

CMI NEWS LETTER

Vigilandum est semper; multae insidiae sunt bonis.

COMITE MARITIME INTERNATIONAL

NO. 3 - OCTOBER / DECEMBER 2012

News from the CMI:

- Minutes of the Executive Council meeting held in the Luoyang Room at the Kempinski Hotel, Beijing, PRC the 14 October 2012 at 9.30 a.m.
- Minutes of the Executive Council meeting held in the Luoyang Room at the Kempinski Hotel, Beijing, PRC the 19 October 2012 at 5.00 p.m.
- Minutes of the CMI Assembly held at Kempinski Hotel, Beijing, PRC (Jade Ballroom B and C), the 19 October 2012 at 2.15 p.m.
- Report of the 40th CMI Conference, Beijing 14-19 October 2012, by Stuart Hetherington



This photograph, that shows in the middle the Guest Speaker at the opening of the CMI Conference in Beijing, Mr Hua Jianmin, Vice Chairman of the Standing Committee of the National People's Congress, on the left the President of the CMI, Karl-Johan Gombrii of Norway (now immediate Past President) and on the right, Vice President Stuart Hetherington of Australia (now CMI President) was taken by Xinhua Net News Service during the Conference. It constitutes an emblem of the great success of the first CMI Conference to be held in the People's Republic of China.

NEWS FROM THE CMI

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

Participating:

<i>President:</i>	KARL-JOHAN GOMBRII
<i>Vice Presidents:</i>	STUART HETHERINGTON JOHANNE GAUTHIER
<i>Councillors:</i>	GIORGIO BERLINGIERI CHRISTOPHER DAVIS MÅNS JACOBSSON DIHUANG SONG LOUIS MBANEFO JORGE RADOVICH ANDREW TAYLOR
<i>Secretary-General:</i>	NIGEL FRAWLEY
<i>Administrator:</i>	WIM FRANSEN
<i>Treasurer:</i>	BENOÎT GOEMANS
<i>Apologies:</i>	JEAN-SERGE ROHART and SERGEJ LEBEDEV

The President opens the Executive Council meeting.

1. The Minutes of the Executive Council meeting held by e-mail conference during the week commencing April 23rd, 2012 were approved.

2. No further business arose from these minutes, other than matters dealt with below.

3. *Management Committee report*

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

4. *Finances*

a) *Treasurer's report*

Benoît Goemans refers to the written Treasurer's report.

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

b) *2013 categories of subscriptions*

Benoît Goemans recommended the retention of the

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

The proposal was approved for recommendation to the Assembly.

c) *Unpaid subscriptions*

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

d) *Charitable Trust*

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

5. *Members*

a) *Nominations for Titulary Membership*

The nominations for titulary membership of Robert G. Clyne, William A. Graffam, José Vicente Guzman and Philippe Delebecque received unanimous support.

b) *Provisional and Regional Members*

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

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

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

c) New NMLAs and current prospects

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

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

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

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

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

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

d) Continued consultation process

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

e) Consultative members

Organisations can become consultative members on the condition that they are international and interested in the objectives of the CMI. We should make an informal approach towards those institutions that have shown an interest through their National Association. A question for debate is

whether national bodies (such as arbitral associations) are sufficiently international in their outlook, or whether this should not be a matter of concern for such bodies. Arbitration is an area that CMI has not been overly concerned with and it may be appropriate to encourage such bodies to take an interest in activities for CMI.

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

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

6. Nominations

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

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

7. Work in progress

a) General Average (GA interest rate)

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

b) Piracy

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

c) Fair Treatment of Seafarers

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

d) Salvage Convention

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

e) Judicial Sales of Ships

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

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

f) Arrest Convention

It was decided to discontinue the IWG dealing with

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

g) *Implementation and Interpretation of International Conventions*

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

h) *Marine Insurance*

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

i) *Cross Border Insolvencies*

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

j) *Limitation of Liability*

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

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

k) *Arctic/Antarctic Legal Regimes*

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

8. *Publications*

a) *Handbook of Maritime Conventions*

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

b) *The Yearbook Parts I and II*

Giorgio Berlingieri reported that the Yearbook Part I is available. It appears there is an insufficient number of Yearbooks at the conference to distribute

to all delegates (250 copies) owing to cost and other logistical factors. 200 more copies are on their way to the Secretariat in Antwerp for distribution as necessary.

c) *Newsletters*

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

d) *Jurisprudence on Maritime Conventions*

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

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

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

9. *Young Members*

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

10. *Singapore Regional Office*

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

He reported that in view of the costs of such a regional office the authorities in Singapore are willing to support 70% of all office and employment costs.

It is anticipated that Lawrence Teh, lawyer in Singapore, would be the person heading the Singapore regional office.

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

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

Karl Gombrii will inform the General Assembly on Friday October 19 2012 that the Executive Council

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

11. *Revisions to York Antwerp Rules 2004*

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

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

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

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

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

14. *Other Business*

a) *Future Seminars, Colloquia and Conferences*

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

b) *Albert Lilar Prize*

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

c) *Website*

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

d) *Administration*

Karl Gombrii and Stuart Hetherington reported that Hilde van de Wiele has taken over from Pascale Sterckx as Assistant Administrator of the CMI, and

she will be asked to undertake training in order to be able to up-date the website.

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

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

f) *Directors and Officers Insurance*

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

g) *ICC/CMI Members re Maritime Arbitration*

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

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

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

15. *Next Executive Council meeting*

a) A second Executive Council meeting will be held in Beijing on Friday 19 October 2012 at 4.30 p.m.

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

16. *Next Assembly and Conference*

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

17. *Termination*

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

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

The meeting closed.

