in consequence of ..." (in order to also allow the making good of e.g. freight) was felt to be a drafting point, which should be considered by the drafting committee.

RULE III — Extinguishing Fire on Shipboard

The United States MLA is still in favour of reverting to the old 1950-text of rule III on the grounds that the present rule in certain cases can be abused. However, no other members of the ISC had seen serious cases of abuse and there was no support in the ISC of the US proposal.

RULE IV — Cutting away Wreck

The United States MLA has proposed (Genav-42) to amend this rule to read:

> "When the ship and cargo or other property on board the ship sustains a combination of sacrificial damage and damage which is not general average the amount made good in general average under any of these Rules shall not exceed the net increase in repair or replacement costs resulting from the sacrificial damage."

The ISC realized that this proposal would involve a radical deviation of the present practice, particularly in the calculation of the amounts made good for cargo sacrifice under rule III and the computation of the amounts made good for the repair of sacrificial damage to ship under rule XVIII. Although the amendment appeared to be a return to pure principle, it was also felt that it may result in very difficult points of quantification.

The proposal had therefore no support.

RULE V — Voluntary Stranding

A US MLA proposal to revert to the wording in the 1950 rule had no support.

RULE VI — Salvage Remuneration

The committee discussed again, whether differential settlement of salvage costs should be brought into the general apportionment as is the case under the present rule VI.

Some feel that material inequity is worked by rule VI, when it obliges other otherwise advantageous individual settlements to be cast into the GA pot; others, however, regard it as an imperfect but nevertheless practical tool to give effect to the community of interest that underlies the notion of GA and point out that any possible inequities may often be solved by a special agreement.

The ISC also noted that no text so far has been proposed by those, who favour a change of rule VI, and also that the support for such a proposal seems to be rather limited.

RULE VII — Damage to Machinery and Boilers

There are no proposal to amend this rule.

RULE VIII — Expenses lightening a Ship when Ashore and Consequent Damage

There are no proposals to amend this rule.

RULE IX — Ship's Materials and Stores burned for Fuel

The British MLA has proposed an amendment (Genav-36), the purpose of which is to provide in a numbered rule a specific rule providing for the allowance of cargo used for fuel.

The United States MLA has proposed a similar rule, however, with the additional provision that it shall be demonstrated that the ship had sufficient fuel onboard and that a credit shall be made for the fuel, which would otherwise have been consumed.

After a discussion of the two texts it was realised that it might be possible to submit a joint text, and the drafting committee undertook to work on such a proposal.

There were different views in the ISC as to the principle of providing specifically for allowance of cargo used for fuel. It was pointed out that such a rule would only have effect for one specific trade, tankers, and should not, therefore, be a part of the general rules, such as the YAR. It was also felt that a new rule might be considered as an extension of GA and that it may be looked upon as making it legal to use the cargo for fuel.

On the other hand it was pointed out that the proposed rule of course would only make it legal to use the cargo for fuel, if it was done for the common safety, and that the rule would work as a protection of the cargo-owner.

RULE X — Expenses at Port of Refuge, etc.

Rule X (a)

The ISC agreed to the proposal by the British MLA, suported by the United States MLA, to remove the commas after "refuge" and "circumstances" in the first para of the Rule.

The United States MLA has proposed a new wording (Genav-42) of the second para as follows:

> "When a ship is at any port or place of refuge and is necessarily removed to another port or place because *neither temporary nor permanent repairs necessary for the safe prosecution of the voyage can* be carried out in the first port or place, the provisions of this Rule shall be applied to the second port or place as if it were a port or place of refuge. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal; *however, the cost of* temporary repairs and towage *necessary for such removal shall be treated as part of the cost of repairs effected at the second port or place*".

The first part will exclude allowance in such cases as in the *Bijela*-case and should be seen in connection with the US MLA proposal to delete Rule XIV, 2nd paragraph.

The second part of the proposal would mean that the cost of temporary repairs and towage should be treated as part of the cost of repairs thus limiting the allowance in general average to wages and maintenance of crew.

Neither of these proposals received support in the Committee, where there was a strong feeling that no change should made of the present Rule.

The British MLA indicated that the *Bijela* case will be heard in the House of Lords in December 1993 and that the British MLA may table new proposals depending upon the result of this appeal.

RULE X (b)

The Committee noted that there were not any more proposals to amend or delete this rule. There may, however, be proposals to amend the first para after consideration of the expected judgment of the House of Lords in the case of the *Bijela*.[1]

RULE X (c)

The United States MLA proposed to add to the first paragraph the following:

> "The provisions of Rule XI shall be applied to the extra period of detention occasioned by such reloading or restowing".

There was general support in the ISC of this proposal, which is felt to be a clarification of the present practice and not an extension of General Average.

A British MLA proposal to amend the 2nd paragraph (Genav-5 bis) met opposition and was withdrawn.

RULE XI — Wages and Maintenance of Crew and other expenses bearing up for and in a Port of Refuge etc.

RULE XI (a)

The ISC discussed the suggestion by the Japanese MLA that there should be provided for a simple way to calculate wages and maintenance of crew. The ISC realised that there may in some cases be practical problems in this respect but it was a general feeling that these problems were not so serious that new rules should be introduced.

RULE XI (b)

The ISC supported proposals by the United States MLA (Genav-42) and the British MLA (Genav-5 bis) that port charges should be specified within the exclusion in 2nd paragraph and that the sequence of paragraphs in Rule XI (b) should be reordered.

The drafting Committee was instructed to look into this.

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1. On the 21 April 1994 the House of Lords gave the Judgment in the *Bijela* and held that it was the clear intention of the opening words of the second paragraph or Rule XIV that the cost of temporary repairs of accidental damage were admissible in general average subject only to the limit imposed by the second half of the paragraph. The House of Lords, therefore, gave full effect to Rule X (b) and Rule XIV.

RULE XI (c)

There are no proposals to amend this rule.

RULE XI (d) — General Average and Environmental Damage

The Committee was in agreement that the present rule is superfluous and should be deleted as proposed by the British MLA.

The ISC had on both of the days it met extensive discussions concerning the treatment in GA of liabilities, costs and expenses relating to pollution, clean-up and minimizing pollution damage.

Since the ISC's last meeting a questionnaire (Genav-25) had been circulated and many national MLAs had replied to it. Also the commercial parties, in particular the insurers, have now had a possibility to consider the matter.

The basis for the discussion was the British MLA proposal (Genav-5 bis as amended in Genav-36) of the following wording:

A new Rule C, second para, to read:

"In no case shall there be any allowance in general average for expenses or liabilities incurred in respect of damage to the environment or in consequence of the escape or release of pollutant substances from the property involved in the common maritime adventure".

and a new Rule XI (d) to read:

"The cost of measures undertaken to prevent or minimize damage to the environment shall be allowed in General Average when incurred:

(i) As part of an operation undertaken for the common safety which, if undertaken by a party outside the common maritime adventure, would have entitled such party to claim a salvage reward;

(ii) As a condition of entry into any port or place in the circumstances described in Rule X (a);

(iii) As a condition of remaining at any port or place in the circumstances described in Rule XI (b), but when there is an actual excape or release of pollutant substances, no part of the cost of any additional measures then undertaken to prevent or minimize pollution or environmental damage shall be charged to the general avcragc."

The stated purpose of the proposal is to find a compromise which seeks on the one hand to exclude from general average all liabilities in respect of pollution or environmental damage, even though they may occur as the result of a general average act, but on the other hand to include in general average the cost of all measures taken to avoid or minimize environmental damage, when they are incurred as part of an operation undertaken for the common safety or as a condition for entry into or remaining at a port of refuge.

It was mentioned that at present, according to Rule C, all costs and liabilities, which are the direct consequence of a general average act, are in most countries allowable in General Average. This includes all costs and liabilities in connection with environmental damage. It was there-

fore felt that the proposed rules would restrict the working of the YAR and not extend the effect of the rules.

The ISC also had extensive discussions of what would be the effects for General Average, if a vessel starts leaking pollutant substances after arrival in the port of refuge as well as the treatment of the cost of preventive measures taken to allow discharge of hazardous cargo in a port of refuge, if such discharge is in itself a General Average measure within the terms of Rule X (b).

The ISC noted that the replies to the questionnaire seem to show that the opinions are divided whether and to what extent liabilities or extra costs incurred as a consequence of a general average act would be allowed in general average.

The pollution liabilities, of course, may be very considerable and arise during a long period (in some countries 30 years) after the occurrence of the casualty. It would therefore seem important to create certainty and to draw a demarkation line as precise as possible between the costs (and liabilities), which are allowed and not allowed in general average.

While the ISC eventually was generally in favour of introduction of such rules, some pointed out that large pollutions in connection with general average acts so far are not known, others stressed that to make rules on which costs incurred or imposed by public authorities would be allowed in general average might create excuses for port captains or other authorities to impose such measures.

The IUMI representative mentioned that the property insurers seem to be fairly strongly against the idea of including any liability whatsoever in GA (as in fact would be the case under the proposed rule X (d)), but that the London market could support the British MLA proposal.

The representative of the P&I clubs strongly opposed the proposal for the following reasons:

1) In principle there is no reason, why a pollution liability which has been deliberately incurred by the owner to save ship and cargo, should not fall in general average. The textbooks in the countries, where the last majority of general averages are adjusted state that liabilities shall fall into general average. There do not seem to be any legal decisions or textbook arguments in any countries to the contrary. The only argument for change seems to be that the amounts at stake in environmental claims are so huge that environmental claims should be dealt with differently with any other liability. However, a cargo owner cannot pay more than the insured value. Cargo is not exposed to unlimited liability. If the cost of saving cargo is 100% of the cargo value, why should that change the principle?

2) If environmental liabilities are excluded from general average and are always to be considered as remaining with the shipowners and their clubs, then the clubs will have to interfere with all general averages and perhaps forbid owners to take activities which might be for the benefit of hull and cargo, but which would prejudice the clubs. A change will therefore lead to far more disputes during a general average incident.

3) What is being discussed is not restricted to oil-pollution, it is extremely unlikely in to-day's environment that an owner would pump over-

board crude oil or fuel to save the venture, but it is quite possible to envisage that coal or iron are being jettisoned to save the venture and the port authorities in certain countries imposing large fines for alleged environmental damage.

4) Clubs do not think that the present position has caused adjusters any problems in the last 50 years or led to any perceived injustices. One should not change something, which is not causing any problems.

5) The clubs do not think that the "compromise" by the British MLA is attractive. It is mainly redistributing from property underwriters to liability underwriters and it does not "give" to the clubs what the clubs do not have already.

In the further discussion questions were raised with respect to the wording of the British MLA proposal, it was suggested that it would be difficult to ascertain what are "additional measures" in the proposed rule XI (d) (iii), that "salvage" perhaps should be defined with reference to the salvage convention in the proposed rule XI (d) (i), and that special attention should be given to make it clear in which cases extra costs of discharging dangerous cargoes would be allowed in general average.

The ISC finally concluded that there was considerable support of the British MLA proposal, but that there were several drafting points which the drafting committee was instructed to look into.

RULE XII — Damage to Cargo in Discharging, etc.

The ISC supports a British MLA proposal (Genav-5 bis) to read:

> "Damage to or loss of cargo, fuel or stores sustained in consequence of their handling, discharging, storing, reloading and stowing shall be made good as general average, when the cost of those measures respectively is admitted as general average."

Within the ISC it was felt that this would work in the interest of clarity and uniformity of interpretation.

RULE XIII — Deductions from Cost of Repairs

Proposals to abolish this rule had still no support in the ISC. The ISC supported a British MLA proposal that the last two paragraphs regarding dry-dock charges and the cost of cleaning, painting or coating of bottom should be transferred to Rule XVIII.

RULE XIV — Temporary Repairs

A United States MLA proposal to delete the 2nd paragraph had no significant support in the ISC.

The ISC realizes that the decision by the House of Lords in the *Bijela*-case may cause other proposals to amend this rule.

RULE XV — Loss of Freight

There were no proposals to amend this rule.

RULE XVI — Amount to be made good for Cargo Lost or Damaged by Sacrifice

A United States MLA proposal to delete "at the time of discharge" and substitute "at the time of delivery under the contract of carriage" was discussed and supported. It was felt that this would bring the rules into line with the well established practice.

RULE XVII — Contributory Values

As was the case with Rule XVI the ISC supported to delete "at the time of discharge" and substitute "at the time of delivery under the contract of carriage".

A British MLA proposal for the following new wording of the 4th paragraph had general support:

> "Passengers' luggage, personal effects and accompanied private motor vehicles not shipped under bills of lading and mails shall not contribute in general average."

RULE XVIII — Damage to Ship

The ISC recalled its decision to transfer the two last paragraphs from Rule XIII to Rule XVIII.

The ISC realized that there are differences in practice in the treatment of the cost e.g. of dry-docking a ship, particularly when such operations are required for the repair of both sacrificial and accidental damage.

AIDE has recommended the following new text of para. b:

> "(b) When not repaired or replaced.
> The reasonable depreciation arising from such damage or loss, but not exceeding the estimated cost of repairs. But when the ship has sustained both sacrificial and accidental damage, the amount to be allowed as general average, irrespective of the fact that the estimated cost of repairs may exceed the value of the ship when repaired, shall be ascertained by apportioning the extent of the depreciation suffered by the ship over the estimated cost of repairing the sacrificial and accidental damage".

The ISC did not, however, feel it warranted to examine this question further.

RULE XIX — Undeclared or Wrongfully Declared Cargo

There are no proposals to amend this rule.

RULE XX — Provision of Funds

The ISC supported proposals by the Brithis MLA supported by the United States MLA to delete "other than the wages and maintenance of the master, officers and crew, and fuel and stores not replaced during the voyage".

The ISC also felt that the second part of the first paragraph commencing with the words "but when the funds ....." should be modernized and referred this to the drafting Committee.

The ISC discussed a proposal by the Japanese MLA to abolish commission, which was linked with the proposal to change the rate of interest provided for Rule 21 to the market rate.

There was, however, no support in the ISC for the abolishment of commission.

RULE XXI — Interest on Losses made good in General Average

The ISC discussed a proposal by the British MLA (Genav-5 bis as amended in Genav-36)

> "*Currency of adjustment, rates of exchange and rate of interest.* Unless the parties have agreed that the adjustment shall be prepared in a specific currency, the adjustment shall be prepared in Special Drawing Rights (SDRs). For this purpose the contributory values and the amounts made good for general average sacrifice (other than disbursements) shall be converted into SDRs or the specified currency at the rate of exchange prevailing at the termination of the adventure, and disbursements shall be so converted at the rate of exchange prevailing on the dates when payment was made. The final balances so calculated shall be paid to the creditors in the currency of their choice at the rate of exchange prevailing on the date of settlement. Where no official SDR exchange rate is quoted for any currency, conversion to and from SDRs shall be made by reference to United States dollars.
>
> Interest shall be allowed on expenditure, sacrifices and allowances from the date of conversion, as set out in the preceding paragraph, until one month after the date of issue of the adjustment. When the adjustment has been prepared in SDRs, the rate of interest shall be the rate published by the International Monetary Fund ruling on the date of termination of the adventure; otherwise the rate of interest shall be..."

As reported in the AIDE Report p. 58-62 the rates of exchange of SRSs are widely available in the international and national financial press and rates of exchange of SDRs of an older date can always be obtained in a central bank. The SDR interest rate is calculated weekly by the IMF and made public every Friday.

The opinions within the ISC were divided, some members felt that the SDR was an artificial currency and its use would not help much to solve any problems resulting from fluctation of the rates of exchange. Others felt that the use of SDR might be useful in this respect.

Attention was also drawn to a proposal in the AIDE of the following wording:

> "*Rule XXI — Currency of adjustment, rates of exchange and rate of interest.*
>
> Unless the parties have agreed that the adjustment shall be prepared in a specific currency, the adjustment shall be prepared in such currency of currencies as may be equitable in the interests of the parties, having regard to the currencies in which the major claimants in general average have sustained financial loss.
>
> For this purpose the contributory values and the amounts made good for general average sacrifice (other than disbursements) shall be converted into the currency of the adjustment at the rate of exchange prevailing on the last day of discharge at the final port of destination, or at the termination of the adventure when this occurs at a port or place other than the final port of destination, and disbursements shall be so converted at the rate of exchange prevailing on the dates when payment was made.
>
> Interest shall be allowed on expenditure, sacrifices and allowances in general average at the rate of x per cent per annum from the date of conversion until 3 months after the date of issue of the general average adjustment, due allowance being made for any payment on account by the contributory interests or from the general average deposit fund".

Finally a majority of the ISC favoured a new rule, whereby interest shall be allowed until a certain date after the date of issue of the GA adjustment, which in the opinion of some should be one month — others three months after the date of the adjustment.

RULE XXII — Treatment of Cash Deposits

There was still no support of the United States MLA proposal that cash deposits should be converted into USD.

C. OTHER CURRENT ISSUES

1. Tugs and barges

The British MLA proposed a new Rule B suggested by AIDE (report p. 64) of the following wording:

> "There is a common maritime adventure, when one or more vessels are towing or pushing another vessel or vessels, provided that they are all involved in commercial activities and not in a salvage operation.
>
> When measures are taken to preserve the vessels and their cargoes, if any, from common peril, these lettered and numbered rules shall apply.

A vessel is not in common peril with another vessel or vessels, if by simply disconnecting from the other vessel or vessels, she is in safety; but if the disconnection is itself a general average act, the common maritime adventure continues."

The ISC realized that there are legal decisions from several countries with regard to the treatment of tug and barges in general average, which are totally in conflict, and there was a general support of the proposal on the grounds that it would lead to unification and clarification.

Certain reservations, however, were expressed as to whether the proposed rule would extend the scope of general average and also if it would be appropriate to introduce such rules in the YAR rather than to leave it to local rules and practice.

The ISC referred the drafting of the rule to the drafting committee and recalled that if it is adopted, it would be a new rule B, while the existing rule B would be moved to rule A as a last paragraph.

2. Non-separation agreements

The discussion within the ISC centered upon the text originally proposed by the British MLA to be added as a second and third paragraph in Rule G, subject to an amendment later proposed by the AIDE. This text (thus amended) would read:

"When a ship is in any port or place in circumstances which would give rise to an allowance in general average under the provisions of rule X and XI, and the cargo or part thereof is forwarded to destination by other means, the general average shall be adjusted so that the rights and liabilities of the parties in general average shall remain as nearly as possible the same as they would have been in the absence of such forwarding, as if the adventure had continued in the original ship for so long as justifiable under the contract of affreightment and the applicable law. In these circumstances the cargo and other property shall contribute on the basis of its value upon delivery at original destination, unless sold or otherwise disposed of short of that destination, and the ship shall contribute upon its actual net value at the time of completion of discharge of cargo. The proportion attaching to cargo of the allowances made in general average by reason of applying the second paragraph of this rule shall not exceed the cost which would have been borne by the owners of cargo, if the cargo had been forwarded at their expense."

The opinions in the ISC were divided about the incorporation of this standard wording of a non-separation agreement (with the Bigham clause as its second paragraph). Some felt that it would be wise to achieve standardization through inclusion and pointed out that at present the position is not unified and that there are other and some times rather imperfect texts in use. The supporters also felt that by regulating the applicability of the non-separation principle in advance rather than deciding it on each case basis, one reaches a consistency which is fair and to the benefit of all concerned.

Those against felt that this was a matter, which should be left to the parties to the adventure and that cargo interests should be given the opportunity to consider at the time the situation had arisen whether they would forgive the right to control the cargo. In some cases it would also be needed to have a specifically drafted non-separation agreement to cater for specific situations, and this would be more complicated, if the YAR would contain a standard text. Finally the inclusion of a non-separation agreement in the YAR would probably mean an extension of the scope of general average.

The final conclusion of the ISC was a significant support for the inclusion of a non-separation agreement with the Bigham clause as proposed by the British MLA, but it was realized that there were serious reservations, in particular a concern that this would be seen as an extension of the scope of general average.

3. GA - Franchises and absorption clauses

Generally the ISC felt it was an advantage to have such clauses, whereby apportionment in small general average cases were avoided. Their use should be encouraged. However, it was felt that the need for and actual content of such agreements could vary considerably between different trades and for different owners. The ISC therefore did not favour the inclusion in the YAR of standard rules. The solution should rather be found in suitable clauses in Bills of Lading and hull policies.

APPENDIX II

TEXTS:

The York-Antwerp Rules 1974 as amended 1990
Considered by the International Sub-Committee

- Recommended
- Not recommended (NR)
- Deferred for further consideration (DC)

Suggested in the A.I.D.E. Report

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE OF INTERPRETATION		THE RULE OF INTERPRETATION AND RULES PARAMOUNT	
In the adjustment of general average the following lettered and numbered Rules shall apply to the exclusion of any Law and Practice inconsistent therewith.	[No change]	[Paragraphs 1 and 2 unchanged]	[No change]
Except as provided by the numbered Rules, general average shall be adjusted according to the lettered Rules.	[No change]		[No change]
		There shall be no allowance in general average for sacrifice or expenditure unless reasonably made. In no event shall there be an allowance in general average for pollution liability or clean up of pollutants. [USA ~ NR]	
RULE A			
There is a general average act when, and only when, any extraordinary sacrifice or expenditure is intentionally and reasonably made or incurred for the common safety for the purpose of preserving from peril the property involved in a common maritime adventure.	[No change]		[No change]

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE A (cont'd)	General average sacrifices and expenditures shall be borne by the different contributing interests on the basis hereinafter provided. [Present Rule B amended]		
RULE B			
General average sacrifices and expenses shall be borne by the different contributing interests on the basis hereinafter provided.	There is a common maritime adventure when one or more vessels are towing or pushing another vessel or vessels, provided that they are all involved in commercial activities and not in a salvage operation. When measures are taken to preserve the vessels and their cargoes, if any, from a common peril, these lettered and numbered Rules shall apply. A vessel is not in common peril with another vessel or vessels if by simply disconnecting from the other vessel or vessels she is in safety; but if the disconnection is itself a general average act the common maritime adventure continues.		[Supported this proposal]

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	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE C			
Only such losses, damages or expenses which are the direct consequence of the general average act shall be allowed as general average.	[No change]	Only such losses, damages, expenses or liabilities as are the direct consequence of a general average act shall be allowed as general average. [UK - NR]	[No change]
Loss or damage sustained by the ship or cargo through delay, whether on the voyage or subsequently, such as demurrage, and any indirect loss whatsoever, such as loss of market, shall not be admitted as general average.	Demurrage, loss of market and any loss or damage sustained or expense incurred by reason of delay, whether on the voyage or subsequently, shall not be admitted as general average. In no case shall there be any allowance in general average for expenses or liabilities incurred in respect of damage to the environment or in consequence of the escape or release of pollutant substances from the property involved in the common maritime adventure.		[Supported this proposal]
RULE D			
Rights to contribution in general average shall not be affected, though the rise to the sacrifice or expenditure may have been due to the fault of one of the parties to the adventure; but this shall not prejudice any remedies or defences which may be open against or to that party in respect of such fault.	[No change]		[Consideration to be given to an amendment to make rights of recourse subject to settlement under an adjustment]

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE E The onus of proof is upon the party claiming in general average to show that the loss or expense claimed is properly allowable as general average.	[No change]		
	Any claim to be considered in general average shall be notified in writing within 12 months of the date when the adventure ends.		All parties claiming in general average shall give notice in writing to the average adjuster of the loss or expense in respect of which they claim contribution within 12 months of the date of the termination of the common maritime adventure.
	Failing such notification, or if within 12 months of a request for the same any of the parties shall fail to supply evidence in support of a notified claim, or particulars of value in respect of a contributory interest, the average adjuster shall be at liberty to estimate the extent of the allowance or the contributory value on the basis of the information available to him, which estimate may be challenged only on the ground that the average adjuster has acted unreasonably.		If this requirement is not complied with, or if after having been requested by the average adjuster to furnish particulars of the loss or expense of which notice has been given, any of the parties shall fail within 12 months of such request to supply the required particulars, the average adjuster shall be at liberty to estimate the amount (if any) of the loss or expense incurred by that party on the basis of the information then available to him, which estimate may be challenged by that party only on the ground that the average adjuster has acted unreasonably. The parties shall also furnish the average adjuster with particulars of the value of their interests within 12 months of their having been requested by the average adjuster to furnish the same, failing which

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
Rule E (Cont'd)			the average adjuster shall determine the contributory value on the basis of the information available to him, and the party concerned may not challenge the estimated value thus arrived at.
RULE F			
Any extra expense incurred in place of another expense which would have been allowable as general average shall be deemed to be general average and so allowed without regard to the saving, if any, to other interests, but only up to the amount of the general average expense avoided.	Any additional expense incurred in place of another expense which would have been allowable as general average shall be deemed to be general average and so allowed without regard to the saving, if any, to other interests, but only up to the amount of the general average expense avoided.	Any additional loss or expense incurred in place of expenses which would have been allowable as general average shall be deemed to be general average and so allowed without regard to the saving, if any, to other interests, but only up to the amount of the general average expenses avoided. [UK - NR]	[No change]
RULE G			
General average shall be adjusted as regards both loss and contribution upon the basis of values at the time and place when and where the adventure ends. This rule shall not affect the determination of the place at which the average statement is to be made up.		Subject to the second paragraph hereof, general average shall be adjusted on the basis of values at the time and place when and where the adventure ends. This rule shall not affect the determination of the place at which the average statement is to be made up.	Subject to Rules XVI and XVII [and to the second paragraph hereof], general average shall be adjusted on the basis of values at the time and place when and where the adventire ends. This rule shall not affect the determination of the place at which the average statement is to be made up.

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
Rule G (Cont'd)		When a ship is at any port or place in circumstances which would give rise to an allowance in general average under the provisions of Rules X and XI, and the cargo or part thereof is forwarded to destination by other means, rights and liabilities in general average shall remain as nearly as possible the same as they would have been in the absence of such forwarding, as if the adventure had continued in the original ship for so long as justifiable under the contract of affreightment and the applicable law. In these circumstances the cargo and other property shall contribute on the basis of its value upon delivery at original destination unless sold or otherwise disposed of short of that destination, and the ship shall contribute upon its actual net value at the time of completion of discharge of cargo. The proportion attaching to cargo of the allowances made in general average by reason of applying the second paragraph of this Rule shall not exceed the cost which would have been borne by the owners of cargo if the cargo had been forwarded at their expense. [UK - DC]	When a ship is at any port or place in circumstances which would give rise to an allowance in general average under the provisions of Rules X and XI, and the cargo or part thereof is forwarded to destination by other means, rights and liabilities in general average shall remain as nearly as possible the same as they would have been in the absence of such forwarding, as if the adventure had continued in the original ship for so long as justifiable under the contract of affreightment and the applicable law. In these circumstances the cargo and other property shall contribute on the basis of its value upon delivery at original destination unless sold or otherwise disposed of short of that destination, and the ship shall contribute upon its actual net value at the time of completion of discharge of cargo. [To be further considered]

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE I - Jettison of Cargo No jettison of cargo shall be made good as general average, unless such cargo is carried in accordance with the recognised custom of the trade.	[No change]	Rule I - Jettison of Cargo Jettison of cargo, wherever stowed, shall be made good as general average when made for the common safety. [UK - NR]	[No change]
RULE II - Damage by Jettison and Sacrifice for the Common Safety Damage done to a ship and cargo, or either of them, by or in consequence of a sacrifice made for the common safety, and by water which goes down a ship's hatches opened or other opening made for the purpose of making a jettison for the common safety, shall be made good as general average.	Rule II - Loss or Damage by Sacrifices for the Common Safety Loss or damage sustained in consequence of a sacrifice made for the common safety, and by water which goes down a ship's hatches opened or other opening made for the purpose of making a jettison for the common safety, shall be made good as general average.		[Supported this proposal]
RULE III - Extinguishing Fire on Shipboard Damage done to a ship and cargo, or either of them, by water or otherwise, including damage by beaching or scuttling a burning ship, in extinguishing a fire on board the ship, shall be made good as general average; except that no compensation shall be made for damage by smoke or heat however caused.	[No change]	Rule III - Extinguishing Fire on Shipboard Damage done to a ship or cargo, or either of them, by water or otherwise, including damage by beaching or scuttling a burning ship, in extinguishing a fire on board the ship, shall be made good in general averge; except that no compensation shall be made for damage by smoke however caused, or heat of the fire, or to such parts	[No change]

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE III (Cont'd)		of the ship or bulk cargo, or to such separate packages of cargo, as have been on fire. [USA - NR]	
RULE IV - Cutting away Wreck Loss or damage sustained by cutting away wreck or parts of the ship which have previously carried away or are effectively lost by accident shall not be made good as general average.	[No change]	Rule IV - Allowance for Sacrifice When the ship and cargo or other property on board the ship sustains a combination of sacrificial damage and damage which is not general average the amount made good in general average under any of these Rules shall not exceed the net increase in repair or replacement costs resulting from the sacrificial damage. [USA - NR]	[No change]
RULE V - Voluntary Stranding When a ship is intentionally run on shore for the common safety, whether or not she might have been driven on shore, the consequent loss or damage shall be allowed in general average.	[No change]	Rule V - Voluntary stranding When a ship is intentionally run on shore, and the circumstances are that if that course were not adopted she would inevitably drive on shore or on rocks, no loss or damage caused to the ship, cargo or freight or any of them by such intentional running on shore shall be made good as general average, but loss or damage incurred in refloating such a ship shall be allowed as general average. In all other cases where a ship is intentionally run on shore for the common safety, the consequent loss or damage shall be allowed as general average. [USA - NR]	[No change]

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RULE VI – Salvage Remuneration (a) Expenditure incurred by the parties to the adventure in the nature of salvage, whether under contract or otherwise, shall be allowed in general average provided that the salvage operations were carried out for the purpose of preserving from peril the property involved in the common maritime adventure. Expenditure allowed in general average shall include any salvage remuneration in which the skill and efforts of the salvors in preventing or minimizing 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. (b) Special compensation payable to a salvor by the shipowner under Art.14 of the said Convention to the extent specified in paragraph 4 of that Article or under any other provision similar in substance shall not be allowed in general average.	[No change]		[No change]

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RULE VII - Damage to Machinery and Boilers Damage caused to any machinery and boilers of a ship which is ashore and in a position of peril, in endeavouring to refloat, shall be allowed in general average when shown to have arisen from an actual intention to float the ship for the common safety at the risk of such damage; but where a ship is afloat no loss or damage caused by working the propelling machinery and boilers shall in any circumstances be made good as general average.	[No change]		[No change]
RULE VIII - Expenses lightening a Ship when Ashore, and Consequent Damage When a ship is ashore and cargo and ship's fuel and stores or any of them are discharged as a general average act, the extra cost of lightening, lighter hire and reshipping (if incurred), and the loss or damage sustained thereby, shall be admitted as general average.	[No change]		[No change]

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RULE IX - Ship's Materials and Stores Burnt for Fuel Ship's materials and stores, or any of them, necessarily burnt for fuel for the common safety at a time of peril, shall be admitted as general average, when and only when an ample supply of fuel had been provided; but the estimated quantity of fuel that would have been consumed, calculated at the price current at the ship's last port of departure at the date of her leaving, shall be credited to the general average.		Rule IX - Cargo, Ship's Materials and Stores used for Fuel. Cargo, ship's materials and stores, or any of them, necessarily used for fuel for the common safety at a time of peril shall be made good as general average and the general average shall not be credited with the estimated quantity of fuel which would otherwise have been consumed. [UK - DC] Cargo, ship's materials and stores, or any of them, necessarily used for fuel for the common safety at a time of peril shall be made good as general average, but such an allowance may be made for the cost of ship's materials and stores when and only when an ample supply of fuel had been provided. The general average shall be credited with the value of the estimated quantity of fuel which would otherwise have been consumed in prosecuting the voyage. [USA - DC]	[No change]

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RULE X - Expenses at Port of Refuge etc. (a) When a ship shall have entered a port or place of refuge, or shall have returned to her port or place of loading in consequence of accident, sacrifice or other extraordinary circumstances, which render that necessary for the common safety, the expenses of entering such port or place shall be admitted as general average; and when she shall have sailed thence with her original cargo, or a part of it, the corresponding expenses of leaving such port or place consequent upon such entry or return shall likewise be admitted as general average.	RULE X - Expenses at Port of Refuge etc. (a) When a ship shall have entered a port or place of refuge or shall have returned to her port or place of loading in consequence of accident, sacrifice or other extraordinary circumstances which render that necessary for the common safety, the expenses of entering such port or place shall be admitted as general average; and when she shall have sailed thence with her original cargo, or a part of it, the corresponding expenses of leaving such port or place consequent upon such entry or return shall likewise be admitted as general average. [Punctuation corrected in English text: no change required in French text]		
When a ship is at any port or place of refuge and is necessarily removed to another port or place because repairs cannot be carried out in the first port or place, the provisions of this Rule shall be applied to the second port or place as if it were a port or place of refuge and the cost of such removal including temporary repairs and towage shall be admitted as general average. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal.	[No change]	When a ship is at any port or place of refuge and is necessarily removed to another port or place because neither temporary nor permanent repairs necessary for the safe prosecution of the voyage can be carried out in the first port or place, the provisions of this Rule shall be applied to the second port or place as if it were a port or place of refuge. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal; however, the cost of temporary repairs and towage necessary	When a ship is at any port or place of refuge and is necessarily removed to another port or place because the facilities for effecting a proper repair at the first port or place are inadequate, the provisions of this Rule shall be applied to the second port or place as if it were a port or place of refuge and the cost of such removal including temporary repairs and towage shall be admitted as general average. The provisions of Rule XI shall be applied to the prolongation of the voyage occasioned by such removal.

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RULE X (Cont'd)		for such removal shall be treated as part of the cost of repairs effected at the second port or place. [USA - NR]	
(b) The cost of handling on board or discharging cargo, fuel or stores whether at a port or place of loading, call or refuge, *shall be admitted as general* average, when the handling or discharge was 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, except in cases where the 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.	[No change]		[No change]
The cost of handling on board or discharging cargo, fuel or stores shall not be admissible as general average when incurred solely for the purpose of restowage due to shifting during the voyage, *unless such restowage is* necessary for the common safety.	[No change]		The cost of handling on board or discharging cargo, fuel or stores shall not be admissible as general average when incurred solely for the purpose of restowage due to shifting during the voyage, unless such restowage is necessary for the common safety or for the safe prosecution of the voyage.

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RULE X (Cont'd) (c) Whenever the cost of handling or discharging cargo, fuel or stores is admissible as general average, the costs of storage, including insurance if reasonably incurred, reloading and stowing of such cargo, fuel or stores shall likewise be admitted as general average.	Whenever the cost of handling or discharging cargo, fuel or stores is admissible as general average, the costs of storage, including insurance if reasonably incurred, reloading and restowing such cargo, fuel or stores shall likewise be admitted as general average. <u>The provisions of Rule XI shall be applied to the extra period of detention occasioned by such reloading or restowing.</u>		[No proposal]
But when the ship is condemned or does not proceed on her original voyage, storage expenses shall be admitted 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.	[No change]		[No change]
RULE XI - Wages and Maintenance of Crew and other expenses bearing up for and in 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	[No change]		[No change]

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RULE XI (Cont'd) ship entering a port or place of refuge or returning to her port or place of loading shall be admitted as general average when the expenses of entering such port or place are allowable in general average in accordance with Rule X(a).			
(b) 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, the wages and maintenance of the master, officers and crew reasonably incurred 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 admitted in general average.	(b) 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, the wages and maintenance of the master, officers and crew reasonably incurred 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 admitted in general average.		[Supported the amendments shown]

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RULE XI (Cont'd) 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 the wages and maintenance of master, officers and crew and fuel and stores consumed during the extra detention for repairs to damages so discovered shall not be admissible as general average, even if the repairs are necessary for the safe prosecution of the voyage. When the ship is condemned or does not proceed on her original voyage, wages and maintenance of the master, officers and crew and fuel and stores consumed shall be admitted 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. Fuel and stores consumed during the period of detention shall be admitted as general average, except such fuel and stores as are consumed in effecting repairs not allowable in general average.	Fuel and stores consumed during the period of detention shall be admitted as general average, except such fuel and stores as are consumed in effecting repairs not allowable in general average. Port charges incurred during the extra period of detention shall likewise be admitted as general average except such charges as are incurred solely by reason of repairs not allowable in general average. 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 the wages and maintenance of master, officers and crew, fuel and stores consumed and port charges incurred during the extra detention for repairs to damages so discovered shall not be admissible as general average, even if the repairs are necessary for the safe prosecution of the voyage. When the ship is condemned or does not proceed on her original voyage, the wages and maintenance of the master, officers and crew, fuel and stores consumed and port charges shall be admitted as general average only up to the date of the ship's condemnation or of the		

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RULE XI (Cont'd)			
Port charges incurred during the extra period of detention shall likewise be admitted as general average except such charges as are incurred solely by reason of repairs not allowable in general average.	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. [Sequence of paragraphs re-ordered]		
(c) 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 shipowners or be made under the terms or articles of employment.	[No change]		[Transfer text to new section - Definitions]
(d) When overtime is paid to the master, officers or crew for maintenance of the ship or repairs, the cost of which is not allowable in general average, such overtime shall be allowed in general average only up to the saving in expense which would have been incurred and admitted as general average, had such overtime not been incurred.	[Rescind present text and substitute:] (d) The cost of measures undertaken to prevent or minimise damage to the environment shall be allowed in general average when incurred: (i) as part of an operation performed for the common safety which, had it been undertaken by a party outside the common maritime adventure, would have entitled such party to a salvage reward;		[Rescind present text]

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RULE XI (Cont'd)	(ii) as a condition of entry into or departure from any port or place in the circumstances prescribed in Rule X(a); (iii)as a condition of remaining at any port or place in the circumstances prescribed in Rule XI(b), provided that when there is an actual escape or release of pollutant substances the cost of any additional measures required on that account to prevent or minimise pollution or environmental damage shall not be allowed as general average; (iv) necessarily in connection with the discharging, storing or reloading of cargo whenever the cost of those operations is admissible as general average.		
RULE XII – Damage to Cargo in Discharging, etc.			
Damage to or loss of cargo, fuel or stores caused in the act of handling, discharging, storing, reloading and stowing shall be made good as general average, when and only when the cost of those measures respectively is admitted as general average.	Damage to or loss of cargo, fuel or stores sustained in consequence of their handling, discharging, storing, reloading and stowing, shall be made good as general average, when the cost of those measures respectively is admitted as general average.		[Supported this proposal]

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RULE XIII - Deductions from Cost of Repairs			
Repairs to be allowed in general average shall not be subject to deductions in respect of "new for old" where old material or parts are replaced by new unless the ship is over fifteen years old in which case there shall be a deduction of one third. The deductions shall be regulated by the age of the ship from the 31st December of the year of completion of construction to the date of the general average act, except for insulation, life and similar boats, communications and navigational apparatus and equipment, machinery and boilers for which the deductions shall be regulated by the age of the particular parts to which they apply.	[No change]		[Suggested no change, but wording available in the event of a decision to abolish new for old deductions:] The cost of repairs allowed in general average shall not be subject to deductions "new for old", whether the repairs be temporary or permanent.
The deductions shall be made only from the cost of the new material or parts when finished and ready to be installed in the ship.	[No change]		
No deduction shall be made in respect of provisions, stores, anchors and chain cables.	[No change]		

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RULE XIII (Cont'd)			
Drydock and slipway dues and costs of shifting the ship shall be allowed in full.	[Transfer to Rule XVIII]		[Supported this proposal]
The costs of cleaning, painting or coating of bottom shall not be allowed in general average unless the bottom has been painted or coated within the twelve months preceding the date of the general average act in which case one half of such costs shall be allowed.	[Transfer to Rule XVIII]		[Supported this proposal]
RULE XIV - Temporary Repairs			
Where temporary repairs are effected to a ship at a port of loading, call or refuge, for the common safety, or of damage caused by general average sacrifice, the cost of such repairs shall be admitted as general average.	[No change]		[No change]
Where temporary repairs of accidental damage are effected in order to enable the adventure to be completed, the cost of *such repairs shall be admitted 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.		[Delete this paragraph] [USA - NR] [To be considered in the light of the House of Lords decision in The "Bijela"] [UK - DC]	[Wording available if Court of Appeal judgement in The "Bijela" sustained]

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RULE XIII (Cont'd) No deductions "new for old" shall be made from the cost of temporary repairs allowable as general average.	[No proposal]		
RULE XV - Loss of Freight Loss of freight arising from damage to or loss of cargo shall be made good as general average, either when caused by a general average act, or when the damage to or loss of cargo is so made good. Deduction shall be made from the amount of gross freight lost, of the charges which the owner thereof would have incurred to earn such freight, but has, in consequence of the sacrifice, not incurred.	[No proposal]		[No proposal]
RULE XVI - Amount to be made good for Cargo Lost or Damaged by Sacrifice The amount to be made good as general average for damage to or loss of cargo sacrificed shall be the loss which has been	[Substitute "at the time of delivery under the contract of carriage" for "at the time of discharge". See A.I.D.E. wording]		The amount to be made good as general average for damage to or loss of cargo sacrificed shall be the loss which has been

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RULE XVI (Cont'd)			
sustained thereby based on the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value at the time of discharge shall include the cost of insurance and freight except insofar as such freight is at the risk of interests other than the cargo.			sustained thereby based on its value at the time of delivery under the contract of carriage, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value at the time of delivery shall include the cost of insurance and freight except to the extent that such freight is at the risk of interests other than the cargo.
When cargo so damaged is sold and the amount of the damage has not been otherwise agreed, the loss to be made good in general average shall be the difference between the net proceeds of sale and the net sound value as computed in the first paragraph of this Rule.	[No change]		[No change]
RULE XVII – Contributory Values			
The contribution to a general average shall be made upon the actual net values of the property at the termination of the adventure except that the value of cargo shall be the value at the time of discharge, ascertained from the commercial invoice rendered to the receiver or if there is no such invoice from the shipped value. The value of the cargo shall include the cost of	[Substitute "at the time of delivery under the contract of carriage" for "at the time of discharge"]		The contribution to a general average shall be made upon the actual net values of the property at the termination of the adventure except that the value of the cargo shall be its value at the time of delivery under the contract of carriage, inclusive of the cost of insurance and freight unless and insofar as such freight is at the risk of interests other than the