**MINUTES OF THE SECOND EXECUTIVE COUNCIL MEETING HELD
IN THE LUOYANG ROOM AT THE KEMPINSKI HOTEL, BEIJING, PRC
THE 19 OCTOBER 2012 AT 5.00 P.M.**

Participating:

<i>President:</i>	STUART HETHERINGTON
<i>Vice Presidents:</i>	GIORGIO BERLINGIERI JOHANNE GAUTHIER
<i>Councillors:</i>	CHRISTOPHER DAVIS MÅNS JACOBSSON DIHUANG SONG LOUIS MBANEFO JORGE RADOVICH ANDREW TAYLOR
<i>Secretary-General:</i>	NIGEL FRAWLEY
<i>Administrator:</i>	WIM FRANSEN
<i>Treasurer:</i>	BENOIT GOEMANS
<i>Immediate Past President:</i>	KARL-JOHAN GOMBRII
<i>Apologies:</i>	SERGEJ LEBEDEV

The President opens the Executive Council meeting. The President welcomed Tomotaka Fujita to his first Executive Council meeting. The meeting continued the agenda from the 14 October 2012 Executive Council meeting:

1. Directors and Officers Insurance

Benoit Goemans advised that a quotation had been obtained with a premium of EUR 1,450 plus taxes for EUR 1,000,000 of cover. The President asked the Treasurer to forward a copy of the proposed cover to himself and Andrew Taylor to consider the breadth of the cover offered and/or obtain, if considered appropriate, alternative quotations.

2. ICC / CMI Nominees for Members of Maritime Arbitration Panel

It was reported that Patrick Griggs had suggested that he be replaced as a nominee on this panel of arbitration. The President is to approach the President of the French MLA to ascertain the interest of the ICC in continuing this arrangement, which has not resulted in any appointments as arbitrators.

3. Proposal for Young CMI Seminar in 2013

It was reported that some young members had suggested holding an independent Young Members Conference in Latin America in 2013. The view was expressed that whilst applauding such an initiative, it was preferable that such event take place in

conjunction with a CMI event. The President enquired whether it was proposed to hold Young Lawyer events at the Puerto Rico Joint Meeting of the US MLA and IIDM in October/November 2013.

4. Next Executive Council meeting

A tentative date was set for mid April 2013 for the next virtual Executive Council meeting.

5. The Next Assembly

The next Assembly meeting will be held in Dublin on 1 October 2013.

6. Future Seminars, Symposia and Colloquia

Invitations have been received from the MLAs of Germany (for a seminar to be held in both Berlin and Hamburg), Malta and Turkey to host meetings in their respective countries between the Beijing and New York Conferences. The MLA of Brazil has also offered to host a CMI Conference in the future.

7. Consultative Members - Contact persons

The President advised the meeting that he would prepare a list of the Consultative Members and would invite Executive Councillors (and other representatives from MLAs in countries where Consultative Members are based) to liaise with the Consultative Members to ascertain their correct contact details and, from time to time, report on activities of those organisations to the Executive Council.

8. *Current IWGs*

The list of current IWGs was discussed and it was decided to form a new Offshore Activities IWG under the chairmanship of Richard Shaw and a new Review of the York Antwerp Rules IWG under the chairmanship of Bent Nielsen. It was noted that the work of the IWG on Salvage had come to an end at the Conference, but Judicial Sales will need to continue at least until Dublin.

9. *Standing Committee*

It was decided to establish a Standing Committee under the chairmanship of Louis Mbanefo with Rapporteur Deucalion Rediadis of the Greek MLA on Implementation of International Conventions and to explore setting up a Joint Standing Committee with ICS and the IMO Legal Committee. Further to the discussions at the Executive Council on 14 October 2012, it was also decided to investigate setting up a Standing Committee on establishing a database on Jurisprudence on International Conventions. A French lawyer known to Alexander von Ziegler has been identified as someone who might be able to fill the role identified by Benoit Goemans in the meeting on 14 October 2012. It was also decided to enlarge the membership of the Young Lawyers and establish a Standing Committee with a view to having more materials placed on the

website. Discussion also took place as to whether a Standing Committee (or IWG) on arbitration should be established but no decision was taken.

10. *Website / Publications*

Work is proceeding to have the Convention Handbook republished and also its contents put on the website. Christopher Davis will if necessary be taking this matter up further with Frank Wiswall.

11. *Potential new MLAs*

With the assistance of the Singapore Regional Office, CMI will try to unite the two Associations which have been formed in India.

12. *Maritime Security*

The President referred to a Maritime Security Round Table meeting to be held in Brussels on 29 November 2013 and asked to be advised whether anyone would be able to attend.

13. *General Business*

The President raised the topic of the VOYLAYRULES 1993 Revision Working Group which is considering amendments to the Rules under the auspices of BIMCO. Karl Gombrii is to monitor developments and report back to the Executive Council.

The meeting closed at 6 pm.

MINUTES OF THE CMI ASSEMBLY HELD AT KEMPINSKI HOTEL, BEIJING, PRC (JADE BALLROOM B AND C), THE 19 OCTOBER 2012 AT 2.15 P.M.

The delegates present at the Assembly are set out at Annex A to these Minutes.

1. *Adoption of the Agenda*

The Agenda is adopted.

2. *Memorials*

The Assembly keeps a moment of silence in remembrance of:

Paul Goemans / MLA of Belgium
Eric Japikse / MLA of the Netherlands
Kenneth Volk / MLA of the USA

3. *Approval of the Minutes of the Assembly held in Oslo on 27 September 2011*

The Minutes of the Assembly held in Oslo on 27th September 2011 were adopted.

4. *Finances*

a) Treasurer's report and presentation of accounts year end 31 December 2011

Mr Benoît Goemans presents the accounts. No questions are put to Mr Goemans.

b) Report of the Chair of the Audit Committee

Ms Liz Burrell reports on the works of the Audit Committee and explains that it has two functions:

- make sure that everything is accounted for
- make sure that everything is transparent during its deliberations of this year.