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RULE XVII (Cont'd)			
insurance and freight unless and insofar as such freight is at the risk of interests other than the cargo, deducting therefrom any loss or damage suffered by the cargo prior to or at the time of discharge. The value of the ship shall be assessed without taking into account the beneficial or detrimental effect of any demise or time charterparty to which the ship may be committed.			cargo. The value of the cargo shall be ascertained from the commercial invoice rendered to the receiver or if there is no *such invoice from the shipped* value, and shall be subject to deduction for any damage or loss sustained prior to delivery, except for any of such damage or loss which can be shown to have occurred after discharge from the ship.
To these values shall be added the amount made good as general average for property sacrificed, if not already included, deduction being made from the freight and passage money at risk of such charges and crew's wages as would not have been incurred in earning the freight had the ship and cargo been totally lost at the date of the general average act and have not been allowed as general average; deduction being also made from the value of the property of all extra charges incurred in respect thereof subsequently to the general average act, except such charges as are allowed in general average.	[No change]		[No change in the basis for the calculation of the contributory value of freight.]
Where cargo is sold short of destination, however, it shall contribute upon the actual net proceeds of sale, with the addition of any amount made good as general average.	[No change]		[No change]

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RULE XVII (Cont'd) Passengers' luggage and personal effects not shipped under bill of lading shall not *contribute in general* average.	Passengers' luggage, personal effects and accompanied private motor vehicles not shipped under bills of lading and mails shall not contribute in general average.		[A definition of "cargo" to be provided in Definitions section]
RULE XVIII - Damage to Ship The amount to be allowed as general average for damage or loss to the ship, her machinery and/or gear caused by a general average act shall be as follows:			
(a) When repaired or replaced, The actual reasonable cost of repairing or replacing such damage or loss, subject to deductions in accordance with Rule XIII;	(a) When repaired or replaced, The actual reasonable cost of repairing or replacing such damage or loss, subject to deductions in accordance with Rule XIII; Drydock and slipway dues and costs of shifting the ship shall be allowed in full; The costs of cleaning, painting or coating of bottom shall not be allowed in general average unless the bottom has been painted or coated within the twelve months preceding the date of the general average act in which case one half of such costs shall be allowed.	(a) When repaired or replaced, The actual reasonable cost of repairing or replacing such damage or loss, subject to deductions in accordance with Rule XIII; The cost of shifting in port, tank cleaning and/or gas freeing and drydocking the ship shall be allowed to the extent required for the repair of such damage, but when such operations are also required for repairs which are not general average, only one-half shall be allowed of the cost which is common to both categories of repair; The cost of scraping and painting of bottom shall be allowed irrespective of the date the bottom was last painted, but only to the extent required for the replacement of bottom paint lost or damaged in consequence of the general average act. [UK - NR]	

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RULE XVIII (Cont'd)			
(b) When not repaired or replaced,	[No change]		(b) When not repaired or replaced,
The reasonable depreciation arising from such damage or loss, but not exceeding the estimated cost of repairs. But where the ship is an actual total loss or when the cost of repairs of the damage would exceed the value of the ship when repaired, the amount to be allowed as general average shall be the difference between the estimated sound value of the ship after deducting therefrom the estimated cost of repairing damage which is not general average and the value of the *ship in her damaged state* which *may* be measured by the net proceeds of sale, if any.			The reasonable depreciation arising from such damage or loss, but not exceeding the estimated cost of repairs. But when the ship has sustained both sacrificial and accidental damage, the amount to be allowed as general average, irrespective of the fact that the estimated cost of repairs may exceed the value of the ship when repaired, shall be ascertained by apportioning the extent of the depreciation suffered by the ship over the estimated cost of repairing the sacrificial and accidental damage. [But if the Henderson v. Shankland formula be retained to add at end:] When the application of this formula would produce no allowance in general average, but the net proceeds of sale, if any, have been reduced by reason of the general average act, there shall be allowed the difference between such net proceeds of sale and the sum the ship would have realised but for the sacrifice.

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RULE XIX – Undeclared or Wrongfully Declared Cargo			
Damage or loss caused to goods loaded without the knowledge of the shipowner or his agent or to goods wilfully misdescribed at time of shipment shall not be allowed as general average, but such goods shall remain liable to contribute, if saved.	[No proposal]		
Damage or loss caused to goods which have been wrongfully declared on shipment at a value which is lower than their real value shall be contributed for at the declared value, but such goods shall contribute upon their actual value.	[No proposal]		
RULE XX – Provision of Funds			
A commission of 2 per cent on general average disbursements, other than the wages and maintenance of master, officers and crew and fuel and stores not replaced during the voyage, shall be allowed in general average, but when the funds are not provided by any of the contributing interests, the necessary cost of obtaining the funds required by means of a bottomry bond or otherwise, or the loss sustained by owners of goods sold for the purpose, shall be allowed in general average.	A commission of 2 per cent on general average disbursements shall be allowed in general average. The capital loss sustained by the owners of goods sold for the purpose of raising funds to defray general average disbursements shall be allowed in general average.		

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RULE XX (Cont'd) The cost of insuring money advanced to pay for general average disbursements shall also be allowed in general average.	The cost of insuring general average disbursements shall also be allowed in general average.		
RULE XXI - Interest on Losses made good in General Average		Rule XXI - Currency of Adjustment, Rates of Exchange and Rate of Interest. Unless the parties have agreed that the adjustment shall be prepared in a specific currency, the adjustment shall be prepared in Special Drawing Rights (SDRs). For this purpose the contributory values and the amounts made good for general average sacrifice (other than disbursements) shall be converted into SDRs or the specified currency at the rate of exchange prevailing at the termination of the adventure, and disbursements shall be so converted at the rate of exchange prevailing on the dates when payment was made. The final balances so calculated shall be paid to the creditors in the currency of their choice at the rate of exchange prevailing on the date of settlement. Where no official SDR exchange rate is quoted for any currency, conversion to and from SDRs shall be made by reference to United States dollars. [UK - DC]	Rule XXI - Currency of Adjustment, Rate of Exchange and Rate of Interest. Unless the parties have agreed that the adjustment shall be prepared in a specific currency, the adjustment shall be prepared in such currency or currencies as may be equitable in the interests of the parties, having regard to the currencies in which the major claimants in general average have sustained financial loss. For this purpose the contributory values and the amounts made good for general average sacrifice (other than disbursements) shall be converted into the currency of the adjustment at the rate of exchange prevailing on the last day of discharge at the final port of destination, or at the termination of the adventure when this occurs at a port or place other than the final port of destination, and disbursements shall be so converted at the rate of exchange prevailing on the dates when payment was made.

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE XXI (Cont'd) Interest shall be allowed on expenditure, sacrifices and allowances charged to general average at the rate of 7 per cent per annum, until the date of the general average statement, due allowance being made for any interim reimbursement from the contributory interests or from the general average deposit fund.	[Interest to be allowed until a certain date (1 month?/3 months?) after issue of the adjustment.]	Interest shall be allowed on expenditure, sacrifices and allowances from the date of conversion, as set out in the preceding paragraph, until one month after the date of issue of the adjustment. When the adjustment has been prepared in SDRs, the rate of interest shall be the rate published by the International Monetary Fund ruling on the date of termination of the adventure; otherwise the rate of interest shall be ... [UK - DC]	Interest shall be allowed on expenditure, sacrifices and allowances in general average at the rate of x per pent per annum from the date of conversion until three months after the date of issue of the general average adjustment, due allowance being made for any payment on account by the contributory interests or from the general average deposit fund.
RULE XXII - Treatment of Cash Deposits Where cash deposits have been collected in respect of cargo's liability for general average, salvage or special charges, such deposits shall be paid without any delay into a special account in the joint names of a representative nominated on behalf of the shipowner and a representative nominated on behalf of the depositors in a bank to be approved by both. The sum so deposited, together with accrued interest, if any, shall be held as security for payment to the parties entitled thereto of the general average, salvage or special charges payable by cargo in respect to which the deposits have been collected. Payments on account or refunds of deposits may be made if certified to in writing by the average adjuster. Such deposits and		Where cash deposits have been collected in respect of cargo's liability for general average, salvage or special charges, such deposits shall be remitted to the average adjuster and exchanged into United States money and held in a special account in the name of the average adjuster pending settlement of the general average, salvage and special charges and refunds or credit balances, if any, shall be paid in United States money. Payments on account or refunds of deposits may be made if certified to in writing by the average adjuster, subject the approval of the depositor. Such deposits or refunds shall be without prejudice to the ultimate liability of the parties. [USA - NR]	

YORK-ANTWERP RULES 1974 AS AMENDED 1990	CONSIDERED BY THE INTERNATIONAL SUB-COMMITTEE		SUGGESTED IN THE A.I.D.E. REPORT
	RECOMMENDED	NOT RECOMMENDED (NR) DEFERRED FOR CONSIDERATION (DC)	
RULE XXII (Cont'd) payments or refunds shall be without prejudice to the ultimate liability of the parties.			DEFINITIONS Cargo Whenever in these Rules reference is made to "Cargo", this shall be construed to include trucks, trailers, containers, pallets and similar items which are or may be used for the transport of goods, irrespective of their ownership. Temporary repairs For the purpose of these Rules, the expression "temporary repairs" shall mean such repairs as confer no lasting material benefit to the ship. Wages For the purpose of these 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 shipowners or be made under the terms or articles of employment.

APPENDIX III

REPORT

by

BENT NIELSEN, Copenhagen

on

GENERAL AVERAGE STATISTICS

At the XVIth Assembly of the Association Internationale de Dispacheurs Européens ("**AIDE**") in Regensburg in September 1991 it was proposed that the members should assist in collecting statistical information on general average. It was hoped it would be possible on the basis of these statistics to make estimates of the total amounts on a world basis.

On behalf of the CMI Working Group dealing with the revision of the rules of GA I expressed this wish and explained its background.

The Assembly decided to support the project and the annexed circular with a questionnaire was produced by Mr. Charles S. Hebditch after consultation with members of the General Average Revision Co-ordinating Committee of AIDE and me. The circular was sent to regular members of AIDE in Europe and to AIDE's many corresponding members abroad.

As information of this nature might be considered confidential, and therefore should be seen by as few eyes as possible, it was decided that each member should reply directly to me.

I have received replies from a total of 45 adjusters' offices in Belgium, Canada, Denmark, Finland, France, Germany, Greece, Holland, Hong Kong, India, Italy, Japan, Korea, Norway, Singapore, Sweden, United Kingdom and United States.

Most of the replies contain figures for adjustments issued in the calendar year 1991, a few are based on a twelve months period in 1990-1991.

Although the questionnaire had divided the information required into 2 categories, "essential" and "desirable", almost all replies contained information for both. In the few cases where "desirable" information was not given, I have extrapolated comparatively minor sums for this category.

The aggregated amounts of the figures provided in all these replies are as follows:

Number of adjustments:		425
Total amounts allowed in GA	USD	136.7 mio.
Salvage awards allowed in GA	USD	40.7 mio.
Cargo sacrifices allowed in GA	USD	9.2 mio.
Total contributory value for cargo	USD	1,482.0 mio. (41.7%)
Total contributory value for ship and other interests	USD	2,075.8 mio. (58.3%)

Salvage awards would be distributed between ship and cargo, even if GA is not declared; if, therefore, the amount for salvage awards is deducted, the remainder amounts allowed in GA at USD 96 mio. represent what is distributed because of the rules of GA. If the cargo owners' contribution is estimated on the basis of the average of 41.7%, the result is that the cargo interests pay total contributions of USD 40 mio. If one deducts the cargo sacrifices received at 9.2 mio., the result is that a total of 30.8 mio. USD have been transferred from cargo interests to shipowners in the cases covered by the statistical survey.

As already mentioned the main purpose of collecting these statistics is to have a basis upon which one can make reliable estimates of these amounts for all GA adjustments made.

Such estimates, of course, can best be made by persons, who have a long and considerable experience with general average. I have therefore been assisted by Charles S. Hebditch of Richards Hogg and Geoffrey Hudson of Ernest Robert Lindley & Sons, whose offices are among the largest international firms of average adjusters.

We are convinced that we have obtained information of a fair share of all average adjustments in 1991. It is, however, obvious that information from some regions, such as Eastern Europe and South America is missing, and also that from most of the countries the replies are not complete, since adjustments have been made by others who are not participating in the statistical survey.

It goes without saying that one cannot be sure 1991 is representative. This is particularly the case for contributory values, where the fact that these values fluctuate much over the years of course cannot be taken into account. Indeed many of the comments received to a draft of this report have been that the percentage of cargoes' contributory value at 41.7% is surprisingly low.

On the other hand adjustments are only prepared by a very small number of offices in the world, which are almost all known to us. I have shown Mr. Hebditch and Mr. Hudson aggregated statistics from single countries or groups of countries and in some cases specific replies, and where information is missing, they have estimated how much more there would be.

The final result is that we feel confident that the total figures for a year on a world basis are not more than thc double of the result of the statistical survey shown above. In other words, the *estimate* figures for one year in the whole world *do not exceed* the following approximate figures:

Number of adjustments		850
Total amounts allowed in GA	USD	275 mio.
Salvage awards allowed in GA	USD	80 mio.
Cargo sacrifices allowed in GA	USD	20 mio.
Total contributory value for cargo	USD	3,000 mio. (42%)
Total contributory values for ship and other interests	USD	4,150 mio. (58%)
Transferred from cargo interests to shipowners	USD	62 mio.

After this estimate was completed, a cross-check was made, which supports that the estimate is correct:

According to International Salvage Unions' Bulletins for 1990-92 the total salvage revenue obtained by ISU members was GBP 33.6 mio. in 1989, GBP 42.1 mio. in 1990 and GBP 36.7 mio. in 1991, thus in the period where they are likely to be reflected in GA adjustments issued in 1991 the average yearly revenue to ISU members was about GBP 37.4 mio or about USD 67.5 mio. On other occasions it has been estimated that ISU members earn at least half of all salvage revenues. Not all salvage awards, of course, are distributed in GA adjustments. Often GA is not made up, eg. because the salved ship was on a ballast voyage, or the matter may be covered by a GA absorption agreement or there is no need to redistribute in GA the distribution already made on the basis of salved values. Therefore the total figure of salvage awards to be included in GA on a yearly basis, which has been estimated above as USD 80 mio., must be lower and corresponds well to the total estimated salvage revenue of USD 135 mio.

A draft of this report dated August 25, 1993 was distributed to the members of the XVIIth Assembly of AIDE held in Prague in September 1993 and others. In this final report due account has been taken of the comments received.

Bent Nielsen
9 March 1994

Attchments:
1. Memorandum
2. Questionnaire

1. *GENERAL AVERAGE STATISTICS*

At the XIVth assembly of the AIDE in Regensburg in September 1991, the CMI Working Group dealing with a revision of the Rules of GA was represented by its Chairman, Mr. David Taylor, and by Mr. Bent Nielsen, also a Member of the Group.

Mr. Bent Nielsen explained to the assembly the need the Working Group may have to obtain statistics, on the basis of which one could try and determine the amounts of money involved in GA worldwide. Attempts to obtain this information through the insurance markets have so far been largely unavailing and he felt that the Average Adjusters might be the best source of such statistics. He therefore asked the Members of the AIDE for assistance.

The matter was therefore left in the hands of the Co-ordinating Committee to produce a schedule of the information required.

In our opinion, the information falls into two categories; first of all, that which is essential and, second, that which is desirable. From the essential information, it may be possible to extrapolate figures which will be helpful to Mr. Bent Nielsen. However, the maximum amount of information that can be supplied will be of great assistance.

In order to preserve confidentiality, the Co-ordinating Committee would be grateful if you could complete the attached Questionnaire and reply direct to Mr. Bent Nielsen by 15 January 1992, whose address is as follows:

Reumert & Partners
26 Bredgade
1260 Copenhagen K
Denmark

Telephone: (33) 93 39 60
Telex: 16339 MTLAW DK
Telefax: (33) 93 39 50

If you work in an office with other adjusters, please ask your colleagues (whether they are AIDE Members or not) for their collaboration in order to produce statistics covering the whole of your office or firm.

2. The Questionnaire

A. *ESSENTIAL INFORMATION*

1. The number of general average adjustments involving ship and cargo produced in your office during the last complete 12 month period. (Adjustments made when acting as co-adjuster for cargo, for vessels in ballast and those prepared solely to calculate the P&I Club's liability for cargo's proportion of general average should be excluded.)

   NOTE: Individuals and firms differ in their account years; some adopt a calendar year and some a tax year, for instance. Please supply the statistics for the most recent complete 12 month period and advise which 12 month period is involved.

2. The total amounts allowed in general average in all these cases.

   NOTE: One total figure is required. (If you have time, please convert adjustments in other currencies to US based on the exchange rate of the date of the adjustment; if not, give totals in the separate currencies involved.)

B. *DESIRABLE INFORMATION*

1. The total amount of salvage awards (preferably including salvage interest and costs) included in A.2 above, including all substantial sums paid by Shipowners or their Hull Insurers as "contractual" salvages, i.e. all amounts included in general average by virtue of Rule VI of the YAR 1974.

2. The total of allowances for cargo sacrifice included in A.2 above.

3. A. The total of contributory values for cargo; and
   B. The total of contributory values for ship and other contributing interests in the adjustments dealt with in Question A.1.

   Only two total figures are required. Again, if you have time, please convert to US$ based on the exchange rate of the date of the adjustment.

OFFSHORE MOBILE CRAFT

REPORT OF THE CHAIRMAN OF THE INTERNATIONAL SUB-COMMITTEE

1. Following the adoption of a Draft Convention on Offshore Mobile Craft by the CMI Rio Conference in 1977 CMI sent the Draft Convention to the IMCO (now IMO) Legal Committee for consideration.

There the draft lay dormant until the Legal Committee in the autumn of 1990 considered to put the matter on the Committee's agenda.

However, it was decided that before so doing the CMI should be requested to report whether, in the light of developments since 1977, there is a need for updating or revising the Draft.

The CMI Executive Council requested Mr.Frode Ringdal, the Chairman of the International Sub-Committee preparing the Rio Draft, to make a Report and Questionnaire on the matter which was to be submitted to all member Associations. Replies were received from all together 11 Associations. An International Sub-Committee was thereafter set up under Mr. Ringdal's Chairmanship and a revised Draft Convention was prepared based on the answers to the Questionnaire. The revised Draft is enclosed herewith. The Sub Committee met three times: On 8 December 1992 in Brussels, on 2 April 1993 in Copenhagen and on 24 September 1993 in Brussels.

The changes proposed are not extensive and they do not alter the basic principles of the Rio Draft Convention. For background material on which the work has been based reference is made to these documents:

a) Report to the CMI Rio Conference from the International Sub Committee dated 15 June 1977 (CMI Documentation I/1977 pages 28 35).

b) Introductory Report to the IMO Legal Committee from CMI dated 20 October 1977 (CMI Yearbook 1992 pages 121-128).

c) Report to the CMI Associations with Questionnaire from the Chairman of the International Sub-Committee dated 24 September 1991 (CMI Yearbook 1992 pages 117-120).

2. The Rio Draft Convention confined itself to cover the nautical/ maritime aspects of Mobile Offshore Craft which are those which they have in common with vessels. The industrial production aspects of the offshore activity of craft were excluded, particularly those performed by installations permanently fixed to the sea bed.

- The Canadian and the US Associations have felt that this limitation of the scope of application of the Rio Draft Convention is unsatisfactory. They have pointed out that the nautical/maritime features of the Offshore Mobile Craft are significant basically in the transit mode when the units are moving from one location to another. That occurs infrequently and the basic aim of the craft is to work on location. Those Associations have felt it essential to have a comprehensive international

convention covering most (if not all) aspects of offshore activity performed by mobile units as well as by stationary ones. As a result of the views expressed by the Canadian and the US Associations the CMI Executive Council in June 1992 decided to put on the CMI Agenda the preparation of a comprehensive set of rules for offshore craft covering the production and drilling mode as well as the in transit mode.

The issue was discussed extensively at all three meetings of the International Sub-Committee. Most of the members of the Committee which were those representing Australia, Canada, Ireland, Japan, Russia, The United Kingdom and the United States were in favour of the CMI preparing a comprehensive convention on offshore exploration and production activities whereas the German representative was not in favour of extending the regime of the Convention in this way. The French and the Scandinavian representatives on the International Sub-Committee were not present at the third Committee meeting when these views were expressed.

At its second meeting in April 1993 the International Sub-Committee concluded that a strong recommendation should be included in its report to CMI for the CMI to prepare a comprehensive legal regime covering all operation and activities on offshore craft and to have the topic put on the Agenda for discussion at the Sydney Conference in October 1994. However, it was felt that the work on a comprehensive convention will be so time consuming and will require so extensive preparation that it will be impossible for the Sub Committee to conduct such work in the time available before the Sydney Conference. Hence, the Sub-Committee resolved to limit its work to consideration of revisions to the Rio Draft as a first step in the process.

At the third meeting of the International Sub-Committee in September 1993 the Canadian Association presented a submission advocating the issue of the regime that will cover all offshore craft in all modes of operation. It contains a proposal that the revised Rio Draft Convention as it now stands should have a declaration of the intent of the extended comprehensive convention as a preamble or as a separate article to the same effect.

Furthermore the International Sub-Committee is encouraged to develop a complete list of all the subject areas to be covered.

Finally it is suggested that the Draft Convention be renamed "International Convention on Offshore Craft" and that the body of the convention be divided into the following parts:

Part 1 - Preambles and Definitions

Part 2 - Registration, Mortgages and Maritime Liens

Part 3 - Construction

Part 4 - Offshore Craft in Mobile Mode

Part 5 - Offshore Craft in Fixed Exploration and Exploitation Mode

Part 6 - Miscellaneous Provisions (National Rules, Nationality and other Provisions).

- The proposals were not considered at the Sub-Committee Meeting as the members had not had an advance opportunity to study them. In

its submission the Canadian Association accepts the limitation that the time before the Sydney Conference allows for dealing only with the title, general frame work of the convention and parts 1, 2, 4 and portions of part 6 concerning Offshore Mobile Craft. At the third Sub-Committee Meeting the Canadian Association undertook to produce by January 1994 a Working Paper with a draft wording of provisions contemplated to be included in the present revised draft convention. When that paper has been reviewed by the members of the Sub-Committee a decision can be taken on whether to call a fourth International Sub-Committee meeting or to prepare and circulate for comment and approval a supplement to this report from the International Sub-Committee.

3. The Rio Draft Convention's principal feature is to make the international maritime conventions applicable to Offshore Mobile Craft. The Sub-Committee has discussed whether or not to extend the Draft Convention by including other topics as described below.

However, it was decided not to do so.

a) A proposal was made to include provisions on wreck removal. The Sub-Committee considered that such provisions could be useful and desirable, but noted that no international convention on wreck removal is in existence in respect of vessels. It was felt that provisions on wreck removal had better be made in a separate convention covering vessels as well as offshore craft, and note was taken that the subject has been proposed to be included in the work program of the IMO Legal Committee.

b) The Collision Convention deals with collisions between vessels, but contain no provisions on vessels striking fixed objects.
The Sub-Committee was of the opinion that there ought to be provisions on striking. However, a vessel striking another vessel while berthed or at anchor, is really involved in a collision under the Collision Convention.
Hence, the Sub-Committee concluded that when in Art. 2 of the Draft Convention the Collision Convention has been made applicable to craft to which it would not otherwise apply, its provision will apply also when a stationary offshore mobile craft is struck by another vessel.

c) The Sub-Committee discussed whether or not to make provisions on jurisdiction as between flag states and continental shelf states, but concluded that the issue is complex and controversial and should not be dealt with in the Draft Convention.

d) In their submissions presented at the third meeting of the Sub Committee the British and Canadian Associations proposed to add to the Draft Convention by reference the IMO Code for the Construction and Equipment of Mobile Offshore Drilling Units, 1989, as amended, (MARPOL 1973/1978), the Offshore Pollution Liability Agreement, (OPOL) 1974 and the revision of the Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration for and Exploitation of Seabed Mineral Resources (CLEE) 1976. The proposals

were made too late to be discussed at the meeting, but should be considered by the Sydney Conference.

e) The Sub-Committee considered whether or not pollution liability as dealt with in Art. 7 should be extended to include liability also for pollution emanating from a well or reservoir. Such liability would not be covered by the P&I underwriters and for that reason the Sub-Committee concluded that liability for such pollution should not be incorporated in Art. 7.

4. The following amendments to the Articles of the Rio Draft Convention were considered or made:

Art. 1 : Some changes in the wording were proposed for clarification. However, the Sub-Committee concluded that no improvement was really obtained by that and the Article has been retained as it is.

Art. 2 : No amendments were proposed in respect of the collision provisions.

Art. 3 : In the listing of the salvage conventions a reference has been made to the International Convention on Salvage dated April 28, 1989.
That convention explicitly excludes from its application mobile offshore drilling units engaged in exploration or production of sea bed mineral resources. The Sub-Committee held that when such a specific provision has been made in the recently adopted salvage convention, a corresponding exception should be made to the application of the 1910 Salvage Convention. In consequence a proviso to that effect has been added at the end of the Article.

Art. 4 : No amendments were proposed.

Art. 5 : Extensive discussions were had on whether limitation of liability should be based on tonnage or on monetary value. In the end the Sub-Committee concluded that Art. 5 shall remain as it is.

Art. 6 : In the list of conventions to be applied to rights in craft has been added reference to the International Convention on Maritime Liens and Mortgages dated May 6, 1993 and the United Nations' Convention on Conditions for Registration of Ships dated February 7, 1986.

Art. 7 : To the reference to the CLC Convention on Oil Pollution have been added the words "or as amended by the 1976 or 1992 protocols" thereby bringing the reference up to date.

Art. 8 : The reference to the provisions contained in Art. 10 has been deleted in as much as Art. 10 has been deleted.

Art. 9 : In the heading the word "platform" has been replaced by the word "craft" and the words of the text "which are platforms" have been deleted. The reason is that the word "platform" has another meaning in the United States than it appears to have

in Europe. It should be pointed out, however, that the word "platform" has been used in other international maritime conventions.

Art. 10: This Article was deleted as it was held to be superfluous. The 1993 Maritime Liens and Mortgages Convention expressly provides that no maritime lien shall attach to craft in respect of liability for pollution damage.

Art. 11: This Article has now become Art. 10. In order to be in conformance with the wording of other international maritime conventions, the words "for title" and the words "of its owner" have been replaced by the words at the end "who's flag the craft is flying".

Art. 12: This clause on savings has been deleted as it was found to be superfluous.

5. This report has been approved by the members of the International Sub-Committee attending the third and last meeting of the Sub Committee.

Oslo, 15th January 1994
Frode Ringdal
Chairman of the International Sub-Committee

DRAFT INTERNATIONAL CONVENTION ON OFF-SHORE MOBILE CRAFT

Article 1
DEFINITION

In this Convention "craft" shall mean any marine structure of whatever nature not permanently fixed into the sea bed which a) is capable of moving or being moved whilst floating in or on water, whether or not attached to the sea bed during operations and b) is used or intended for use in the exploration, exploitation, processing, transport or storage of the mineral resources of the sea-bed or its subsoil or in ancillary activities.

Article 2
COLLISIONS

A State Party which is also a party to

- the International Convention for the unification of certain rules of law with respect to collision between vessels and Protocol of signature dated September 23, 1910 or to
- the International Convention for the unification of certain rules concerning civil jurisdiction in matters of collisions dated May 10, 1952, or to
- the International Convention for the unification of certain rules relating to penal jurisdiction in matters of collision or other incidents of navigation dated May 10, 1952.

shall apply the rules of such convention or conventions to craft to which they would not otherwise apply.

Article 3
SALVAGE

A State Party which is also a party to

- the Convention for the unification of certain rules of law relating to assistance and salvage at sea and Protocol of signature dated September 23, 1910, or to
- the said Convention with Protocol dated May 27, 1967.
- the International Convention on Salvage dated April 28, 1989.

shall apply the rules of the said convention or conventions with Protocol to craft to which they would not otherwise apply, provided, however, that the 1910 Convention shall not apply to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of seabed mineral resources.

Article 4
ARREST

A State Party which is also a party to the International Convention for the unification of certain rules relating to the arrest of seagoing ships, dated May 10, 1952, shall apply the rules of that convention to craft to which they would not otherwise apply.

Article 5
LIMITATION OF LIABILITY

A State Party which is also a party to

- the International Convention for the unification of certain rules relating to the limitation of the liability of owners of sea-going vessels and Protocol of signature dated August 25, 1924, or to
- the International Convention relating to the limitation of the liability of owners of sea-going ships and Protocol of signature dated October 10, 1957, or as amended by the 1979 Protocol or to
- the Convention on limitation of liability for maritime claims dated November 19, 1976.

shall, subject to Article 9 below, apply the rules of any such convention to craft to which they would not otherwise apply. In the case of the 1976 Convention, a State Party shall do so notwithstanding the provisions of Article 15, paragraph 5, of that convention.

Article 6
RIGHTS IN CRAFT

A State Party which is also a party to

- the International Convention for the unification of certain rules relating to maritime liens and mortgages and Protocol of signature dated April, 1926, or to
- the International Convention for the unification of certain rules relating to maritime liens and mortgages dated May 27, 1967, or to
- the International Convention on Maritime Liens and Mortgage dated May 6, 1993, or to
- the International Convention relating to registration of rights in respect of vessels under construction dated May 27, 1967, or to
- the United Nations Convention on Conditions for Registration of Ships dated February 7, 1986.

shall subject to Article 10 below, apply the rules of such convention or conventions to craft to which they would not otherwise apply, provided that the State Party has established a system of registration of rights in relation to such craft.

Where such a system permits the registration of ownership of craft, a right so registered in one State Party shall be recognized by the other State Parties.

For the purpose of this Article a structure's status as a craft as defined in Article 1 shall be determined in accordance with the law of the State where a title to or a mortgage on such structure is registered.

Article 7

LIABILITY FOR OIL POLLUTION

Subject to the succeeding paragraph of this Article, a State Party which is also a party to the International Convention on Civil Liability for Oil Pollution damage dated November 29, 1969 or as amended by the 1976 or 1992 Protocols, shall apply the rules of that convention in so far as they would not otherwise apply.

A State Party shall apply such rules only in the absence of other applicable provisions on liability contained in other International Conventions to which it is a party.

Article 8

APPLICATION OF NATIONAL RULES

Subject to the provisions contained in Articles 9, a State Party, in so far as it is not a party to a convention referred to in Articles 2, 3, 4, 5, 6 and 7, shall apply to craft the rules which the State Party applies to vessels, in relation to the subject matters dealt with in any such convention.

Nevertheless, a State Party may, when enacting legislation with regard to vessels subsequent to this convention coming into force for that State, exclude craft which are not vessels from the application of such new legislation.

Article 9

MINIMUM LIMITS OF LIABILITY FOR CRAFT

For the purpose of calculating the limit of liability under Articles 5 and 7, craft shall be deemed to be of not less than x tons. The same shall apply to the limit of liability under national law pursuant to Article 8 above if and insofar as such a limit is based on tonnage.

Article 10

NATIONALITY

If, under any of the conventions applicable pursuant to Articles 2, 3, 4, 5, 6 and 7 or the national rules pursuant to Article 8, nationality is a relevant factor, a craft shall be deemed to have the nationality of the State in which it is registered or, if not so registered, the State whose flag the craft is flying.

PART III

Status of ratifications to Maritime Conventions

Etat des ratifications aux Conventions de Droit Maritime

ETAT DES RATIFICATIONS ET ADHESIONS AUX CONVENTIONS INTERNATIONALES DE DROIT MARITIME DE BRUXELLES

(Information communiquée par le Ministère des Affaires Etrangères, du Commerce Extérieur et de la Coopération au Développement de Belgique, dépositaire des Conventions).

Notes de l'éditeur

(1) - Les dates mentionnées sont les dates du dépôt des instruments. L'indication (r) signifie ratification, (a) adhésion.

(2) - Les réserves formulées par les Etats contractans lors du dépôt des instruments de ratification ou d'adhésions sont publiées dans l'Annuaire 1992 après l'état des ratifications de chaque convention.

(3) - Certaines Conventions ont en certains Pays été incorporées dans la loi nationale sans que ces Pays aient formellement ratifié ou adhéré à la dite Convention. Ces Pays ne sont pas repris dans les listes. Pour toute certitude une vérification locale est toujours conseillée.

(4) - A la suite de l'unification de l'Allemagne les conventions, qui avaient été ratifiées par la République Féderale d'Allemagne avant l'unification, sont également en vigueur dans les nouveaux états fédérés qui constituaient naguère la République Démocratique Allemande (Brandebourg, Mecklembourg Vorpommern, Saxe, Saxe Anhalt et Thuringe): voir l'article 11 du "Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratichen Republik über die Herstellung der Einheit Deutschlands-Einigungsvertrag". Les conventions uniquement ratifiées par la République Démocratique Allemande ne sont plus en vigueur à la suite de la dissolution de la République Démocratique Allemande.

(5) - Le 30 juillet 1992 a été reçue au Ministère des Affaires étrangères, du Commerce extérieur et de la Coopération au Développement de Belgique une note verbale par laquelle la République de Croatie notifie qu'elle se considère liée par les Conventions suivantes et qu'elle succède à partir de la date de l'indépendance de la Croatie, c'est-à-dire au 8 octobre 1991, aux droits et aux obligations souscrits antérieurement par la République socialiste fédérative de Yougoslavie.

1. Abordage (1910)
2. Assistance et sauvetage (1910)
3. Assistance et sauvetage - Protocole (1967)
4. Connaissement (1924)
5. Compétence civile (1952)
6. Compétence pénale (1952)
7. Saisie conservatoire (1952).

STATUS OF THE RATIFICATIONS OF AND ACCESSIONS TO THE BRUSSELS INTERNATIONAL MARITIME LAW CONVENTIONS

(Information provided by the Ministère des Affaires Etrangères, du Commerce Extérieur et de la Coopération au Développement de Belgique, depositary of the Conventions).

Editor's notes:

(1) - The dates mentioned are the dates of the deposit of instruments. The indication (r) stands for ratification, (a) for accession.

(2) - Reservations made by Contracting States at the time of the deposit of the instruments of ratification or accession and other relevant information are published in the Yearbook 1992 after the status of ratification of each convention.

(3) - Some Countries may enacted in their domestic law some Conventions without having formally ratified or acceded to such Convention. Those Countries are not listed herein. For certainty local verification is always recommended.

(4) - As a consequence of the German unification the Conventions ratified by the Federal Republic of Germany prior to the unification are in force also in the new Federal States formerly constituting the German Democratic Republic (Brandenburg, Mecklenburg-Vorpommern, Sachsen, Sachsen-Anhalt and Thüringen): See Art. 11 of the "Vertrag zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik über die Herstellung der Einheit Deutschlands-Einigungsvertrag". The Conventions ratified only by the former German Democratic Republic are not effective anymore, owing to the dissolution of the German Democratic Republic.

(5) On 30th July 1992 a note verbale has been received by the Ministry of Foreign Affairs, of Foreign Trade and of Co-Operation and Development of Belgium whereby the Republic of Croatia notifies that it considers itself bound by the following Conventions and that it succeeds as of the date of independence of Croatia, namely of 8th October 1991, to the rights and obligations previously pertaining to the Socialist Federal Republic of Yugoslavia:

1. Collision (1910)
2. Assistance and Salvage (1910)
3. Assistance and Salvage - Protocol (1967)
4. Bills of Lading (1924)
5. Civil Jurisdiction (1952)
6. Penal Jurisdiction (1952)
7. Arrest of Ships (1952)

Convention internationale pour l'unification de certaines règles en matière d'Abordage et protocole de signature

Bruxelles, le 23 septembre 1910
Entrée en vigueur: 1er mars 1913

International convention for the unification of certain rules of law relating to Collision between vessels and protocol of signature

Brussels, 23rd September, 1910
Entered into force: 1 March 1913

(Translation)

Angola	**(a)**	20.VII.1914
Antigua and Barbuda	**(a)**	1.II.1913
Argentina	**(a)**	28.II.1922
Australia	**(a)**	9.IX.1930
Norfolk Island	**(a)**	1.II.1913
Austria	**(r)**	1.II.1913
Barbados	**(a)**	1.II.1913
Belgium	**(r)**	1.II.1913
Brazil	**(r)**	31.XII.1913
Canada	**(a)**	25.IX.1914
Cape Verde	**(a)**	20.VII.1914
Cyprus	**(a)**	1.II.1913
Croatia	**(a)**	8.X.1991
Denmark	**(r)**	18.VI.1913
Dominican Republic	**(a)**	1.II.1913
Egypt	**(a)**	29.XI.1943
Estonia	**(a)**	15.V.1929
Fiji	**(a)**	1.II.1913
Finland	**(a)**	17.VII.1923
France	**(r)**	1.II.1913
Gambia	**(a)**	1.II.1913
Germany	**(r)**	1.II.1913
Ghana	**(a)**	1.II.1913
Goa	**(a)**	20.VII.1914
Greece	**(r)**	29.IX.1913
Grenada	**(a)**	1.II.1913
Guinea-Bissau	**(a)**	20.VII.1914
Guyana	**(a)**	1.II.1913
Haiti	**(a)**	18.VIII.1951
Hungary	**(r)**	1.II.1913
India	**(a)**	1.II.1913
Iran	**(a)**	26.IV.1966
Ireland	**(r)**	1.II.1913
Italy	**(r)**	2.VI.1913
Jamaica	**(a)**	1.II.1913
Japan	**(r)**	12.I.1914
Kenya	**(a)**	1.II.1913

Abordage 1910		*Collision 1910*
Kiribati	(a)	1.II.1913
Latvia	(a)	2.VIII.1932
Libyan Arab Jamahiriya	(a)	9.XI.1934
Macao	(a)	20.VII.1914
Malgache Republic	(r)	1.II.1913
Malaysia	(a)	1.II.1913
Malta	(a)	1.II.1913
Mauritius	(a)	1.II.1913
Mexico	(r)	1.II.1913
Mozambique	(a)	20.VII.1914
Netherlands	(r)	1.II.1913
Newfoundland	(a)	11.III.1914
New Zealand	(a)	19.V.1913
Nicaragua	(r)	18.VII.1913
Nigeria	(a)	I.II.1913
Norway	(r)	12.XI.1913
Papua New Guinea	(a)	1.II.1913
Paraguay	(a)	22.XI.1967
Poland	(a)	2.VI.1922
Portugal	(r)	25.XII.1913
Romania	(r)	1.II.1913
Russian Federation	(r)	10.VII.1936
Saint Kitts and Nevis	(a)	1.II.1913
Saint Lucia	(a)	3.III.1913
Saint Vincent and the Grenadines	(a)	1.II.1913
Solomon Islands	(a)	1.II.1913
Sao Tome and Principe	(a)	20.VII.1914
Seychelles	(a)	1.II.1913
Sierra Leone	(a)	1.II.1913
Singapore	(a)	1.II.1913
Somalia	(a)	1.II.1913
Spain	(a)	17.XI.1923
Sri-Lanka	(a)	1.II.1913
Sweden	(r)	12.XI.1913
Switzerland	(a)	28.V.1954
Timor	(a)	20.VII.1914
Tonga	(a)	13.VI.1978
Trinidad and Tobago	(a)	1.II.1913
Turkey	(a)	4.VII.1913
Tuvalu	(a)	1.II.1913

Abordage 1910		*Collision 1910*
United Kingdom	**(r)**	1.II.1913
Jersey, Guernsey, Isle of Man, Anguilla, Bermuda, Gibraltar, Hong Kong, Falkland Islands and Dependencies, Cayman Islands, British Virgin Islands, Montserrat, Caicos & Turks Islands, Saint Helena, Wei-Hai-Wei	**(a)**	1.II.1913
Uruguay	**(a)**	21.VII.1915
Zaire	**(a)**	17.VII.1967

* Pursuant to a notification of the ministry of foreign affairs of the Russian Federation dated 13th January 1992, the Russian Federation is now a party to all treaties to which the U.S.S.R. was a party. Russia had ratified the convention on the 1st February 1913.