It confirms the soundness and stability of CMI's investments and expresses great confidence that all appropriate measures were taken in that respect.

The Committee gave special attention to outstandings and non-recoverable subscriptions.

Social liabilities were checked, expenditures and income were examined and discussions were conducted with the external auditors.

Ms Burrell moves for the nomination of the same auditors for 2013.

The report is noted by the President with appreciation and thanks.

The accounts are approved.

c) Budget for 2013 and d) Subscriptions for 2013 (see enclosure)

Benoît Goemans reports on the draft budget for 2013 as recommended by the Executive Council, which

was adopted on the basis of a level of subscriptions as being set by the Assembly in 2009 with a 10 % early bird discount, cfr below.

The draft budget contained three alternative levels of subscriptions, which would result in an overall loss in 2013 of:

- a. EUR 12,000 if the level of the subscription of the Rotterdam Assembly is maintained;
- b. EUR 89,190 if one applies Rotterdam less 40% less 10% early bird; and
- c. EUR 28,101 if one applies Rotterdam less 10% less early bird discount.

The President advises that the Executive Council favoured scenario c.

Ecuador moves to reintroduce subscriptions for Titulary members; it is decided that this proposal should have been prepared for reflection by the Assembly. It is noted that Executive Council will consider but it is noted that subscriptions for Titulary members had only recently been discontinued on the recommendation of the Steering Committee.

d) Report of unpaid subscriptions

Chris DAVIS reports on unpaid subscriptions. The amount of unpaid subscriptions has been reduced by 40%, partly due to the reductions of outstandings agreed by the Executive Council in an effort to try and accommodate national associations.

The Turkish delegation explains that in the past the Turkish MLA has been slow in paying but that it has by now paid all its debts; it is noted by the Assembly that Turkey should not be included in the list of outstanding subscriptions.

e) Approval of the nomination of De Mol, Meuldermans and Partners BVBA as auditors for 2013.

The nomination of Messrs De Mol, Meuldermans and Partners BVBA as external auditors for the 2013 is approved.

f) CMI Charitable Trust

A report is delivered by Tom B. Reynardson.

The income of the Charitable Trust in the last year is Lit. 16.000 / Lit. 17.000.

The report is noted with appreciation by the Assembly.

5. Members

a) Titulary members/nominations

The following individuals are elected as Titulary members:

1. Robert G. Clyne / MLA of the USA
2. William A. Graffam / MLA of the USA
3. Jose Vicente Guzman / MLA of Colombia
4. Philippe Delebecque / MLA of France

b) New MLAs and current prospects

1. Applications to become an NMLA were made by:
 - a. Indonesia
 - b. Ukraine

The President reports as follows.

a. The Executive Council has examined the documents supplied by the Indonesian Maritime Law Association and found that its member base has become broad enough to evidence that it is representative, democratic and open. It recommends election of the Indonesian MLA as a member of CMI. The proposal is accepted.

b. The application of Ukraine has likewise been considered by the Executive Council, which has found that it appears that the competition that existed earlier between groups of lawyers from Kiev and Odessa has been solved and that the Association now seems to satisfy the requirement of the CMI Constitution.

The President notes that Executive Council recommends its election and the Ukrainian MLA is accepted as a member of CMI.

2. The potential membership of Associations from India, Malaysia and Poland is under discussion.

There are attempts to put together a Regional Association in East Africa.

Giorgio Berlingieri is in contact with the Egyptian MLA and Jean Serge Rohart has recently been in contact with the UAE.

c) Provisional members

Norman Martinez is a provisional member and is trying to set up an NMLA in Honduras. The process is being monitored by Executive Council.

Mr Ogola from Kenya has become a Judge and can no longer be active in his efforts to create a local maritime law association that can become a member of the CMI; his provisional membership should be discontinued, cfr also 5 b.2. above.

There have been no reports from Mr Isaki Mbamvu of the Democratic Republic of the Congo for a very long time regarding any CMI related activity; his provisional membership should be discontinued.

d) New consultative members

CMI was approached by London Maritime Arbitrators Association (LMAA), as to whether persons from that organisation wanting to attend the CMI Beijing conference should do so privately or as a team of LMAA. LMAA is presently not a consultative member, but the question arises as to whether CMI needs to be more liberal in considering who should be permitted to be Consultative members, so as to allow for membership of organisations like the LMAA or its counterparts in other countries such as SCMA in Singapore or CMAC in China. Executive Council will consider this further.

e) Member consultation process

Chris Davis delivers a detailed report that is noted with appreciation.

6. Work in Progress

a) Piracy

The report is read by Andrew Taylor.

b) Fair Treatment of Seafarers

Giorgio Berlingieri explained that Olivia Murray who chairs the IWG was unable, due to work commitments to be present in Beijing so he had read her paper at the Conference. CMI continues to monitor developments world-wide.

c) Salvage Convention

Approval of the Resolutions adopted at the Plenary, namely: the Executive Council forward the report of the Conference to the IMO Legal Committee and the CMI encourage the Industry – Salvors, Shipowners and their insurers – to seek resolution of the issues discussed at the Conference in relation to environmental salvage and security for container ship casualties, as well as other matters which were debated.

d) Judicial Sales of Ships

Jonathan Lux reports on the work of the IWG. In spite of working until late at night the IWG was not able to produce a final wording. Under the circumstances the Resolution adopted at the Plenary was approved; namely: before the next CMI Assembly the IWG will submit a final Beijing draft convention to the Executive Council so that appropriate steps can be taken to finalise the work as soon as possible.

e) Implementation and Interpretation of International Conventions

Following on from the discussions at the “Future of CMI” sessions a new IWG will be formed to deal with Jurisprudence on International Conventions and, possibly a Standing Committee will be formed with IMO and ICS to work on Implementation of International Conventions.