Convention internationale pour l'unification de certaines certaines règles en matière

d'Assistance et de sauvetage maritimes

et protocole de signature

Bruxelles, le 23 septembre 1910
Entrée en vigueur: 1 mars 1913

International convention for the unification of certain rules of law relating to

Assistance and salvage at sea

and protocol of signature

Brussels, 23rd September, 1910
Entered into force:1 March 1913

(Translation)

Algeria	**(a)**	13.IV.1964
Angola	**(a)**	20.VII.1914
Antigua and Barbuda	**(a)**	1.II.1913
Argentina	**(a)**	28.II.1922
Australia	**(a)**	9.IX.1930
Norfolk Island	**(a)**	1.II.1913
Austria	**(r)**	1.II.1913
Bahamas	**(a)**	1.II.1913
Barbados	**(a)**	1.II.1913
Belgium	**(r)**	1.II.1913
Belize	**(a)**	1.II.1913
Brazil	**(r)**	31.XII.1913
Canada	**(a)**	25.IX.1914
Cape Verde	**(a)**	20.VII.1914
Cyprus	**(a)**	1.II.1913
Croatia	**(a)**	8.X.1991
Denmark	**(r)**	18.VI.1913
Dominican Republic	**(a)**	23.VII.1958
Egypt	**(a)**	19.XI.1943
Fiji	**(a)**	1.II.1913
Finland	**(a)**	17.VII.1923
France	**(r)**	1.II.1913
Gambia	**(a)**	1.II.1913
Germany	**(r)**	1.II.1913
Ghana	**(a)**	1.II.1913
Goa	**(a)**	20.VII.1914
Greece	**(r)**	15.X.1913
Grenada	**(a)**	1.II.1913
Guinea-Bissau	**(a)**	20.VII.1914
Guyana	**(a)**	1.II.1913
Haiti	**(a)**	18.VIII.1951
Hungary	**(r)**	1.II.1913
India	**(a)**	1.II.1913
Iran	**(a)**	26.IV.1966
Ireland	**(r)**	1.II.1913

Assistance et sauvetage 1910		*Assistance and salvage 1910*
Italy	**(r)**	2.VI.1913
Jamaica	**(a)**	1.II.1913
Japan	**(r)**	12.I.1914
Kenya	**(a)**	1.II.1913
Kiribati	**(a)**	1.II.1913
Latvia	**(a)**	2.VIII.1932
Macao	**(a)**	20.VII.1914
Malaysia	**(a)**	1.II.1913
Malta	**(a)**	1.II.1913
Malgache Republic	**(r)**	1.II.1913
Mauritius	**(a)**	1.II.1913
Mexico	**(r)**	1.II.1913
Mozambique	**(a)**	20.VII.1914
Netherlands	**(r)**	1.II.1913
Newfoundland	**(a)**	12.XI.1913
New Zealand	**(a)**	19.V.1913
Nigeria	**(a)**	1.II.1913
Norway	**(r)**	12.XI.1913
Oman	**(a)**	21.VIII.1975
Papua - New Guinea	**(a)**	1.II.1913
Paraguay	**(a)**	22.XI.1967
Poland	**(a)**	15.X.1921
Portugal	**(r)**	25.VII.1913
Romania	**(r)**	1.II.1913
Russian Federation	**(a)**	10.VII.1936
Saint Kitts and Nevis	**(a)**	1.II.1913
Saint Lucia	**(a)**	3.III.1913
Saint Vincent and the Grenadines	**(a)**	1.II.1913
Solomon Islands	**(a)**	1.II.1913
Sao Tomé and Principe	**(a)**	20.VII.1914
Seychelles	**(a)**	1.II.1913
Sierra Leone	**(a)**	1.II.1913
Singapore	**(a)**	1.II.1913
Somalia	**(a)**	1.II.1913
Spain	**(a)**	17.XI.1923
Sri Lanka	**(a)**	1.II.1913
Sweden	**(r)**	12.XI.1913
Switzerland	**(a)**	28.V.1954
Syrian Arab Republic	**(a)**	1.VIII.1974
Timor	**(a)**	20.VII.1914
Tonga	**(a)**	13.VI.1978
Trinidad and Tobago	**(a)**	1.II.1913
Turkey	**(a)**	4.VII.1955
Tuvalu	**(a)**	1.II.1913

Assistance et sauvetage 1910 — *Assistance and salvage 1910*

United Kingdom (1)	**(r)**	1.II.1913
Anguilla, Bermuda, Gibraltar, Hong Kong, Falkland Islands and Dependencies, British Virgin Islands, Montserrat, Turks & Caicos Islands, Saint Helena	**(a)**	1.II.1913
United States of America	**(r)**	1.II.1913
Uruguay	**(a)**	21.VII.1915
Zaire	**(a)**	17.VII.1967

(1) Including Jersey, Guernsey and Isle of Man

Protocole portant modification de la convention internationale pour l'unification de certaines règles en matière d'Assistance et de sauvetage maritimes
Signée à Bruxelles, le 23 septembre 1910

Bruxelles, 27 mai 1967
Entré en vigueur: 15 août 1977

Protocol to amend the international convention for the unification of certain rules of law relating to Assistance and salvage at sea
Signed at Brussels on 23rd September, 1910

Brussels, 27th May, 1967
Entered into force: 15 August 1977

Austria	**(r)**	4.IV.1974
Belgium	**(r)**	11.IV.1973
Brazil	**(r)**	8.XI.1982
Croatia	**(r)**	8.X.1991
Egypt	**(r)**	15.VII.1977
Jersey, Guernsey & Isle of Man	**(a)**	22.VI.1977
Papua New Guinea	**(a)**	14.X.1980
Syrian Arab Republic	**(a)**	1.VIII.1974
United Kingdom	**(r)**	9.IX.1974

Convention internationale pour l'unification de certaines règles concernant la
Limitation de la responsabilité des propriètaires de navires de mer
et protocole de signature

Bruxelles, 25 août 1924
Entrée en vigueur: 2 juin 1931

International convention for the unification of certain rules relating to the
Limitation of the liability of owners of sea-going vessels
and protocol of signature

Brussels, 25th August, 1924
Entered into force: 2 June, 1931

(Translation)

Belgium	**(r)**	2.VI.1930
Brazil	**(r)**	28.IV.1931
Denmark	**(r)**	2.VI.1930
(denunciation - 30.VI.1983)		
Dominican Republic	**(a)**	23.VII.1958
Finland	**(a)**	12.VII.1934
(denunciation - 30.VI.1983)		
France	**(r)**	23.VIII.1935
(denunciation - 26.X.1976)		
Hungary	**(r)**	2.VI.1930
Malgache Republic	**(r)**	12.VIII.1935
Monaco	**(r)**	15.V.1931
(denunciation - 24.I.1977)		
Norway	**(r)**	10.X.1933
(denunciation - 30.VI.1963)		
Poland	**(r)**	26.X.1936
Portugal	**(r)**	2.VI.1930
Spain	**(r)**	2.VI.1930
Sweden	**(r)**	1.VII.1938
(denunciation - 30.VI.1963)		
Turkey	**(a)**	4.VII.1955

Convention internationale pour l'unification de certaines règles en matière de
Connaissement
et protocole de signature
"Règles de La Haye 1924"

Bruxelles, le 25 août 1924
Entrée en vigueur: 2 juin 1931

International convention for the unification of certain rules of law relating to
Bills of lading
and protocol of signature
"Hague Rules 1924"

Brussels, 25 August 1924
Entered into force: 2 June 1931

(Translation)

Algeria	**(a)**	13.IV.1964
Angola	**(a)**	2.II.1952
Antigua and Barbuda	**(a)**	2.XII.1930
Argentina	**(a)**	19.IV.1961
Australia	**(a)**	4.VII.1955
Norfolk	**(a)**	4.VII.1955
Bahamas	**(a)**	2.XII.1930
Barbados	**(a)**	2.XII.1930
Belgium	**(r)**	2.VI.1930
Belize	**(a)**	2.XI.1930
Bolivia	**(a)**	28.V.1982
Cameroon	**(a)**	2.XII.1930
Cape Verde	**(a)**	2.II.1952
Cyprus	**(a)**	2.XII.1930
Croatia	**(r)**	8.X.1991
Cuba	**(a)**	25.VII.1977
Denmark	**(a)**	1.VII.1938
(denunciation - 1.III.1984)		
Dominican Republic	**(a)**	2.XII.1930
Ecuador	**(a)**	23.III.1977
Egypt (1)	**(a)**	29.XI.1943

(1) On 17 February 1993 Egypt notified to the Government of Belgium that it had become a party to the U.N. Convention on the Carriage of Goods by Sea, 1978 (Hamburg Rules) but that it deferred the denunciation of the 1924 Brussels Convention, as amended, for a period of five years. If, as provided in Article 31 paragraph 4 of the Hamburg Rules, the five years period commences to run on the date of entry into force of the Hamburg Rules (1 November 1992), the denunciation made on 1 November 1997 will take effect on 1 November 1998).

Règles de La Haye 1924		*Hague Rules 1924*
Fiji	**(a)**	2.XII.1930
Finland	**(a)**	1.VII.1939
(denunciation — 1.III.1984)		
France	**(r)**	4.I.1937
Gambia	**(a)**	2.XII.1930
Germany	**(r)**	1.VII.1939
Ghana	**(a)**	2.XII.1930
Goa	**(a)**	2.II.1952
Greece	**(a)**	23.III.1993
Grenada	**(a)**	2.XII.1930
Guyana	**(a)**	2.XII.1930
Guinea-Bissau	**(a)**	2.II.1952
Hungary	**(r)**	2.VI.1930
Iran	**(a)**	26.IV.1966
Ireland	**(a)**	30.I.1962
Israel	**(a)**	5.IX.1959
Italy	**(r)**	7.X.1938
(denunciation — 22.XI.1984)		
Ivory Coast	**(a)**	15.XII.1961
Jamaica	**(a)**	2.XII.1930
Japan	**(r)**	1.VII.1957
Kenya	**(a)**	2.XII.1930
Kiribati	**(a)**	2.XII.1930
Kuwait	**(a)**	25.VII.1969
Lebanon	**(a)**	19.VII.1975
Malaysia	**(a)**	2.XII.1930
Malgache Republic	**(a)**	13.VII.1965
Mauritius	**(a)**	24.VIII.1970
Monaco	**(a)**	15.V.1931
Mozambique	**(a)**	2.II.1952
Nauru	**(a)**	4.VII.1955
Netherlands	**(a)**	18.VIII.1956
(denunciation — 26.IV.1982)		
Nigeria	**(a)**	2.XII.1930
Norway	**(a)**	1.VII.1938
(denunciation — 1.III.1984)		
Papua New Guinea	**(a)**	4.VII.1955
Paraguay	**(a)**	22.XI.1967
Peru	**(a)**	29.X.1964
Poland	**(r)**	4.VIII.1937
Portugal	**(a)**	24.XII.1931
Macao	**(a)**	2.II.1952
Romania	**(r)**	4.VIII.1937
Sao Tomé and Principe	**(a)**	2.II.1952
Sarawak	**(a)**	3.XI.1931
Senegal	**(a)**	14.II.1978
Seychelles	**(a)**	2.XII.1930
Sierra-Leone	**(a)**	2.XII.1930
Singapore	**(a)**	2.XII.1930

Règles de la Haye 1924		*Hague Rules 1924*
Solomon Islands	**(a)**	2.XII.1930
Somalia	**(a)**	2.XII.1930
Spain	**(r)**	2.VI.1930
Sri-Lanka	**(a)**	2.XII.1930
St. Kitts and Nevis	**(a)**	2.XII.1930
St. Lucia	**(a)**	2.XII.1930
St. Vincent and the Grenadines	**(a)**	2.XII.1930
Sweden	**(a)**	1.VII.1938
(denunciation — 1.III.1984)		
Switzerland	**(a)**	28.V.1954
Syrian Arab Republic	**(a)**	1.VIII.1974
Tanzania (United Republic of)	**(a)**	3.XII.1962
Timor	**(a)**	2.II.1952
Tonga	**(a)**	2.XII.1930
Trinidad and Tobago	**(a)**	2.XII.1930
Turkey	**(a)**	4.VII.1955
Tuvalu	**(a)**	2.XII.1930
United Kingdom of Great Britain and Northern Ireland (including Jersey and Isle of Man)	**(r)**	2.VI.1930
(denunciation — 13.VI.1977)		
Gibraltar	**(a)**	2.XII.1930
(denunciation — 22.IX.1977)		
Bermuda, Hong Kong, Falkland Islands and dependencies, Turks & Caicos Islands, Cayman Islands, British Virgin Islands, Montserrat, British Antarctic Territories.		
(denunciation 20.X.1983)		
Anguilla	**(a)**	2.XII.1930
Ascension, Saint Helène and Dependencies	**(a)**	3.XI.1931
United States of America	**(r)**	29.VI.1937
Zaire	**(a)**	17.VII.1967

Protocole portant modification de la Convention Internationale pour l'unification de certaines règles en matière de connaissement, signée à Bruxelles le 25 août 1924

Règles de Visby

Bruxelles, 23 février 1968
Entrée en vigueur: 23 juin 1977

Protocol to amend the International Convention for the unification of certain rules of law relating to bills of lading, signed at Bruselles on 25 August 1924

Visby Rules

Brussels, 23rd February 1968
Entered into force: 23 June, 1977

Belgium	**(r)**	6.IX.1978
Denmark	**(r)**	20.XI.1975
Ecuador	**(a)**	23.III.1977
Egypt	**(r)**	31.I.1983
Finland	**(r)**	1.XII.1984
France	**(r)**	10.VII.1977
Greece	**(a)**	23.III.1993
Japan	**(r)**	1.III.1993
Italy	**(r)**	22.VIII.1985
Lebanon	**(a)**	19.VII.1975
Netherlands	**(r)**	26.IV.1982
Norway	**(r)**	19.III.1974
Poland	**(r)**	12.II.1980
Singapore	**(a)**	25.IV.1972
Sri-Lanka	**(a)**	21.X.1981
Sweden	**(r)**	9.XII.1974
Switzerland	**(r)**	11.XII.1975
Syrian Arab Republic	**(a)**	1.VIII.1974
Tonga	**(a)**	13.VI.1978
United Kingdom of Great Britain	**(r)**	1.X.1976
Bermuda, Hong-Kong	**(a)**	1.XI.1980
Gibraltar	**(a)**	22.IX.1977
Isle of Man	**(a)**	1.X.1976
British Antarctic Territories, Caimans, Caicos & Turks Islands, Falklands Islands & Dependencies, Montserrat, Virgin Islands (extension)	**(a)**	20.X.1983

Protocole DTS 1979 *SDR Protocol 1979*

Protocole portant modification de la Convention Internationale pour l'unification de certaines règles en matière de connaissement telle qu'amendée par le Protocole de modification du 23 février 1968.

Protocole DTS

Protocol to amend the International Convention for the unification of certain rules relating to bills of lading as modified by the Amending Protocol of 23rd February 1968.

SDR Protocol

Bruxelles, le 21 décembre 1979
Entré en vigueur: 14 février 1984

Brussels, 21st December, 1979
Entered into force: 14 February, 1984

Australia	**(a)**	16.VII.1993
Belgium	**(r)**	7.IX.1983
Denmark	**(a)**	3.XI.1983
Finland	**(r)**	1.XII.1984
France	**(r)**	18.XI.1986
Greece	**(a)**	23.III.1993
Italy	**(r)**	22.VIII.1985
Netherlands	**(r)**	18.II.1986
Norway	**(r)**	1.XII.1983
Poland	**(r)**	6.VII.1984
Spain	**(r)**	6.I.1982
Sweden	**(r)**	14.XI.1983
Switzerland	**(r)**	20.I.1988
United Kingdom of Great-Britain and Northern Ireland	**(r)**	2.III.1982
Bermuda, British Antartic Territories, Virgin Islands, Caimans, Falkland Islands & Dependencies, Gibraltar, Hong-Kong, Isle of Man, Montserrat, Caicos & Turks Island (extension)	**(a)**	20.X.1983

Convention internationale pour l'unification de certaines règles relatives aux

Privilèges et hypothèques maritimes

et protocole de signature

Bruxelles, 10 avril 1926
entrée en vigueur 2 juin 1931

International convention for the unification of certain rules relating to

Maritime liens and mortgages

and protocol of signature

Brussels, 10th April, 1926
entered into force 2 June, 1931

(translation)

Algeria	**(a)**	13.IV.1964
Argentina	**(a)**	19.IV.1961
Belgium	**(r)**	2.VI.1930
Brazil	**(r)**	28.IV.1931
Cuba	**(a)**	21.XI.1983
Denmark	**(r)**	2.VI.1930
(denunciation — 1.III.1965)		
Estonia	**(r)**	2.VI.1930
Finland	**(a)**	12.VII.1934
(denunciation — 1.III.1965)		
France	**(r)**	23.VIII.1935
Haiti	**(a)**	19.III.1965
Hungary	**(r)**	2.VI.1930
Iran	**(a)**	8.IX.1966
Italy	**(r)**	7.XII.1949
Lebanon	**(a)**	18.III.1969
Malgache Republic	**(r)**	23.VIII.1935
Monaco	**(a)**	15.V.1931
Norway	**(r)**	10.X.1933
(denunciation — 1.III.1965)		
Poland	**(r)**	26.X.1936
Portugal	**(a)**	24.XII.1931
Romania	**(r)**	4.VIII.1937
Spain	**(r)**	2.VI.1930
Switzerland	**(a)**	28.V.1954
Sweden	**(r)**	1.VII.1938
(denunciation — 1.III.1965)		
Syrian Arab Republic	**(a)**	14.II.1951
Turkey	**(a)**	4.VII.1955
Uruguay	**(a)**	15.IX.1970
Zaire	**(a)**	17.VII.1967

Convention internationale pour l'unification de certaines règles concernant les

Immunités des navires d'Etat

Bruxelles, 10 avril 1926
et protocole additionnel
Bruxelles, 24 mai 1934
Entrée en vigueur: 8 janvier 1937

International convention for the unification of certain rules concerning the

Immunity of State-owned ships

Brussels, 10th April, 1926
and additional protocol
Brussels, May 24th, 1934
Entered into force: 8 January 1937

(Translation)

Argentina	**(a)**	19.IV.1961
Belgium	**(r)**	8.I.1936
Brazil	**(r)**	8.I.1936
Chile	**(r)**	8.I.1936
Cyprus	**(a)**	19.VII.1988
Denmark	**(r)**	16.XI.1950
Estonia	**(r)**	8.I.1936
France	**(r)**	27.VII.1955
Germany	**(r)**	27.VI.1936
Greece	**(a)**	19.V.1951
Hungary	**(r)**	8.I.1936
Italy	**(r)**	27.I.1937
Libyan Arab Jamahiriya	**(r)**	27.I.1937
Malgache Republic	**(r)**	27.I.1955
Netherlands	**(r)**	8.VII.1936
Curaçao, Dutch Indies		
Norway	**(r)**	25.IV.1939
Poland	**(r)**	16.VII.1976
Portugal	**(r)**	27.VI.1938
Romania	**(r)**	4.VIII.1937
(denunciation — 21.IX.1959)		
Somalia	**(r)**	27.I.1937
Sweden	**(r)**	1.VII.1938
Switzerland	**(a)**	28.V.1954
Suriname	**(r)**	8.VII.1936
Syrian Arab Republic	**(a)**	17.II.1960
Turkey	**(a)**	4.VII.1955
United Arab Republic	**(a)**	17.II.1960
United Kingdom	**(r)**	3.VII.1979
United Kingdom for Jersey, Guernsey and Island of Man	**(a)**	19.V.1988
Uruguay	**(a)**	15.IX.1970
Zaire	**(a)**	17.VII.1967

Convention internationale pour l'unification de certaines règles relatives à la
Compétence civile en matière d'abordage

Bruxelles, 10 mai 1952
Entrée en vigueur:
14 septembre 1955

International convention for the unification of certain rules relating to
Civil jurisdiction in matters of collision

Brussels, 10th May, 1952
Entered into force:
14 September 1955

Algeria	**(a)**	18.VIII.1964
Antigua and Barbuda	**(a)**	12.V.1965
Argentina	**(a)**	19.IV.1961
Bahamas	**(a)**	12.V.1965
Belgium	**(r)**	10.IV.1961
Belize	**(a)**	21.IX.1965
Benin	**(a)**	23.IV.1958
Burkina Fasa	**(a)**	23.IV.1958
Cameroon	**(a)**	23.IV.1958
Central African Republic	**(a)**	23.IV.1958
Comoros	**(a)**	23.IV.1958
Congo	**(a)**	23.IV.1958
Costa Rica	**(a)**	13.VII.1955
Côte d'Ivoire	**(a)**	23.IV.1958
Croatia	**(r)**	8.X.1991
Djibouti	**(a)**	23.IV.1958
Dominican Republic	**(a)**	12.V.1965
Egypt	**(r)**	24.VIII.1955
Fiji	**(a)**	10.X.1974
France	**(r)**	25.V.1957
Overseas Territories	**(a)**	23.IV.1958
Gabon	**(a)**	23.IV.1958
Germany	**(r)**	6.X.1972
Greece	**(r)**	15.III.1965
Grenada	**(a)**	12.V.1965
Guinea	**(a)**	23.IV.1958
Guyana	**(a)**	29.III.1963
Haute Volta	**(a)**	23.IV.1958
Holy Seat	**(r)**	10.VIII.1956
Ireland	**(a)**	17.X.1989
Italy	**(r)**	9.XI.1979
Khmere Republic	**(a)**	12.XI.1959
Kiribati	**(a)**	21.IX.1965
Malgache Republic	**(a)**	23.IV.1958
Mauritania	**(a)**	23.IV.1958
Mauritius	**(a)**	29.III.1963
Morocco	**(a)**	11.VII.1990