f) Marine Insurance

Dieter Schwampe reported that 14 answers had been received to the Questionnaire and he kindly requests that the NMLAs send answers to the Questionnaire. The answers will be published on the website and will encourage those who work in the IWG to continue their efforts. He confirmed that there was great diversity in the responses to the Questionnaire.

g) Cross Border Insolvencies

This was reported on by Chris Davis. Following on from the panel discussion at the Conference the IWG will continue its work as more responses are received from NMLAs to the Questionnaire.

h) Limitation of Liability

Gregory Timagenis reports that the efforts of CMI should be directed to soft law for preparing the harmonisation/unification of maritime law. The question has been raised whether the IWG should examine rules on interpretation of the limitation conventions or substantive issues arising from these Conventions but Executive Council is reluctant. Mr Timagenis requests to step down from the IWG. The President thanks him and the other members of

the IWG for the tremendous amount of work they have achieved and which is applauded by the General Assembly.

i) Arctic/Antarctic Legal Regimes

Nigel Frawley reports on the Seminar that was given on Thursday 18 October.

He confirms that Mr Henrik Ringbom from Finland has joined the IWG.

Mr Radovich is looking into finding experts in Argentina.

j) Rotterdam Rules

Mr Tomotaka Fujita reports on the Conference meeting and that there are now 24 signatories and 2 ratifications of the Rules. It was also reported that the Depositary Notification on proposed corrections of the Rotterdam Rules was circulated by the Secretary-General of the United Nations on October 11 and that corrections will take effect if none of the 24 signatory states raises an objection by January 9, 2013. The information will be posted on the CMI website. The President expresses thanks to Michael Sturley, Stuart Beare, Gertjan van der Ziel and Tomotaka Fujita. The presentations as well as the panel discussions will be posted on the CMI website.

k) York Antwerp Rules

Approval of the Resolutions adopted at the Plenary, namely: that the work commenced earlier this year to seek to amend the York Antwerp Rules so as to make the 2004 Rules more acceptable to industry be continued and expanded to encompass a wider review with a view to having draft proposals for the next Conference.

7. Publications

The President reports that work is being done to upload the Conventions on the CMI website and to publish, in co-operation with the International Maritime Law Institute in Malta, a new revised version of the Handbook on International Maritime Conventions.

8. Website

Stuart Hetherington reports that there is still a lot to do in order to refresh the website. There is scope for improvement and he urges anybody who can assist to contact the members of the Executive Council, and especially Giorgio Berlingieri who will be responsible for the website.

9. Next Assembly/Colloquium/Seminar/Conference

a) Executive Council has accepted with gratitude the proposal from the Irish MLA to organise a Symposium together with an Assembly in September/October 2013. The President of the Irish MLA, Helen Noble, expresses the delight of the Irish MLA that will then celebrate its 50 years of existence.

b) The US Maritime Law Association has lodged an

invitation to CMI to organise the CMI Conference in New York in 2016 which on the recommendation by the Executive Council the Assembly approves.

Robert Parrish, President of the US MLA thanks President Gombrii for the Yearbook of the XXVII Conference held in New York in 1965 and for a photograph of the gala dinner of that Conference, both of which are given to him, and introduces Vincent Foley who will be chairing the committee organising the Conference on behalf of the US MLA.

c) The German MLA has offered to organise a seminar in Hamburg with an “Add-on” in Berlin in 2014 as well as a Meeting of Young lawyers in Hamburg.

There is also an offer from Turkey to organise a Seminar, Colloquium or Conference in Istanbul. The two applications will be considered during the virtual Executive Council meeting in April 2013.

10. CMI Regional Office in Singapore

The President reported that following the approval of the General Assembly held in Oslo on 27th September 2011 to set up a CMI regional office in Singapore Executive Council has continued its efforts to that effect.

The President has continued discussions with the Singapore MLA. Executive Council will continue supervising the creation of a Singapore regional office.

11. York Antwerp Rules 2004 – rate of interest

Richard Shaw representing a small working group reports that YAR 2004 allows for an annual review and determination of the rate of interest to be applied for 2013 in relation to average adjustments under YAR 2004 and refers to a short report making the recommendation for the year 2013 to set the interest rate at 2,75% per annum. The recommendation was approved and the rate of interest set at 2,75% per annum for 2013.

This is approved by the Assembly, as was the Resolution taken at the Plenary to set up a new International Working Group to undertake a general review of the York Antwerp Rules.

12. Elections

Report by Bent Nielsen, Chairman of the Nominating Committee

Proposal by the Executive Council regarding an election *honoris causa*

a. Bent Nielsen, Chairman of the Nominating Committee, reports that:

- Stuart Hetherington is nominated as President of the CMI;
- Giorgio Berlingieri is nominated as new Vice-president of the CMI;
- Johanne Gauthier is nominated to be re-elected as Vice-President;

- Andrew Taylor and Louis Mbanefo are nominated to be re-elected as Executive Councillors;
- Tomotaka Fujita is nominated as new Executive Councillor.

Stuart Hetherington, Giorgio Berlingieri, Johanne Gauthier, Andrew Taylor, Louis Mbanefo and Tomotaka Fujita are elected by the General Assembly.

b. Following a recommendation by the Executive Council, Richard Shaw is proposed by Karl-Johan Gombrii as a Member *honoris causa* for his exceptional services to the CMI, is so elected and delivers a much acclaimed speech.

The President reported that Mr Shaw will continue to represent CMI as an observer at meetings of the IMO Legal Committee in conjunction with Patrick Griggs, and at meetings of the IOPC Funds.

13. Termination

The new President, Stuart Hetherington, extends congratulations to Richard Shaw, Giorgio Berlingieri and Tomotaka Fujita on their elections.

He confirms the continuation of the Management Committee composed of Johanne Gauthier, Nigel Frawley, as well as the new Vice President, Giorgio Berlingieri.

He confirms the importance of establishment of the regional office in Singapore for the trial period of 3 years, which will assist in trying to have an Indian MLA established, as well as in other countries in the region, such as Malaysia, Cambodia, Thailand, Vietnam and Laos. There is no reason why, in time, other regional offices should not exist in other areas where there are a limited number of MLAs, such as Africa.

He emphasises the need to improve the Young CMI section on the website and stresses the importance of developing a database containing the Conventions and the relevant case law section from the different member states of CMI on the Conventions. He would like to see the proposals made by Benoit Goemans on collection of jurisprudence on the Conventions carried through.

He announces that a new IWG on Offshore Activities, as well as on the York Antwerp Rules is to be set up. He identifies the Implementation of International Conventions and the proposed Joint Standing Committee with the ICS and IMO as a way for MLAs to work together with the ICS affiliate organisations in their country and engage with the appropriate Government officials.

He extends thanks and congratulations to Karl-Johan Gombrii for his Presidency and also to him and Nigel Frawley on their organisation of the Conference and all their numerous efforts made on behalf of the CMI.

The Assembly is closed.

REPORT OF THE 40TH CMI CONFERENCE, BEIJING 14-19 OCTOBER 2012

I. Introduction

The fact that the 40th Conference of the CMI at the Kempinski Hotel in Beijing between 14 and 19 October was an outstanding success is due to a large number of people, including Past President Karl Gombrii, Secretary-General Nigel Frawley, the China Maritime Law Association, and its President Captain Wei Jiafu, and Secretary-General Dr Li Hu, An Rui of CIETEC, ex-Executive Councillor Henry Li, Current Executive Councillor Song Dihaung, and the Principal Conference Organizer, Martin Zhang of Dynasty International Travel Co. Ltd., and their many law students and volunteers. Also, significant contributions to the success of the Conference were made by all those who presented papers, chaired or acted as Rapporteurs in the business sessions which made the Conference one of the most educational and informative that has taken place. Finally but by no means least, CMI is indebted to the many Chinese organisations who assisted by sponsoring the Conference (in both Beijing and Shanghai) including the contribution members of the CMLA (COSCO, Sinotrans, CCPIT, PICC and China Shipping (Group) Co.) and many others too numerous to mention here, including many law firms. CMI is very grateful to all of them.

The Conference and Shanghai “Add on” were well attended. The number of delegates at the Beijing Conference was 352 and accompanying persons 60. The Shanghai “Add-on” had 105 delegates and 35 accompanying persons. The CMI Conferences have been developing over many years from their original role of drafting instruments. This Conference was no exception. It may also be seen in the future as a watershed Conference for many reasons:

- firstly, by reason of its being the first to be held in Beijing, China (which has an economy that now ranks second behind the United States);
- secondly, the mixture of traditional CMI drafting format, which included the Review of the Salvage Convention and Judicial Sales, and seminars on a large number of topics, (some of which were running concurrently to each other), which made for a most informative and participatory Conference;
- thirdly, the session on the Future of CMI in the Decades to Come in which a number of significant comments were made;
- fourthly, the Assembly’s election of a non-European President;
- fifthly, the plans to open a regional office of the CMI in Singapore, the latter two being symbols of change taking place within the CMI, but change based on a long history and by an

organisation which recognises, values and honours that history but at the same time accepts the reality of the changing world in which we live; and

- sixthly, the inaugural three hour seminar arranged by Johanne Gauthier, one of our Vice-Presidents, for the judiciary. Nineteen judges attended and they discussed the following topics: the delivery of cargo without presentation of bills of lading, the use of foreign cases to interpret conventions, and anti-suit injunctions.

II. Seminar style presentations

The seminar style presentations dealt with the following topics which I will try to summarise briefly from reports prepared by the Chairmen of the sessions, for which I am very grateful:

1. Rotterdam Rules

In his Report to the Assembly Tomotaka Fujita reported that there are two parties and twenty signatories to the Rotterdam Rules. The Conference sessions were chaired by Professor Michael Sturley, and comprised four panels: the first provided updated information on the international, domestic and regional levels. The speakers were Tomotaka Fujita, Song Dihaung, Stephen Girvin, Gertjan van der Ziel, Jose Vicente Guzman and Kofi Mbiah; the second comprised presentations by Andrew Bardot; Jose Vicente Guzman, Kofi Mbiah, Si Yuzhuo, Alexander von Ziegler and Zhang Yong Jian; the third panel analysed and responded to hypothetical cases prepared by Song Dihaung, this panel comprised Stuart Beare, Tomotaka Fujita, Stephen Girvin, Gertjan van der Ziel and Song Dihaung. Issues relating to FOB trade were prominent. In the fourth panel Tomotaka Fujita, Gertjan van der Ziel, Si Yuzhuo and Alexander Von Ziegler responded to questions from the floor.

2. Regulation of Offshore Activity - Pollution Liability and other aspects

The Chairman of the IWG, Richard Shaw, gave an introductory presentation on this subject, noting that the International Sub-committee of the CMI, of which he was Chairman, had been inactive for about 10 years following the submission of the document LEG78/10 to the Legal Committee of the IMO in October 1998, and the general lack of interest shown by the member States of IMO in this subject. However, international interest had been provoked as a result of the accident involving the *Deepwater Horizon* in the Gulf of Mexico in April 2010, as well as the *Montara* incident in the Timor Sea in 2009.