Compétence civile 1952		Civil jurisdiction 1952
Niger	(a)	23.IV.1958
Nigeria	(a)	7.XI.1963
North Borneo	(a)	29.III.1963
Paraguay	(a)	22.XI.1967
Poland	(a)	14.III.1986
Portugal	(r)	4.V.1957
Sarawak	(a)	29.VIII.1962
Senegal	(a)	23.IV.1958
Seychelles	(a)	29.III.1963
Solomon Islands	(a)	21.IX.1965
Spain	(r)	8.XII.1953
St. Kitts and Nevis	(a)	12.V.1965
St. Lucia	(a)	12.V.1965
St. Vincent and the Grenadines	(a)	12.V.1965
Sudan	(a)	23.IV.1958
Switzerland	(a)	28.V.1954
Syrian Arab Republic	(a)	1.VIII.1974
Tchad	(a)	23.IV.1958
Togo	(a)	23.IV.1958
Tonga	(a)	13.VI.1978
Tuvalu	(a)	21.IX.1965
United Kingdom of Great Britain and Northern Ireland	(r)	18.III.1959
Gibraltar, Hong-Kong	(a)	29.III.1963
British Virgin Islands	(a)	29.V.1963
Bermuda	(a)	30.V.1963
Caiman Islands, Montserrat	(a)	12.V.1965
Anguilla, St. Helena	(a)	12.V.1965
Turks Isles and Caicos	(a)	21.IX.1965
Guernsey	(a)	8.XII.1966
Falkland Islands and Dependencies	(a)	17.X.1969
Zaire	(a)	17.VII.1967

Convention internationale pour l'unification de certaines règles relatives à la

Compétence pénale en matière d'abordage et autres événements de navigation

Bruxelles, 10 mai 1952
Entrée en vigueur:
20 novembre 1955

International convention for the unification of certain rules relating to

Penal jurisdiction in matters of collision and other incidents of navigation

Brussels, 10th May, 1952
Entered into force:
20 November 1955

Antigua and Barbuda	**(a)**	12.V.1965
Argentina	**(a)**	19.IV.1961
Bahamas	**(a)**	12.V.1965
Belgium	**(r)**	10.IV.1961
Belize	**(a)**	21.IX.1965
Benin	**(a)**	23.IV.1958
Burkina Faso	**(a)**	23.IV.1958
Burman Union	**(a)**	8.VII.1953
Cameroon	**(a)**	23.IV.1958
Central African Republic	**(a)**	23.IV.1958
Comoros	**(a)**	23.IV.1958
Congo	**(a)**	23.IV.1958
Costa Rica	**(a)**	13.VII.1955
Croatia	**(r)**	8.X.1991
Djibouti	**(a)**	23.IV.1958
Dominican Republic	**(a)**	12.V.1965
Egypt	**(r)**	24.VIII.1955
Fiji	**(a)**	29.III.1963
France	**(r)**	20.V.1955
Overseas Territories	**(a)**	23.IV.1958
Gabon	**(a)**	23.IV.1958
Germany	**(r)**	6.X.1972
Greece	**(r)**	15.III.1965
Grenada	**(a)**	12.V.1965
Guyana	**(a)**	19.III.1963
Guinea	**(a)**	23.IV.1958
Haiti	**(a)**	17.IX.1954
Haute-Volta	**(a)**	23.IV.1958
Holy Seat	**(r)**	10.VIII.1956
Italy	**(r)**	9.XI.1979
Ivory Coast	**(a)**	23.IV.1958
Khmere Republic	**(a)**	12.XI.1956
Kiribati	**(a)**	21.IX.1965

Compétence pénale 1952		*Penal jurisdiction 1952*
Lebanon	(r)	19.VII.1975
Malgache Republic	(a)	23.IV.1958
Mauritania	(a)	23.IV.1958
Mauritius	(a)	29.III.1963
Morocco	(a)	11.VII.1990
Netherlands	(r)	
Kingdom in Europe, West Indies and Aruba	(r)	25.VI.1971
Niger	(a)	23.IV.1958
Nigeria	(a)	7.XI.1963
North Borneo	(a)	29.III.1963
Paraguay	(a)	22.XI.1967
Portugal	(r)	4.V.1957
Sarawak	(a)	28.VIII.1962
Senegal	(a)	23.IV.1958
Seychelles	(a)	29.III.1963
Solomon Islands	(a)	21.IX.1965
Spain	(r)	8.XII.1953
St. Kitts and Nevis	(a)	12.V.1965
St. Lucia	(a)	12.V.1965
St. Vincent and the Grenadines	(a)	12.V.1965
Sudan	(a)	23.IV.1958
Suriname	(r)	25.VI.1971
Switzerland	(a)	28.V.1954
Syrian Arab Republic	(a)	10.VII.1972
Tchad	(a)	23.IV.1958
Togo	(a)	23.IV.1958
Tonga	(a)	13.VI.1978
Tuvalu	(a)	21.IX.1965
United Kingdom of Great Britain and		
Northern Ireland	(r)	18.III.1959
Gibraltar, Hong-Kong	(a)	29.III.1963
British Virgin Islands	(a)	29.V.1963
Bermuda	(a)	30.V.1963
Anguilla, Caïman Islands, Montserrat,		
St. Helena	(a)	12.V.1965
Turks Islands and Caicos	(a)	21.IX.1965
Guernsey	(a)	8.XII.1966
Falkland Islands and dependencies	(a)	17.X.1969
Viet Nam	(a)	26.XI.1955
Zaire	(a)	17.VII.1967

Convention internationale pour l'unification de certaines règles sur la

Saisie conservatoire des navires de mer

Bruxelles, 10 mai 1952
Entrée en vigueur: 24 février 1956

International convention for the unification of certain rules relating to

Arrest of sea-going ships

Brussels, 10th May, 1952
Entered into force: 24 February, 1956

Algeria	**(a)**	18.VIII.1964
Antigua and Barbuda	**(a)**	12.V.1965
Bahamas	**(a)**	12.V.1965
Belgium	**(r)**	10.IV.1961
Belize	**(a)**	21.IX.1965
Benin	**(a)**	23.IV.1958
Burkina Faso	**(a)**	23.IV.1958
Cameroon	**(a)**	23.IV.1958
Central African Republic	**(a)**	23.IV.1958
Comoros	**(a)**	23.IV.1958
Congo	**(a)**	23.IV.1958
Costa Rica	**(a)**	13.VII.1955
Croatia	**(r)**	8.X.1991
Cuba	**(a)**	21.XI.1983
Denmark	**(r)**	2.V.1989
Djibouti	**(a)**	23.IV.1958
Dominican Republic	**(a)**	12.V.1965
Egypt	**(r)**	24.VIII.1955
Fiji	**(a)**	29.III.1963
France	**(r)**	25.V.1957
Overseas Territories	**(a)**	23.IV.1958
Gabon	**(a)**	23.IV.1958
Germany	**(r)**	6.X.1972
Greece	**(r)**	27.II.1967
Grenada	**(a)**	12.V.1965
Guyana	**(a)**	29.III.1963
Guinea	**(a)**	23.IV.1958
Haiti	**(a)**	4.XI.1954
Haute-Volta	**(a)**	23.IV.1958
Holy Seat	**(r)**	10.VIII.1956
Ireland	**(a)**	17.X.1989
Italy	**(r)**	9.XI.1979
Ivory Coast	**(a)**	23.IV.1958
Khmere Republic	**(a)**	12.XI.1956
Kiribati	**(a)**	21.IX.1965
Latvia	**(a)**	17.V.1993
Malgache Republic	**(a)**	23.IV.1958
Marocco	**(a)**	11.VII.1990

Mauritania	**(a)**	23.IV.1958
Mauritius	**(a)**	29.III.1963
Netherlands	**(r)**	20.I.1983
Niger	**(a)**	23.IV.1958
Nigeria	**(a)**	7.XI.1963
North Borneo	**(a)**	29.III.1963
Paraguay	**(a)**	22.XI.1967
Poland	**(a)**	16.VII.1976
Portugal	**(r)**	4.V.1957
Sarawak	**(a)**	28.VIII.1962
Senegal	**(a)**	23.IV.1958
Seychelles	**(a)**	29.III.1963
Solomon Islands	**(a)**	21.IX.1965
Spain	**(r)**	8.XII.1953
St. Kitts and Nevis	**(a)**	12.V.1965
St. Lucia	**(a)**	12.V.1965
St. Vincent and the Grenadines	**(a)**	12.V.1965
Sudan	**(a)**	23.IV.1958
Sweden	**(a)**	30.IV.1993
Switzerland	**(a)**	28.V.1954
Syrian Arabic Republic	**(a)**	3.II.1972
Tchad	**(a)**	23.IV.1958
Togo	**(a)**	23.IV.1958
Tonga	**(a)**	13.VI.1978
Tuvalu	**(a)**	21.IX.1965
United Kingdom of Great Britain and Northern Ireland	**(r)**	18.III.1959
United Kingdom (Overseas Territories)		
Gibraltar, Hong-Kong	**(a)**	29.III.1963
British Vigin Islands	**(a)**	29.V.1963
Bermuda	**(a)**	30.V.1963
Anguilla, Caiman Islands, Montserrat, St. Helena	**(a)**	12.V.1965
Turks Isles and Caicos	**(a)**	21.IX.1965
Guernsey	**(a)**	8.XII.1966
Falkland Islands and dependencies	**(a)**	17.X.1969
Zaire	**(a)**	17.VII.1967

Convention internationale sur la
Limitation de la responsabilité des propriétaires de navires de mer
et protocole de signature

Bruxelles, le 10 octobre 1957
Entrée en vigueur: 31 mai 1968

International convention relating to the
Limitation of the liability of owners of sea-going ships

and protocol of signature

Brussels, 10th October, 1957
Entered into force: 31 May, 1968

Algeria	**(a)**	18.VIII.1964
Australia	**(r)**	30.VII.1975
(denunciation — 30.V.1990)		
Bahamas	**(a)**	21.VIII.1964
Barbados	**(a)**	4.VIII.1965
Belgium	**(r)**	31.VII.1975
(denunciation — 1.IX.1989)		
Belize	**(r)**	31.VII.1975
Denmark	**(r)**	1.III.1965
(denunciation — 1.IV.1984)		
Dominican Republic	**(a)**	4.VIII.1965
Egypt (Arab Republic of)		
(denunciation — 8.V.1985)		
Fiji	**(a)**	21.VIII.1964
Finland	**(r)**	19.VIII.1964
(denunciation — 1.IV.1984)		
France	**(r)**	7.VII.1959
(denunciation — 15.VII.1987)		
Germany	**(r)**	6.X.1972
(denunciation — 1.IX.1986)		
Ghana	**(a)**	26.VII.1961
Grenada	**(a)**	4.VIII.1965
Guyana	**(a)**	25.III.1966
Iceland	**(a)**	16.X.1968
India	**(r)**	1.VI.1971
Iran	**(r)**	26.IV.1966
Israel	**(r)**	30.XI.1967
Japan	**(r)**	1.III.1976
(denunciation — 19.V.1983)		
Kiribati	**(a)**	21.VIII.1964
Malgache Republic	**(a)**	13.VII.1965
Mauritius	**(a)**	21.VIII.1964
Monaco	**(a)**	24.I.1977
Netherlands	**(r)**	10.XII.1965
(denunciation — 1.IX.1989)		

Limitation de responsabilité 1957		*Limitation of liability 1957*
Norway	**(r)**	1.III.1965
(denunciation — 1.IV.1984)		
Papua New Guinea	**(a)**	14.III.1980
Poland	**(r)**	1.XII.1972
Portugal	**(r)**	8.IV.1968
Seychelles	**(a)**	21.VIII.1964
Singapore	**(a)**	17.IV.1963
Solomon Islands	**(a)**	21.VIII.1964
St. Lucia	**(a)**	4.VIII.1965
St. Vincent and the Grenadines	**(a)**	4.VIII.1965
Spain	**(r)**	16.VII.1959
Sweden	**(r)**	4.VI.1964
(denunciation — 1.IV.1984)		
Switzerland	**(r)**	21.I.1966
Syrian Arab Republic	**(a)**	10.VII.1972
Tonga	**(a)**	13.VI.1978
Tuvalu	**(a)**	21.VIII.1964
United Arab Republic	**(a)**	7.IX.1965
United Kingdom	**(r)**	18.II.1959
Isle of Man	**(a)**	18.XI.1960
Bermuda, British Antartic Territories, Falkland and Dependencies, Gibraltar, Hong Kong, British Virgin Islands	**(a)**	21.VIII.1964
Guernsey and Jersey	**(a)**	21.X.1964
Caiman Islands, Montserrat, Caicos and Turks Isles	**(a)**	4.VIII.1965
Vanuatu	**(a)**	8.XII.1966
Zaire	**(a)**	17.VII.1967

Protocole portant modification de la convention internationale sur la
Limitation de la responsabilité des propriétaires de navires de mer
du 10 octobre 1957

Bruxelles le 21 décembre 1979
Entré en vigueur: 6 octobre 1984

Australia	**(r)**	30.XI.1983
Belgium	**(r)**	7.IX.1983
Poland	**(r)**	6.VII.1984
Portugal	**(r)**	30.IV.1982
Spain	**(r)**	14.V.1982
Switzerland	**(r)**	20.I.1988
United Kingdom of Great Britain and Northern Ireland	**(r)**	2.III.1982
(denunciation — 1.XII.1985)		
Isle of Man, Bermuda, Falkland and Dependencies, Gibraltar, Hong-Kong, British Virgin Islands, Guernsey and Jersey, Cayman Islands, Montserrat, Caicos and Turks Isles		
(denunciation — 1.XII.1985)		

Protocol to amend the international convention relating to the
Limitation of the liability of owners of sea-going ships
of 10 October 1957

Brussels, 21st December, 1979
Entered into force: 6 October, 1984

Convention internationale sur les
Passagers Clandestins

Bruxelles, 10 octobre 1957

Belgium	**(r)**	31.VII.1975
Denmark	**(r)**	16.XII.1963
Finland	**(r)**	2.II.1966
Italy	**(r)**	24.V.1963
Malgache Republic	**(a)**	13.VII.1965
Morocco	**(a)**	22.I.1959
Norway	**(r)**	24.V.1962
Peru	**(r)**	23.XI.1961
Sweden	**(r)**	27.VI.1962

International convention relating to
Stowaways

Brussels, 10th October 1957

Convention internationale pour l'unification de certaines règles en matière de
Transport de passagers par mer
et protocole

Bruxelles, 29 avril 1961
Entrée en vigueur: 4 juin 1965

International convention for the unification of certain rules relating to
Carriage of passengers by sea
and protocol

Brussels, 29th April 1961
Entered into force: 4 June, 1965

Algeria	**(a)**	2.VII.1973
Cuba	**(a)**	7.I.1963
France	**(r)**	4.III.1965
(denunciation — 3.XII.1975)		
Haïti	**(a)**	19.IV.1989
Iran	**(a)**	26.IV.1966
Malgache Republic	**(a)**	13.VII.1965
Morocco	**(r)**	15.VII.1965
Peru	**(a)**	29.X.1964
Switzerland	**(r)**	21.I.1966
Tunisia	**(a)**	18.VII.1974
United Arab Republic	**(r)**	15.V.1964
Zaire	**(a)**	17.VII.1967

Convention internationale relative à la responsabilité des exploitants de
Navires nucléaires
et protocole additionnel

Bruxelles, 25 mai 1962
Pas encore en vigueur

International convention relating to the liability of operators of
Nuclear ships
and additional protocol

Brussels, 25th May 1962
Not yet in force

Lebanon	**(r)**	3.VI.1975
Malgache Republic	**(a)**	13.VII.1965
Netherlands	**(r)**	20.III.1974
Portugal	**(r)**	31.VII.1968
Suriname	**(r)**	20.III.1974
Syrian Arab Republic	**(a)**	1.VIII.1974
Zaire	**(a)**	17.VII.1967

Convention internationale pour l'unification de certaines règles en matière de
Transport de bagages de passagers par mer

Bruxelles, 27 mai 1967
Pas en vigueur

International Convention for the unification of certain rules relating to
Carriage of passengers' luggage by sea

Brussels, 27th May 1967
Not in force

Algeria	**(a)**	2.VII.1973
Cuba	**(a)**	15.II.1972

Convention internationale relative à l'inscription des droits relatifs aux
Navires en construction

Bruxelles, 27 mai 1967
Pas encore en vigueur

International convention relating to the registration of rights in respect of
Vessels under construction

Brussels, 27th May 1967
Not yet in force

Croatia	**(r)**	3.V.1971
Greece	**(r)**	12.VII.1974
Norway	**(r)**	13.V.1975
Sweden	**(r)**	13.XI.1975
Syrian Arab Republic	**(a)**	1.XIII.1974

Convention internationale pour l'unification de certaines règles relatives aux
Privilèges et hypothèques maritimes

Bruxelles, 27 mai 1967
Pas encore in vigueur

International convention for the unification of certain rules relating to
Maritime liens and mortgages

Brussels, 27th May 1967
Not yet in force

Denmark	**(r)**	23.VIII.1977
Morocco	**(a)**	12.II.1987
Norway	**(r)**	13.V.1975
Sweden	**(r)**	13.XI.1975
Syrian Arab Republic	**(a)**	1.VIII.1974

STATUS OF THE RATIFICATIONS OF AND ACCESSIONS TO THE IMO CONVENTIONS IN THE FIELD OF PRIVATE MARITIME LAW

r = ratification
a = accession
A = acceptance
AA = approval
S = definitive signature

Editor's notes
This Status is based on advices from the International Maritime Organisation and reflects the situation as at 31st December, 1992. A number of reservations — not included in this booklet — have been made by certain contracting States to the IMO Conventions. Their text can be obtained from the C.M.I. Secretariat upon request.

The dates mentioned are the dates of the deposit of instruments.

ETAT DES RATIFICATIONS ET ADHESIONS AUX CONVENTIONS DE L'OMI EN MATIERE DE DROIT MARITIME PRIVE

Notes de l'éditeur
Cet état est basé sur des informations reçues de l'Organisation Maritime Internationale et reflète la situation au 31 décembre 1992. Des réserves — ne figurant pas dans ce livre — ont été posées par certains Etats parties aux Conventions de l'OMI. Leur texte peut être obtenu sur demande au Secrétariat du C.M.I.

Les dates mentionnées sont les dates du dépôt des instruments.

International Convention on Civil liability for oil pollution damage (CLC 1969)

Done at Brussels, 29 November 1969
Entered into force: 19 June, 1975

Convention Internationale sur la Responsabilité civile pour les dommages dus à la pollution par les hydrocarbures (CLC 1969)

Signée à Bruxelles, le 29 novembre 1969
Entrée en vigueur: 19 juin 1975

Algeria	**(a)**	14.VI.1974
Australia	**(r)**	7.XI.1983
(denunciation 22 June 1988		
Bahamas	**(a)**	22.VII.1976
Belgium	**(r)**	12.I.1977
Belize	**(a)**	2.IV.1991
Benin	**(a)**	1.XI.1985
Brazil	**(r)**	17.XII.1976
Brunei Darussalam	**(a)**	29.IX.1992
Cameroon	**(r)**	14.V.1984
Canada	**(a)**	24.I.1989
Chile	**(a)**	2.VIII.1977
China	**(a)**	30.I.1980
Colombia	**(a)**	26.III.1990
Côte d'Ivoire	**(r)**	21.VI.1973
Croatia	**(r)**	8.X.1991
Cyprus	**(a)**	19.VI.1989
Denmark	**(a)**	2.IV.1975
Djibouti	**(a)**	1.III.1990
Dominican Republic	**(r)**	2.IV.1975
Ecuador	**(a)**	23.XII.1976
Egypt	**(a)**	3.II.1989
Estonia	**(a)**	1.XII.1992
Fiji	**(a)**	15.VIII.1972
Finland	**(r)**	10.X.1980
France	**(r)**	17.III.1975
Gabon	**(a)**	21.I.1982
Gambia	**(a)**	1.XI.1991
Germany	**(r)**	20.V.1975
Ghana	**(r)**	20.IV.1978
Greece	**(a)**	29.VI.1976
Guatemala	**(a)**	20.X.1982
Iceland	**(r)**	17.VII.1980
India	**(a)**	1.V.1987
Indonesia	**(r)**	1.IX.1978
Ireland	**(r)**	19.XI.1992
Italy	**(r)**	27.II.1979
Japan	**(a)**	3.VI.1976

CLC 1969

Kenya	**(a)**	15.XII.1992
Korea (Rep.of)	**(a)**	18.XII.1978
Kuwait	**(a)**	2.IV.1981
Latvia	**(a)**	10.VII.1992
Lebanon	**(a)**	9.IV.1974
Liberia	**(a)**	25.IX.1972
Luxembourg	**(a)**	14.II.1991
Maldives	**(a)**	16.III.1981
Malta	**(a)**	27.IX.1991
Monaco	**(r)**	21.VIII.1975
Morocco	**(a)**	11.IV.1974
Netherlands	**(r)**	9.IX.1975
New Zealand	**(a)**	27.IV.1976
Nigeria	**(a)**	7.V.1981
Norway	**(a)**	21.III.1975
Oman	**(a)**	24.I.1985
Panama	**(r)**	7.I.1976
Papua New Guinea	**(a)**	12.III.1980
Perù	**(a)**	24.II.1987
Poland	**(r)**	18.III.1976
Portugal	**(r)**	26.XI.1976
Qatar	**(a)**	2.VI.1988
Russian Federation	**(a)**	24.VI.1975
Saudi Arabia	**(a)**	15.IV.1993
St.-Vincent and the Grenadines	**(a)**	19.VI.1989
Senegal	**(a)**	27.III.1972
Seychelles	**(a)**	12.IV.1988
Singapore	**(a)**	16.IX.1981
Slovenia (succession)	**(a)**	25.VI.1991
South Africa	**(a)**	17.III.1976
Spain	**(r)**	8.XII.1975
Sri Lanka	**(a)**	12.IV.1983
Sweden	**(r)**	17.III.1975
Switzerland	**(r)**	15.XII.1987
Syrian Arab Republic	**(a)**	6.II.1975
Tunisia	**(a)**	4.V.1976
Tuvalu (succession)	**(a)**	1.X.1978
United Arab Emirates	**(a)**	15.XII.1983
United Kingdom	**(r)**	17.III.1975
Vanuatu	**(a)**	2.II.1983
Venezuela	**(a)**	21.I.1992
Yemen	**(a)**	6.III.1979