Justice Steven Rares of the Federal Court of Australia presented a paper on a possible International Convention on Compensation for Damage caused by Offshore Hydrocarbon Leaks, in which he argued the case for the development of such a convention and concluded that “inaction is not an option”. The delegates were unanimous in accepting that the CMI should continue its work on this topic but as the Chairman noted the project can only succeed if it receives support from the major players in the international oil industry, including the oil companies themselves and their drilling contractors. In addition, insurers will need to be involved.

3. *Fair Treatment of Seafarers*

Giorgio Berlingieri presented a paper by Olivia Murray, who chairs the IWG on this topic but was unable to attend Beijing due to business commitments, entitled “Pollution and Criminalisation of Seafarers - Learning from the Past to Improve the Future”. Her paper is available in the CMI Beijing I Yearbook and the CMI website. Joseph Rebano of the Philippines MLA also made a presentation entitled “Caring for the Injured and Ill Seafarer: The POEA Contract”, in which he discussed the safeguards and rights within the Philippine Overseas Employment Administration Standard Employment Contract.

4. *Piracy and Maritime Violence*

Andrew Taylor, the Chairman of the IWG, reported on developments on piracy issues since the Buenos Aires Colloquium in October 2010. He highlighted the most significant, diplomatic, political and legal developments, which at least in very recent times, appear to have resulted in a reduction in the number of attacks on ships associated with Somali pirates; however he noted that there had been an increase in the incidence of pirate attacks in the Gulf of Guinea. The meeting noted its continued concern with the effects of piracy on the shipping industry, and particularly crew. It was, however, recognised that the international response was principally a matter for States. There had, however, been industry development in connection with BMP4 and Guardcom (in which the CMI had not participated) but the hope was expressed that the CMI could continue to monitor developments and be ready to assist any projects within its expertise.

5. *Marine Insurance*

Dieter Schwampe, the Chairman of the IWG, and Wang Pengnan of the China MLA presented the results of the answers by 14 MLAs to the questionnaire which had been sent out by the IWG. Those responses to the questionnaire are also available on the CMI website. Because of the diversity in the responses which have been received to date it

has been found difficult to determine common features which might be suitable for the preparation of guidelines.

6. *The Western and Eastern Cultural Influence on Maritime Arbitration and its recent development in Asia*

This session was chaired by Dr Yang Yuntao, the General Counsel of Sinotrans and CSC Holdings Co Ltd. Three panellists presented papers: Dr Li Hu, Deputy Secretary General of CIETAC, Yang Philip, former chairman of HKIAC and Toh Kian Sing, partner of Rajah and Tann, LLP. Some common themes ran through the presentations and discussions such as: cultural factors are an important part of maritime arbitration; whereas Chinese parties prefer arbitration to be subject to administrative institutions western parties prefer ad hoc arbitrations and the Chinese attitude of pursuing harmony is a feature of Chinese arbitration. That is best exemplified by the Chinese combination of mediation and arbitration (“Med-Arb”) where at any time the Arbitrator becomes the Mediator. Such cultural factors play out in the Chinese concern to maintain good business relationships, which can count against a Chinese party who may not maintain written records and for whom discovery and cross examination may prove disadvantageous; similarly an inclination by Asian parties to take a conciliatory approach in correspondence and negotiation may be seen as weakness rather than a cultural attitude. Arbitrators need to be alive to and sensitive to these cultural differences; cultural sensitivity rather than nationality should be the primary criterion for the appointment of arbitrators.

7. *Cross Border Insolvency*

This was a panel discussion, with distinguished speakers from civil law and common law jurisdictions. Opening remarks were made by the Chairman of the IWG, Chris Davis, which were followed by an introduction by Sarah Derrington of Australia. Thereafter an analysis of the responses received to the May 2012 questionnaire on cross-border insolvency was given by the co-rapporteurs William Sharpe of Canada and Sarah Derrington, as well as Chris Davis. The principal portion of the panel discussion consisted of presentations addressing national perspectives on cross-border insolvency by Chu Beiping of China, Byung-Suk Chung of Korea, Javier Zabala of Spain, Justice Sean Harrington of Canada and John Bradley of the United States.

8. *Arctic/Antarctic Legal Regimes*

There was a panel presentation at the Conference consisting of the CMI Secretary-General, Nigel Frawley, who gave an overview of the subject and issues, he was followed by Aldo Chircop of Canada who spoke on

Arctic issues, and Donald Rothwell of Australia who spoke on Antarctic issues. Their papers can also be found on the CMI Website. There was considerable interest in the subject which generated much discussion after the panel had presented their papers.

9. The Ship Building Industry in Asia: Problems and Challenges

This session was chaired by Song Dihuang and involved three presentations. The first by Chen Armstrong who discussed the current banking profile in China, its history, its ship finance policies (particularly the policy in respect of ship-building, formulated in 2009 and the potential risks in relation to ship finance. Jin Saibo spoke about performance guarantees and refund guarantees in China, especially the current draft guidelines prepared by the Supreme Court of China on bank guarantees, as well as some cases and the legal and practical problems associated with them. Peter Koh spoke about the “perfect party” and “imperfect party” under ship-building contracts and enforcement of awards and judgments.

10. York Antwerp Rules

The report of the IWG dated 21 July 2012, on the possible amendment of the York- Antwerp Rules 2004, which had been circulated to NMLAs was discussed, together with the responses submitted by certain NMLAs and the ICS, together with a synopsis prepared by the Rapporteur, Richard Shaw. After careful consideration it was decided by the meeting that the proposed amendments put forward by the IWG were not acceptable to the assembled delegates. A compromise proposal, which had been put forward by the British MLA, was also considered but the majority of delegates were of the view that there had been insufficient time to enable NMLAs to consider these amendments. As a result those amendments were not adopted at the Conference either. The recommendation was therefore made that the CMI Executive Council should appoint a new IWG with a mandate to carry out a general review of the York-Antwerp Rules on General Average, noting that the York-Antwerp Rules 2004 had not found acceptance in the ship-owning community and it would be necessary to draft a new set of York-Antwerp Rules, which met the requirements of the ship and cargo owners, and their respective insurers, with a view to adoption of new rules at the 2016 CMI Conference. This recommendation has been acted upon by the CMI Executive Council and Bent Neilsen has been asked to chair a new IWG which will review General Average and the York-Antwerp Rules. This will include the rules governing salvage and crews’ wages at a port of refuge and MLAs are invited to identify any further topics which they consider should be included in the work.

11. Review of the Salvage Convention

These sessions were chaired by Stuart Hetherington and Rapporteur Diego Chami. The Chairman, made some introductory remarks, including recounting how the International Salvage Union (ISU) had asked the CMI to review the Salvage Convention 1989 in 2008; since then an International Working Group had been set up, two questionnaires had been sent to National Maritime Law Associations; an International Sub-Committee Meeting (ISC) had been held and a Colloquium in Buenos Aires had heard presentations of papers on the topic, in 2010; the most contentious issue related to a proposal by the ISU to amend Article 14 so as to provide a separate award for environmental salvage, which was strongly opposed by the International Group of P&I Clubs and the International Chamber of Shipping (ICS).

As well as considering that issue, delegates considered the proposals for reform which had been put forward by the ISU which included: amending Article 1(b) relating to the geographical scope of the Convention; Article 5, relating to the availability of the right by Public Authorities to claim salvage award; Article 11, the provision relating to Places of Refuge; Articles 13 and 21 where consideration was given to channelling the liability to, and provision of security by, shipowners in relation to container ship cases; Article 16, to change the responsibility of life salvage claims to property interests rather than the salvor and Article 27 dealing with the publication of awards. In addition, consideration was given to what has become known as the Brice Protocol, which had been prepared by the late Geoffrey Brice QC and which had been discussed at earlier CMI Conferences. This Protocol was designed to ameliorate the position for salvors under the UNESCO Convention on Underwater Cultural Heritage.

The result of the deliberations at the Conference was that only one of the proposed amendments achieved the support of the meeting. The only change which has been approved is the deletion of the words “in coastal or inland waters or areas adjacent thereto” in Article 1(d) of the Salvage Convention 1999 and their replacement by the provisions contained in Article II(a)(i)(ii) of the CLC 1992 but not including the words “to pollution damage caused”, so as to extend the definition under Article 1(b) to the territorial sea and the exclusive economic zone, in common with the CLC, the Bunkers Convention (2004) and the HNS Convention (1996). The meeting also encouraged the industry, salvors, shipowners and their insurers to seek resolution of the issues discussed at the Conference in relation to environmental salvage, and security for container casualties, as well as the other matters which were debated.

12. Judicial Sales of Ships

The IWG under the Chairmanship of Henry Li and

Rapporteur Jonathan Lux, had produced a draft instrument for discussion at the Conference, its purpose was to ensure that when judicial sales take place of ships States parties to the instrument (should it become an International Convention) will honour the intended effect of such sales, that is that they be free from all liens and encumbrances from the date of sale. The second draft Instrument which had been prepared prior to the Conference was reviewed and commented on over three days and a further draft known as the Beijing Draft was presented to the Conference on the final day but unfortunately their work was not able to be completed. It is hoped that by the time of the next Assembly Meeting in Dublin, the work will have been completed. A commentary on the Beijing Draft is to be circulated to NMLAs by the IWG within six weeks of the conclusion of the Conference, seeking comments within three months. It is proposed to hold an ISC meeting in Dublin in September 2013 with a view to submitting a final version to the Executive Council and Assembly in Dublin in 2013.

Reports on each of the above topics will appear on the CMI website and in the Yearbook "Beijing II" to be published next year.

III. Young CMI

In addition to the organisers of the Conference Violeta Radovich, Zou Yingying, Ioannis Timagenis and a number of Chinese participants, including Ms Qi Ji of CMLA, Sun Jinsheng of COSCO and Ms Zhai Juan of Sinotrans, assisted in the arrangements for the social event on 15 October and the seminar on 19 October. About 60 delegates attended the social event at a bar named Water (Zi Shui). The seminar topics included ship arrest and judicial sales. Congrui Luo explained the processes for ship arrest and judicial sales in China. Dr Olaf Hartenstein explained the processes under German law and particular reforms in that system in Germany. Remy Francisco Caveira-Francheschi discussed the enforcement of ship mortgages and arrest and judicial sales in Panama. Patrick Holloway gave a concise but comprehensive account of ship arrest and judicial sales in South Africa.

In the second part of the sessions Javier Franco-Zarate presented a paper he had co-written with Violeta Radovich on Offshore Activities - New Regulations and Contracts, which discussed the new Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil, as well as the BIMCO Supply Time 2005 form.

Ioannis Timagenis also discussed enforcement under current market conditions from the perspective of both borrowers and lenders.

Olaf Hartenstein and Frank Smeele explained the activities that had been engaged in by the Young Lawyers in the North Europe Regional Grouping. Zou Yingying called for a more active regional group in Asia.

The above synopsis of so many topics suffices to show that the CMI is very much alive and active in so many areas which impact on the daily practices of maritime lawyers around the world and is at the cutting edge of developments in areas in which the international community is looking for assistance, such as the Offshore Activities and Arctic/Antarctic regimes.

IV. The Future of CMI in the Decades to Come

The report on the session on the Future of the CMI will be published in the CMI Yearbook 2013.