The Convention applies provisionally to the following States:

Kiribati
Solomon Islands

The United Kingdom declared ratification to be effective also in respect of:

Anguilla	8.V.1984
Bailiwick of Jersey and Guernsey, Isle of Man	1.III.1976
Bermuda	1.III.1976
Belize	1.IV.1976
British Indian Ocean Territory	"
British Virgin Islands	"
Cayman Islands	"
Falkland Islands and Dependencies	"
Gibraltar	"
Gilbert Islands	"
Hong-Kong	"
Montserrat	"
Pitcairn	"
St.Helena and Dependencies	"
Seychelles	"
Solomon Islands	"
Turks and Caicos Islands	"
Tuvalu	"
United Kingdom Sovereign Base	"
Areas of Akrotiri and Dhekelia	"
in the Island of Cyprus	"

Protocol to the International Convention on
Civil liability for oil pollution damage

(CLC PROT 1976)

Done at London,
19 November 1976
Entered into force: 8 April, 1981

Protocole à la Convention Internationale sur la
Responsabilité civile pour les dommages dus à la pollution par les hydrocarbures

(CLC PROT 1976)

Signé à Londres,
le 19 novembre 1976
Entré en vigueur: 8 avril 1981

Australia	**(a)**	7.XI.1983
denunciation		*22 June 1988*
Bahamas	**(acc)**	3.III.1980
Belgium	**(a)**	15.VI.1989
Belize	**(a)**	2.IV.1991
Brunei Darussalam	**(a)**	29.IX.1992
Cameroon	**(a)**	14.V.1984
Canada	**(a)**	24.I.1989
China	**(a)**	29.IX.1986
Colombia	**(a)**	26.III.1990
Cyprus	**(a)**	19.VI.1989
Denmark	**(a)**	3.VI.1981
Egypt	**(a)**	3.II.1989
Finland	**(a)**	8.I.1981
France	**(AA)**	7.XI.1980
Germany	**(r)**	28.VIII.1980
Greece	**(a)**	10.V.1989
India	**(a)**	1.V.1987
Ireland	**(a)**	19.XI.1992
Italy	**(a)**	3.VI.1983
Korea, Republic of	**(a)**	8.XII.1992
Kuwait	**(a)**	1.VII.1981
Liberia	**(a)**	17.II.1981
Luxemburg	**(a)**	14.II.1991
Maldives	**(a)**	14.VI.1981
Malta	**(a)**	27.IX.1991
Netherlands	**(a)**	3.VIII.1982
Norway	**(a)**	17.VII.1978
Oman	**(a)**	24.I.1985
Peru	**(a)**	24.II.1987
Poland	**(a)**	30.X.1985
Portugal	**(a)**	2.I.1986
Qatar	**(a)**	2.VI.1988
Russian Federation	**(a)**	2.XII.1988
Saudi Arabia	**(a)**	15.IV.1993
Singapore	**(a)**	15.XII.1981

CLC PROT 1976		*CLC PROT 1984*
Spain	**(a)**	22.X.1981
Sweden	**(r)**	7.VII.1978
Switzerland	**(a)**	15.XII.1987
United Arab Emirates	**(a)**	14.III.1984
United Kingdom (1)	**(r)**	31.I.1980
Vanuatu	**(a)**	13.I.1989
Venezuela	**(a)**	21.I.1992
Yemen	**(a)**	4.VI.1979

(1) The ratification by the United Kingdom was declared to be effective also in respect of: Anguilla, Bailiwick of Jersey, Bailiwick of Guernsey, Isle of Man, Belize has since become an independent state to which the Protocol applies provisionally, Bermuda, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Hong-Kong, Montserrat, Pitcairn, Saint Helena and Dependencies, Turks and Caicos Islands, United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.

Protocol of 1984 to amend the International Convention on

Civil liability for oil pollution damage, 1969

(CLC PROT 1984)

Done at London,
25 May 1984
Not yet in force.

Protocole de 1984 portant modification à la Convention Internationale sur la

Responsabilité civile pour les dommages dus à la pollution par les hydrocarbures, 1969

(CLC PROT 1984)

Signé à Londres,
le 25 mai 1984
Pas encore en vigueur.

Australia	**(a)**	22.VI.1988
France	**(r)**	8.IX.1987
Germany	**(r)**	18.X.1988
Luxemburg	**(a)**	14.II.1991
Morocco	**(r)**	31.XII.1992
Peru	**(a)**	26.VIII.1987
St.-Vincent and the Grenadines	**(a)**	19.IV.1989
South Africa	**(a)**	31.I.1986
Venezuela	**(a)**	21.I.1992

International Convention on the Establishment of an International Fund for compensation for oil pollution damage

(FUND 1971)

Done at Brussels, 18 December 1971
Entered into force: 16 October, 1978

Convention Internationale portant Création d'un Fonds International d'indemnisation pour les dommages dus à la pollution par les hydrocarbures

(FONDS 1971)

Signée à Bruxelles, le 18 décembre 1971
Entrée en vigueur: 16 octobre 1878

Algeria	**(r)**	2.VI.1975
Bahamas	**(a)**	22.VII.1976
Benin	**(a)**	1.XI.1985
Brunei Darussalam	**(a)**	29.IX.1992
Cameroon	**(a)**	14.V.1984
Canada	**(a)**	24.I.1989
Côte d'Ivoire	**(a)**	5.X.1987
Croatia (1)	**(r)**	8.X.1991
Cyprus	**(a)**	26.VII.1989
Denmark	**(a)**	2.IV.1975
Djibouti	**(a)**	1.III.1990
Estonia	**(a)**	I.XII.1992
Fiji	**(a)**	4.III.1983
Finland	**(r)**	10.X.1980
France	**(a)**	11.V.1978
Gabon	**(a)**	21.I.1982
Gambia	**(a)**	1.XI.1991
Germany	**(r)**	30.XII.1976
Ghana	**(r)**	20.IV.1978
Greece	**(a)**	16.XII.1986
Iceland	**(a)**	17.VII.1980
India	**(a)**	10.VII.1990
Indonesia	**(a)**	1.IX.1978
Ireland	**(r)**	19.XI.1992
Italy	**(a)**	27.II.1979
Japan	**(r)**	7.VII.1976
Kenya	**(a)**	15.XII.1992
Korea, Republic of	**(a)**	8.XII.1992
Kuwait	**(a)**	2.IV.1981
Liberia	**(a)**	25.IX.1972

(1) On 11 August 1992 Croatia notified its succession to this Conventions as of the date of its independence (8.10.1991).

Fund 1971		*Fonds 1971*
Maldives	(a)	16.III.1981
Malta	(a)	27.IX.1991
Monaco	(a)	23.VIII.1979
Morocco	(r)	31.XII.1992
Netherlands	(AA)	3.VIII.1982
Nigeria	(a)	11.XI.1987
Norway	(r)	21.III.1975
Oman	(a)	10.V.1985
Papua New Guinea	(a)	12.III.1980
Poland	(r)	16.IX.1985
Portugal	(r)	11.IX.1985
Qatar	(a)	2.VI.1988
Russian Federation (2)	(a)	17.VI.1987
Seychelles	(a)	12.IV.1988
Sierra Leone	(a)	13.VIII.1993
Slovenia (succession)	(a)	25.VI.1991
Spain	(a)	8.X.1981
Sri Lanka	(a)	12.IV.1983
Sweden	(r)	17.III.1975
Syrian Arab Republic	(a)	6.II.1975
Tunisia	(a)	4.V.1976
Tuvalu	(succession)	
United Arab Emirates	(a)	15.XII.1983
United Kingdom (3)	(r)	2.IV.1976
Vanuatu	(a)	13.I.1989
Venezuela	(a)	21.I.1992
Yugoslavia	(r)	16.III.1978

(2) As from 26 December 1991 the membership of the USSR in the Convention is continued by the Russian Federation.

(3) The ratification by the United Kingdom was declared to be effective also in respect of:
- Anguilla: 1.IX.1984
- Bailiwick of Guernsey, Bailiwick of Jersey, Isle of Man, Belize (has since become the independent State of Belize), Bermuda, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands and Dependencies (se communication of the London Embassy of the Argentine Republic at p. 185), Gibraltar, Gilbert Islands (has since become the independent State of Kiribati), Hong-Kong, Montserrat, Pitcairn Group, St. Helena and Dependencies, Seychelles (has since become the independent State of Seychelles), Solomon Islands (has since become the independent State of Solomon Islands), Turks and Caicos Islands, Tuvalu (has since become an independent State and a Contracting State to the Convention), United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus: 16.X.1978

Protocol to the International Convention on the
Establishment of an International Fund for compensation for oil pollution damage

(FUND PROT 1976)

Protocole à la Convention Internationale portant
Creation d'un Fonds International d'indemnisation pour les dommages dus à la pollution par les hydrocarbures

(FONDS PROT 1976)

Done at London, 19 November 1976
Not yet in force

Signé à Londres, le 19 novembre 1976
Pas encore entré en vigueur

Bahamas	**(A)**	3.III.1980
Cyprus	**(a)**	26.VII.1989
Denmark	**(a)**	3.VI.1981
Finland	**(a)**	8.I.1981
France	**(a)**	7.XI.1980
Germany	**(r)**	28.VIII.1980
India	**(a)**	10.VII.1990
Ireland	**(a)**	19.XI.1992
Italy	**(a)**	21.IX.1983
Liberia	**(a)**	17.II.1981
Malta	**(a)**	27.IX.1991
Morocco	**(a)**	31.XII.1992
Netherlands	**(a)**	1.XI.1982
Norway	**(a)**	17.VII.1978
Poland	**(a)**	30.X.1985
Portugal	**(a)**	11.IX.1985
Russian Federation	**(a)**	30.I.1989
Spain	**(a)**	5.IV.1982
Sweden	**(r)**	7.VII.1978
United Kingdom (2)	**(r)**	31.I.1980
Vanuatu	**(a)**	13.I.1989
Venezuela	**(a)**	21.I.1992

Number of Contracting States: 19 (representing approximately two thirds of the total quantity of contributing oil required for entry into force).

(1) As from 26 December 1991 the membership of the USSR in the Convention is continued by the Russian Federation.

(2) The ratification by the United Kingdom was declared to be effective also in respect of: Anguilla, Bailiwick of Jersey, Bailiwick of Guernsey, Isle of Man, Belize (has since become the independent State of Belize), Bermuda, British Indian Ocean Territory, British Virgin Islands, Cayman Islands, Falkland Islands Gibraltar, Hong-Kong, Montserrat, Pitcairn, St. Helena and Dependencies, Turks and Caicos Islands, United Kingdom Sovereign Base Areas of Akrotiri and Dhekelia in the Island of Cyprus.

Protocol of 1984 to amend the International Convention on the

Establishment of an International Fund for compensation for oil pollution damage

(FUND PROT 1984)

Done at London, 25 May 1984
Not yet in force.

Protocole de 1984 modifiant à la Convention Internationale de 1971 portant

Creation d'un Fonds International d'indemnisation pour les dommages dus à la pollution par les hydrocarbures

(FONDS PROT 1984)

Signé à Londres,
le 25 mai 1984
Pas encore entré en vigueur

France	**(AA)**	8.IX.1987
Germany	**(r)**	18.X.1988
Morocco	**(r)**	31.XII.1992
Venezuela	**(a)**	21.I.1992

Convention relating to Civil Liability in the Field of

Maritime Carriage of nuclear material (NUCLEAR 1971)

Done at Brussels,
17 December 1871
Entered into force: 15 July, 1975

Convention relative à la Responsabilité Civile dans le Domaine du

Transport Maritime de matières nucléaires (NUCLEAR 1971)

Signée à Bruxelles,
le 17 décembre 1971
Entrée en vigueur: 15 juillet 1975

Argentina	**(a)**	18.V.1981
Belgium	**(r)**	15.VI.1989
Denmark (1)	**(r)**	4.IX.1974
Finland	**(A)**	6.VI.1991
France	**(r)**	2.II.1973
Gabon	**(a)**	21.I.1982
Germany	**(r)**	1.X.1975
Italy	**(r)**	21.VII.1980
Liberia	**(a)**	17.II.1981
Netherlands	**(a)**	1.VIII.1991
Norway	**(r)**	16.IV.1975
Spain	**(a)**	21.V.1974
Sweden	**(r)**	22.XI.1974
Yemen	**(a)**	6.III.1979

(1) Shall not apply to the Faroe Islands.

Athens Convention relating to the Carriage of passengers and their luggage by sea (PAL 1974)

Done at Athens:
13 December 1974
Entered into force:
28 April 1987

Convention d'Athènes relative au Transport par mer de passagers et de leurs bagages (PAL 1974)

Signée à Athènes,
le 13 décembre 1974
Entrée en vigueur:
28 avril 1987

Argentina	**(a)**	26.V.1983
Bahamas	**(a)**	7.VI.1983
Belgium	**(a)**	15.VI.1989
Egypt	**(a)**	18.X.1991
Germany (1)	**(a)**	29.VII.1979
Greece	**(A)**	3.VII.1991
Liberia	**(a)**	17.II.1981
Luxemburg	**(a)**	14.II.1991
Malawi	**(a)**	9.III.1993
Poland	**(r)**	28.I.1987
Russian Federation (2)	**(a)**	27.IV.1983
Spain	**(a)**	8.X.1981
Switzerland	**(r)**	15.XII.1987
Tonga	**(a)**	15.II.1977
United Kingdom (3)	**(r)**	31.I.1980
Vanuatu	**(a)**	13.I.1989
Yemen	**(a)**	6.III.1979

(1) The Convention is in force only in the new five Federal States formerly constituting the German Democratic Republic: Brandenburg, Mecklenburg - Vorgommern, Sachsen, Sachsen - Anhalt and Thüringin.

(2) As of 26 December 1991 the membership of the USSR in the Convention is continued by the Russian Federation.

(3) The United Kingdom declared ratification to be effective also in respect of: Bailiwick of Jersey, Bailiwick of Guernsey, Isle of Man, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Hong Kong, Montserrat, Pitcairn, Saint Helena and Dependencies.

PAL Protocol 1976 *PAL Protocol 1990*

Protocol to the Athens Convention relating to the Carriage of Passengers and their luggage by sea (PAL PROT 1976)

Done at London,
19 November, 1976
Entered into force: 10 April 1989

Protocole à la Convention d'Athènes relative au Transport par mer de passagers et de leurs bagages (PAL PROT 1976)

Signé à Londres,
le 19 novembre 1976
Entré en vigueur: 10 avril 1989

Argentina	**(a)**	28.IV.1987
Bahamas	**(a)**	28.IV.1987
Belgium	**(a)**	15.VI.1989
Greece	**(a)**	3.VII.1991
Liberia	**(a)**	28.IV.1987
Luxemburg	**(a)**	14.II.1991
Poland	**(a)**	28.IV.1987
Russian Federation (1)	**(a)**	30.I.1989
Spain	**(a)**	28.IV.1987
Switzerland	**(a)**	15.XII.1987
United Kingdom (2)	**(r)**	28.IV.1987
Vanuatu	**(a)**	13.I.1989
Yemen	**(a)**	28.IV.1987

(1) As of 26 December 1991 the membership of the USSR in the Convention is continued by the Russian Federation.

(2) The United Kingdom declared ratification to be effective also in respect of: Bailiwick of Jersey, Bailiwick of Guernsey, Isle of Man, Bermuda, British Virgin Islands, Cayman Islands, Falkland Islands, Gibraltar, Hong Kong, Montserrat, Pitcairn, Saint Helena and Dependencies.

Protocol of 1990 to amend the 1974 Athens Convention relating to the Carriage of passengers and their luggage by sea

(PAL PROT 1990)

Done at London, 29 March 1990
Not yet in force:

Protocole de 1990 modifiant La Convention d'Athènes de 1974 relative au Transport par mer de passagers et de leurs bagages (PAL PROT 1990)

Fait à Londres, le 29 mars 1990
Pas encore en vigueur:

Egypt	**(a)**	18.X.1991
Spain	**(a)**	24.II.1993

Convention on
Limitation of Liability for maritime claims

(LLMC 1976)

Done at London,
19 November 1976
Entered into force:
1 December, 1986

Convention sur la
Limitation de la Responsabilité en matière de créances maritimes
(LLMC 1976)

Signée à Londres,
le 19 novembre 1976
Entrée en vigueur:
1 décembre 1986

Australia	**(a)**	20.II.1991
Bahamas	**(a)**	7.VI.1983
Belgium	**(a)**	15.VI.1989
Benin	**(a)**	1.XI.1985
Croatia	**(a)**	2.III.1993
Denmark	**(r)**	30.V.1984
Egypt	**(a)**	30.III.1988
Finland	**(r)**	8.V.1984
France	**(AA)**	1.VII.1981
Germany	**(r)**	12.V.1987
Greece	**(a)**	3.VII.1991
Japan	**(a)**	4.VI.1982
Liberia	**(a)**	17.II.1981
Netherlands	**(a)**	15.V.1990
Norway	**(r)**	30.III.1984
Poland	**(a)**	28.IV.1986
Spain	**(r)**	13.XI.1981
Sweden	**(r)**	30.III.1984
Switzerland	**(a)**	15.XII.1987
United Kingdom	**(r)**	31.I.1980
Vanuatu	**(a)**	14.IX.1992
Yemen	**(a)**	6.III.1979

International Convention on Salvage, 1989 (SALVAGE 1989)

Done at London: 28 April 1989
Not yet in force.

Egypt	**(a)**	14.III.1991
Mexico	**(r)**	10.X.1991
Nigeria	**(r)**	11.X.1990
Oman	**(a)**	14.X.1991
Saudi Arabia	**(a)**	16.XII.1991
Switzerland	**(r)**	12.III.1993
United States	**(r)**	27.III.1992

Convention Internationale de 1989 sur l'Assistance (ASSISTANCE 1989)

Signée à Londres le 28 avril 1989
Pas encore entrée en vigueur.

International Convention on Oil pollution preparedness, response and co-operation 1990

Done at London 30 November 1990
Not yet in force.

Australia	**(a)**	6.VII.1992
Egypt	**(r)**	29.VI.1992
Finland	**(AA)**	21.VII.1993
France	**(AA**	6.XI.1992
Iceland	**(r)**	21.VI.1993
Nigeria	**(a)**	25.V.1993
Pakistan	**(a)**	21.VII.1993
Seychelles	**(a)**	26.VI.1992
Sweden	**(r)**	30.III.1992
United States	**(r)**	27.III.1992

Convention Internationale de 1990 sur la Preparation, la lutte et la cooperation en matière de pollution par les hydrocarbures

Signée à Londres le 30 novembre 1990
Pas encore en vigueur.

STATUS OF THE RATIFICATIONS OF AND ACCESSIONS TO UNITED NATIONS CONVENTIONS IN THE FIELD OF PRIVATE MARITIME LAW

ETAT DES RATIFICATIONS ET ADHESIONS AUX CONVENTIONS DES NATIONS UNIES EN MATIERE DE DROIT MARITIME PRIVE

r	=	ratification
a	=	accession
A	=	acceptance
AA	=	approval
S	=	definitive signature

Notes de l'éditeur/Editor's notes:
- Les dates mentionnées sont les dates du dépôt des instruments.
- The dates mentioned are the dates of the deposit of instruments.

United Nations Convention on a

Code of Conduct for liner conferences

Geneva, 6 April, 1974
Entered into force: 6 October 1983

Convention des Nations Unies sur un

Code de Conduite des conférences maritimes

Genève, 6 avril 1974
Entrée en vigueur: 6 octobre 1983

Algeria	**(r)**	12.XII.1986
Aruba	**(a)**	1.I.1986
Bangladesh	**(a)**	24.VII.1975
Barbados	**(a)**	29.X.1980
Belgium	**(r)**	30.IX.1987
Belarus	**(A)**	28.VI.1979
Benin	**(a)**	27.X.1975
Bulgaria	**(a)**	12.VII.1979
Burkina Faso	**(a)**	30.III.1989
Cameroon	**(a)**	15.VI.1976
Cape Verde	**(a)**	13.I.1978
Central African Republic	**(a)**	13.V.1977
Chile	**(S)**	25.VI.1975
China	**(a)**	23.IX.1980
Congo	**(a)**	26.VII.1982
Costa Rica	**(r)**	27.X.1978
Croatia	**(r)**	8.X.1991
Cuba	**(a)**	23.VII.1976
Czech Republic	**(AA)**	4.VI.1979
Denmark (except Greenland and the Faroe Islands)	**(a)**	28.VI.1985
Egypt	**(a)**	25.I.1979
Ethiopia	**(r)**	1.IX.1978
Finland	**(a)**	31.XII.1985
France	**(AA)**	4.X.1985
Gabon	**(r)**	5.VI.1978
Gambia	**(S)**	30.VI.1975
Germany	**(r)**	6.IV.1983
Ghana	**(r)**	24.VI.1975
Gibraltar	**(a)**	28.VI.1985
Guatemala	**(r)**	3.III.1976
Guinea	**(a)**	19.VIII.1980
Guyana	**(a)**	7.I.1980
Honduras	**(a)**	12.VI.1979
Hong Kong	**(a)**	28.VI.1985
India	**(r)**	14.II.1978
Indonesia	**(r)**	11.I.1977
Iraq	**(a)**	25.X.1978

Code of conduct 1974		*Code de conduite 1974*
Italy	(a)	30.V.1989
Ivory Coast	(r)	17.II.1977
Jamaica	(a)	20.VII.1982
Jordan	(a)	17.III.1980
Kenya	(a)	27.II.1978
Korea (Rep. of)	(a)	11.V.1979
Kuwait	(a)	31.III.1986
Lebanon	(a)	30.IV.1982
Madagascar	(a)	23.XII.1977
Malaysia	(a)	27.VIII.1982
Malí	(a)	15.III.1978
Mauritania	(a)	21.III.1988
Mauritius	(a)	16.IX.1980
Mexico	(a)	6.V.1976
Morocco	(a)	11.II.1980
Mozambique	(a)	21.IX.1990
Netherlands (for the Kingdom in Europe only)	(a)	6.IV.1983
Niger	(r)	13.I.1976
Nigeria	(a)	10.IX.1975
Norway	(a)	28.VI.1985
Pakistan	(S)	27.VI.1975
Peru	(a)	21.XI.1978
Philippines	(r)	2.III.1976
Portugal	(a)	13.VI.1990
Romania	(a)	7.I.1982
Russian Federation	(A)	28.VI.1979
Saudi Arabia	(a)	24.V.1985
Senegal	(r)	20.V.1977
Sierra Leone	(a)	9.VII.1979
Slovakia	(AA)	4.VI.1979
Slovenia	(AA)	4.VI.1979
Somalia	(a)	14.XI.1988
Spain	(a)	3.II.1994
Sri Lanka	(S)	30.VI.1975
Sudan	(a)	16.III.1978
Sweden	(a)	28.VI.1985
Togo	(r)	12.I.1978
Trinidad and Tobago	(a)	3.VIII.1983
Tunisia	(a)	15.III.1979
Ukraine	(A)	26.VI.1979
United Kingdom	(a)	28.VI.1985
United Republic of Tanzania	(a)	3.XI.1975
Uruguay	(a)	9.VII.1979
Venezuela	(S)	30.VI.1975
Yugoslavia	(r)	7.VII.1980
Zaire	(a)	25.VII.1977
Zambia	(a)	8.IV.1988

United Nations Convention on the
Carriage of goods by sea

Hamburg, 31 March, 1978
"HAMBURG RULES"

Entry into force:
1 November 1992

Convention des Nations Unies sur le
Transport de marchandises par mer

Hambourg 31 mars 1978
"REGLES DE HAMBOURG"

Entrée en vigueur:
1 novembre 1992

Austria	**(r)**	29.VII.1993
Barbados	**(a)**	2.II.1981
Botswana	**(a)**	16.II.1988
Burkina Faso	**(a)**	14.VIII.1989
Cameroon	**(a)**	21.X.1993
Chile	**(r)**	9.VII.1982
Egypt	**(r)**	23.IV.1979
Guinea	**(r)**	23.I.1991
Hungary	**(r)**	5.VII.1984
Kenya	**(a)**	31.VII.1989
Lebanon	**(a)**	4.IV.1983
Lesotho	**(a)**	26.X.1989
Malawi	**(r)**	18.III.1991
Morocco	**(a)**	12.VI.1981
Nigeria	**(a)**	7.XI.1988
Romania	**(a)**	7.I.1982
Senegal	**(r)**	17.III.1986
Sierra Leone	**(r)**	7.X.1988
Tanzania (United Rep. of)	**(a)**	24.VII.1979
Tunisia	**(a)**	15.IX.1980
Uganda	**(a)**	6.VII.1979
Zambia	**(a)**	7.X.1991

United Nations Convention on the
International multimodal transport of goods

Geneva, 24 May, 1980,
Not yet in force.

Convention des Nations Unies sur le
Transport multimodal international de marchandises

Genève 24 mai 1980
Pas encore en vigueur.

Chile	**(r)**	7.IV.1982
Malawi	**(a)**	2.II.1984
Mexico	**(r)**	11.II.1982
Morocco	**(r)**	21.I.1993
Rwanda	**(a)**	15.IX.1987
Senegal	**(r)**	25.X.1984
Zambia	**(a)**	7.X.1991

United Nations Convention on Conditions for
Registration of ships

Geneva, 7 February, 1986
Not yet in force.

Convention des Nations Unies sur les Conditions d'
Immatriculation des navires

Genève, 7 février 1986
Pas encore entrée en vigueur.

Egypt	**(r)**	9.I.1992
Ghana	**(a)**	29.VIII.1990
Haiti	**(a)**	17.V.1989
Hungary	**(a)**	23.I.1989
Iraq	**(a)**	1.II.1989
Ivory Coast	**(r)**	28.X.1987
Libyan Arab Jamahiriya	**(r)**	28.II.1989
Mexico	**(r)**	21.I.1988
Oman	**(a)**	18.X.1990

United Nations Convention on
the Liability of operators of transport terminals in the international trade

Done at Vienna 19 April 1991
Not yet in force.

Convention des Nations Unies
sur la Responsabilité des exploitants de terminaux transport dans le commerce international

Signée à Vienne 19 avril 1991
Pas encore entrée en vigueur.

STATUS OF THE RATIFICATIONS OF AND ACCESSIONS TO UNIDROIT CONVENTIONS IN THE FIELD OF PRIVATE MARITIME LAW

ETAT DES RATIFICATIONS ET ADHESIONS AUX CONVENTIONS D'UNIDROIT EN MATIERE DE DROIT MARITIME PRIVE

Unidroit Convention on
International financial leasing 1988

Done at Ottawa 28 May 1988

Not yet in force.

Convention de Unidroit sur
le Creditbail international 1988

Signée à Ottawa 28 mai 1988

Pas encore en vigueur.

CONFERENCES

OF THE COMITE MARITIME INTERNATIONAL

CONFERENCES

DU COMITE MARITIME INTERNATIONAL

I. BRUSSELS - 1897
President: Mr. Auguste BEERNAERT.
Subjects: Organization of the International Maritime Committee - Collision- - Shipowners' Liability.

II. ANTWERP - 1898
President: Mr. Auguste BEERNAERT.
Subjects: Liability of Owners of sea-going vessels.

III. LONDON - 1899
President: Sir Walter PHILLIMORE.
Subjects: Collisions in which both ships are to blame - Shipowners' liability.

IV. PARIS - 1900
President: Mr. LYON-CAEN.
Subjects: Assistance, salvage and duty to tender assistance - Jurisdiction in collision matters.

V. HAMBURG - 1902
President: Dr. Friedrich SIEVEKING.
Subjects: International Code on Collision and Salvage at Sea - Jurisdiction in collision matters - Conflict of laws as to owner-ship of vessels.

VI. AMSTERDAM - 1904
President: Mr. E.N. RAHUSEN.
Subjects: Conflicts of law in the matter of Mortgages and Liens on ships. - Jurisdiction in collision matters - Limitation of Shipowners' Liability.

VII. LIVERPOOL - 1905
President: Sir William R. KENNEDY.
Subjects: Limitation of Shipowners' Liability - Conflict of Laws as to Maritime Mortgages and Liens - Brussels Diplomatic Conference.

I. BRUXELLES - 1897
Président: Mr. Auguste BEERNAERT.
Sujets: Organisation du Comité Maritime International - Abordage - Responsabilité des propriétaires de navires de mer.

II. ANVERS - 1898
Président: Mr. Auguste BEERNAERT.
Sujets: Responsabilité des propriétaires de navires de mer.

III. LONDRES - 1899
Président: Sir Walter PHILLIMORE.
Sujets: Abordages dans lesquels les deux navires sont fautifs - Responsabilité des propriétaires de navires.

IV. PARIS - 1900
Président: Mr. LYON-CAEN
Sujets: Assistance, sauvetage et l'obligation de prêter assistance - Compétence en matière d'abordage.

V. HAMBURG - 1902
Président: Dr. Friedrich SIEVEKING.
Sujets: Code international pour l'abordage et le sauvetage en mer - Compétence en matière d'abordage. - Conflits de lois concernant la propriété des navires - Privilèges et hypothèques sur navires.

VI. AMSTERDAM - 1904
Président: Mr. E.N. RAHUSEN.
Sujets: Conflits de lois en matières de privilèges et hypothèques sur navires. - Compétence en matière d'abordage - Limitation de la responsabilité des propriétaires de navires.

VII. LIVERPOOL - 1905
Président: Sir William R. KENNEDY.
Sujets: Limitation de la responsabilité des propriétaires de navires - Conflits de lois en matière de privilèges et hypothèques - Conférence Diplomatique de Bruxelles.

VIII. VENICE - 1907
President: Mr. Alberto MARGHIERI.
Subjects: Limitation of Shipowners' Liability - Maritime Mortgages and Liens - Conflict of law as to Freight.

IX. BREMEN - 1909
President: Dr. Friedrich SIEVEKING.
Subjects: Conflict of laws as to Freight - Compensation in respect of personal injuries - Publication of Maritime Mortgages and Liens.

X. PARIS - 1911
President: Mr. Paul GOVARE.
Subjects: Limitation of Shipowners' Liability in the event of loss of life or personal injury - Freight.

XI. COPENHAGEN - 1913
President: Dr. J.H. KOCH.
Subjects: London declaration 1909 - Safety of Navigation - International Code of Affreightment - Insurance of enemy property.

XII. ANTWERP - 1921
President: Mr. Louis FRANCK.
Subjects: International Conventions relating to Collision and Salvage at sea. - Limitation of Shipowners' Liability - Maritime Mortgages and Liens - Code of Affreightment - Exonerating clauses.

XIII. LONDON - 1922
President: Sir Henry DUKE.
Subjects: Immunity of State-owned ships - Maritime Mortgage and Liens. - Exonerating clauses in Bills of lading.

XIV. GOTHENBURG - 1923
President: Mr. Efiel LÖFGREN.
Subjects: Compulsory insurance of passengers - Immunity of State owned ships - International Code of Affreightment - International Convention on Bills of Lading.

XV. GENOA - 1925
President: Dr. Francesco BERLINGIERI.
Subjects: Compulsory Insurance of passengers - Immunity of State owned ships - International Code of Affreightment - Maritime Mortgages and Liens.

XVI. AMSTERDAM - 1927
President: Mr. B.C.J. LODER.
Subjects: Compulsory insurance of passengers - Letters of indemnity - Ratification of the Brussels Conventions.

VIII. VENISE - 1907
Président: Mr. Alberto MARGHIERI.
Sujets: Limitation de la responsabilité des propriétaires de navires - Privilèges et hypothèques maritimes - Conflits de lois relatifs au fret.

IX. BREME - 1909
Président: Dr. Friedrich SIEVEKING.
Sujets: Conflits de lois relatifs au fret - Indemnisation concernant des lésions corporelles - Publications des privilèges et hypothèques maritimes.

X. PARIS - 1911
Président: Mr. Paul GOVARE.
Sujets: Limitation de la responsabilité des propriétaires de navires en cas de perte de vie ou de lésions corporelles - Fret.

XI. COPENHAGUE - 1913
Président: Dr. J.H.KOCH.
Sujets: Déclaration de Londres 1909 - Sécurité de la navigation - Code international de l'affrètement - Assurance de proprétés ennemies.

XII. ANVERS - 1921
Président: Mr. Louis FRANCK.
Sujets: Convention internationale concernant l'abordage et la sauvetage en mer - Limitation de la responsabilité des propriétaires de navires de mer - Privilèges et hypothèques maritimes - Code de l'affrètement - Clauses d'exonération dans les connaissements.

XIII. LONDRES - 1922
Président: Sir Henry DUKE.
Sujets: Immunité des navires d'Etat - Privilèges et hypothèques maritimes - Clauses d'exonération dans les connaissements.

XIV. GOTHEMBOURG - 1923
Président: Mr. Efiel LÖFGREN.
Sujets: Assurance obligatoire des passegers - Immunité des navires d'Etat. - Code international de l'affrètement - Convention internationale des connaissements.

XV. GENES - 1925
Président: Dr. Francesco BERLINGIERI.
Sujets: Assurance obligatoire des passagers - Immunité des navires d'Etat. - Code international de l'affrètement - Privilèges et hypothèques maritimes.

XVI. AMSTERDAM - 1927
Président: Mr. B.C.J. LODER.
Sujets: Assurance obligatoire des passagers - Lettres de garantie - Ratification des Conventions de Bruxelles.

XVII. ANVERS - 1930

Président: Mr. Louis FRANCK.

Sujets: Ratification des Conventions de Bruxelles - Assurance obligatoire des passagers - Compétence et sanctions pénales en matière d'abordage en mer.

XVIII. OSLO - 1933

Président: Mr. Edvin ALTEN.

Sujets: Ratification des Conventions de Bruxelles - Compétence civile et pénale en matière d'abordage en mer - Saisie conservatoire de navires - Limitation de la responsabilité des propriétaires de navires.

XIX. PARIS - 1937

Président: Mr. Georges RIPERT.

Sujets: Ratification des Conventions de Bruxelles - Compétence civile et pénale en matière d'abordage en mer - Saisie conservatoire de navires - Commentaires sur les Conventions de Bruxelles -Assistance et Sauvetage et par avions en mer.

XX. ANVERS - 1947

Président: Mr. Albert LILAR.

Sujets: Ratification des Conventions de Bruxelles, plus spécialement de la Convention relative à l'immunité des navires d'Etat - Revision de la Convention sur la limitation de la responsabilité des propriétaires de navires et de la Convention sur les connaissements - Examen des trois projets de convention adoptés à la Conférence de Paris de 1936 - Assistance et sauvetage de et par avions en mer - Règles d'York et d'Anvers; taux d'intérêt.

XXI. AMSTERDAM - 1948

Président: Prof. J. OFFERHAUS.

Sujets: Ratification des Conventions internationales de Bruxelles - Révision des règles d'York et d'Anvers 1924 - Limitation de la responsabilité des propriétaires de navires (clause or) - Connaissements directs combinés - Révision du projet de convention relatif à la saisie conservatoire de navires - Projet de création d'une cour internationale pour la navigation par mer et par air.

XXII. NAPLES - 1951

Président: Mr. Amedeo GIANNINI.

Sujets: Conventions internationales de Bruxelles - Projet de Convention concernant la saisie conservatoire de navires - Limitation de la responsabilité des propriétaires de navires de mer - Connaissements (Révision de la clause-or) - Responsabilité des transporteurs par mer à l'égard des passagers - Compétence pénale en matière d'abordage en mer.

XVII. ANTWERP - 1930

President: Mr. Louis FRANCK.

Subjects: Ratification of the Brussels Conventions - Compulsory insurance of passengers - Jurisdiction and penal sanctions in matters of collision at sea.

XVIII. OSLO - 1933

President: Mr. Edvin ALTEN.

Subjects: Ratification of the Brussels Conventions - Civil and penal jurisdiction in matters of collision on the high seas - Provisional arrest of ships - Limitation of Shipowners' Liability.

XIX. PARIS - 1937

President: Mr. Georges RIPERT.

Subjects: Ratification of the Brussels Conventions - Civil and penal jurisdiction in the event of collision at sea - Arrest of ships - Commentary on the Brussels Conventions - Assistance and Salvage of and by Aircraft at sea.

XX. ANTWERP - 1947

President: Mr. Albert LILAR.

Subjects: Ratification of the Brussels Conventions, more especially of the Convention on Immunity of State-owned ships - Revision of the Convention on Limitation of the Liability of Owners of sea-going vessels and of the Convention on Bills of Lading - Examination of the three draft conventions adopted at the Paris Conference 1937 - Assistance and Salvage of and by Aircraft at sea - York and Antwerp Rules; rate of interest.

XXI. AMSTERDAM - 1948

President: Prof. J. OFFERHAUS

Subjects: Ratification of the Brussels International Convention - Revision of the York-Antwerp Rules 1924 - Limitation of Shipowners' Liability (Gold Clauses) - Combined Through Bills of Lading - Revision of the draft Convention on arrest of ships - Draft of creation of an International Court for Navigation by Sea and by Air.

XXII. NAPLES - 1951

President: Mr. Amedeo GIANNINI.

Subjects: Brussels International Conventions - Draft convention relating to Provisional Arrest of Ships - Limitation of the liability of the Owners of Sea-going Vessels and Bills of Lading (Revision of the Gold clauses) - Revision of the Conventions of Maritime Hypothèques and Mortgages - Liability of Carriers by Sea towards Passengers - Penal Jurisdiction in matters of collision at Sea.

XXIII. MADRID - 1955
Président: Mr. Albert LILAR
Sujets: Limitation de la responsabilité des propriétaires de navires - Responsabilité des transporteurs par mer à l'égard des passagers - Passagers clandestins - Clauses marginales et lettres de garantie.

XXIV. RIJEKA - 1959
Président: Mr. Albert LILAR
Sujets: Responsabilité des exploitants de navires nucléaires - Revision de l'article X de la Convention internationale pour l'unification de certaines règles de droit en matière de connaissements - Lettres de garantie et clauses marginales - Révision de l'article XIV de la Convention internationale pour l'unification de certaines règles de droit relatives à l'assistance et au sauvetage en mer - Statut international des navires dans des ports étrangers - Enregistrement des exploitants de navires.

XXV. ATHENES - 1962
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XXVI. STOCKHOLM - 1963
Président: Mr. Albert LILAR
Sujets: Connaissements - Bagages des passagers - Navires en construction.

XXVII. NEW YORK - 1965
Président: Mr. Albert LILAR
Sujets: Révision de la Convention sur les Privilèges et Hypothèques maritimes.

XXVIII. TOKYO - 1969
Président: Mr. Albert LILAR
Sujets: "Torrey Canyon" - Transport combiné - Coordination des Conventions relatives au transport par mer de passegers et de leurs bagages.

XXIX. ANVERS - 1972
Président: Mr. Albert LILAR.
Sujets: Révision des Statuts du Comité Maritime International.

XXX. HAMBOURG - 1974
Président: Mr. Albert LILAR
Sujets: Révisions des Règles de York/Anvers 1950 - Limitation de la responsabilité des propriétaires de navires de mer - Les Règles de La Haye.

XXIII. MADRID - 1955

President: Mr. Albert LILAR.

Subjects: Limitation of Shipowwners' Liability - Liability of Sea Carriers towards passengers - Stowaways - Marginal clauses and letters of indemnity.

XXIV. RIJEKA - 1959

President: Mr. Albert LILAR

Subjects: Liability of operators of nuclear ships - Revision of Article X of the International Convention for the Unification of certain Rules of law relating to Bills of Lading - Letters of Indemnity and Marginal clauses. Revision of Article XIV of the International Convention for the Unification of certain rules of Law relating to assistance and salvage at sea -International Statute of Ships in Foreign ports - Registry of operations of ships.

XXV. ATHENS - 1962

President: Mr. Albert LILAR

Subjects: Damages in Matters of Collision - Letters of Indemnity - International Statute of Ships in Foreign Ports - Registry of Ships - Coordination of the Convention of Limitation and on Mortgages - Demurrage and Despatch Money - Liability of Carriers of Luggage.

XXVI. STOCKHOLM - 1963

President: Mr. Albert LILAR

Subjects: Bills of Lading - Passenger Luggage - Ships under construction.

XXVII. NEW YORK - 1965

President: Mr. Albert LILAR

Subjects: Revision of the Convention on Maritime Liens and Mortgages.

XXVIII. TOKYO - 1969

President: Mr. Albert LILAR

Subjects: "Torrey Canyon" - Combined Transports - Coordination of International Convention relating to Carriage by Sea of Passengers and their Luggage.

XXIX. ANTWERP - 1972

President: Mr. Albert LILAR

Subjects: Revision of the Constitution of the International Maritime Committee.

XXX. HAMBURG - 1974

President: Mr. Albert LILAR

Subjects: Revisions of the York/Antwerp Rules 1950 - Limitation of the Liability of the Owners of Seagoing vessels - The Hague Rules.

XXXI. RIO DE JANEIRO - 1977
President: Prof. Francesco BERLINGIERI
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XXXII. MONTREAL - 1981
President: Prof. Francesco BERLINGIERI
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XXXIII. LISBON - 1985
President: Prof. Francesco BERLINGIERI
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XXXIV. PARIS - 1990
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XXXII. MONTREAL - 1981
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XXXIII. LISBONNE - 1985
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XXXIV. PARIS - 1990
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