V. Social Program

The Conference was not without its social activities, the highlight of which, at least for first time visitors to Beijing, was the excursion to the Great Wall where the autumn colours provided a back drop for the keen photographers. That visit was followed by a Chinese banquet lunch at Gyu Gong Fu Royal Club. The CMI is indebted to the local Chinese legal fraternity for sponsoring both the excursion to the Great Wall and the Huang Pu River Cruise in the Shanghai "Add-on" to the Conference. At the opening ceremony the CMI was honoured to be addressed by Mr Hua Jianmin, the Vice-Chairman of the National Peoples Congress, Mr Wei Jiafu, President of the China MLA and Chairman of COSCO, Mr Wan Jifei, the Chairman of CCPIT; and at the Gala Dinner we were also honoured to be addressed by Mr Zhao Huxiang, the chairman of Sinotrans Ltd. and CSC Holdings Ltd. At the welcome reception at the commencement of the Conference we were welcomed by Mr Ma Zehua, the Director and President of COSCO. We were then entertained by a "Cultural Evening" which included Peking Opera, acrobats, face changing and performances of traditional Chinese instruments.

VI. Shanghai "Add-On"

For those fortunate to attend the Shanghai "Add-on" program there was also a wonderful mix of social and intellectual entertainment. The train journey from Beijing to Shanghai was only matched by the shorter (and faster) journey from Shanghai to the airport during which this delegate photographed the speed monitor at 419kph, before he had to sit down. At the welcome reception in Shanghai we were warmly welcomed by Dr Zhang Guofa, the Vice-President of China Shipping (Group) Co. A visit was made to the recently built container port (which is built on an island with links to the mainland by a road bridge of

some 32 kms) at Yangshang which showed delegates, if any proof was needed, how significant China has become in world trade. The visit to the Shanghai Maritime Museum, after the Port visit, was also a highlight. It is located in Lingang New Town and has a beautiful modern building and collection of artifacts, reminding this delegate of the sails of the Sydney Opera House and its centrepiece Ming Dynasty replica vessel which reminded one of Captain James Cook's *Endeavour*. This excursion was followed by a delightful lunch at the museum. For intellectual content delegates visited the impressively modern Shanghai Maritime Court where talks were given by Senior Judge Xie Zhenxian, Peter Murray and Wang Hongyu who explained the developments which have taken place in the maritime jurisdiction of China since the Maritime Code was introduced almost 20 years ago. They also explained how the national network of maritime courts can now facilitate the continued expansion of sea borne trade. Particular reference was made to recent changes in PRC Law giving the courts power to assist parties in the renegotiation of contracts when market disruption makes performance impossible.

VII. Southampton/Tulane

In addition many delegates attended a seminar in the Shanghai Club to celebrate the 30th Anniversary of the Southampton Institute of Maritime Law and the Tulane Maritime Law Center at New Orleans. Sir Bernard Eder, of the High Court in London and Hon. Eldon E. Fallon of the US District Court for the Eastern District of Louisiana gave quite different but tantalising descriptions of the development of maritime law in the last thirty years and glimpses of

what the future might hold. Peter Murray chaired this session, in which Martin Davies welcomed the speakers and guests and Filippo Lorenzon thanked the speakers. Ince & Co sponsored the reception afterwards in the delightful Shanghai Club, at the old Shanghai Concert Hall.

VIII. Resolutions taken at the Plenary Session

The work product of the Conference resulted in the following resolutions being made at the Plenary session of the Conference:

- a) Resolved that the Draft Convention on Judicial Sales of Ships would be submitted to the Executive Council during the course of next year in anticipation that the project might be completed by the next Assembly meeting in Dublin in 2013.
- b) Resolved that the work commenced earlier this year to seek to amend the York Antwerp Rules so as to make the 2004 Rules more acceptable to industry be continued and expanded to encompass a wider review with a view to having draft proposals for the next conference.
- c) Resolved to report to the IMO Legal Committee that the meeting did not support the changes sought to the Salvage Convention 1989 by the ISU, with the exception of widening the geographical scope definition of "damage to the environment" in Article 1(d).
- d) Resolved to set up a new International Working Group to consider Offshore Activities, particularly in light of the *Deepwater Horizon* and *Montara* casualties.

STUART HETHERINGTON*

ANNEX A

ARGENTINA

Alberto Carlos Cappagli
Carlos R. Lesmi
Diego Chami

AUSTRALIA & NEW ZEALAND

Frazer Hunt
Matthew Harvey
Sarah Derrington

BELGIUM

Karel Stes
Peter Laurijssen
Frank Stevens

BRAZIL

Pedro Calmon Filho
Pedro Calmon Neto
Rucemah L. Gomes Pereira

CANADA

Christopher Giaschi
John O'Connor
Marc Isaacs

* President of CMI.

CHINA	Henry Li Hai Li Li An Rui
ECUADOR	José M. Apolo
FINLAND	Henrik Ringbom Peter Sandell
FRANCE	Philippe Boisson Luc Grellet Patrice Rembauville-Nicole
GERMANY	Dieter Schwampe Tilo Wallrabenstein Christian Breitzke
GREECE	Gregory Timagenis Ioannis Markianos-Daniolos Deucalion Rediadis
HONG KONG	Jon Zinke
IRELAND	Helen Noble Edmund Sweetman
ITALY	Giorgio Berlingieri
JAPAN	Gen Goto Takashi Hakoi Tomotaka Fujita
MALTA	Ann Fenech
NETHERLANDS	Taco Van der Valk Vincent De Brauw Emily Derogee-van Roosmalen
NIGERIA	Louis Mbanefo Olujimi Oduba
NORWAY	Ingar Fuglevag Jan-Fredrik Rafen Stephen Knudtzon
RUSSIA	Boris Smyslov Galina Tormosina Valery Mikheev
SINGAPORE	Lawrence Teh Kenny Yap Mark Sachs
SOUTH AFRICA	Andrew Robinson Gavin Fitzmaurice Patrick Holloway
SWEDEN	Måns Jacobsson
SWITZERLAND	Alexander von Ziegler
TURKEY	Sevilay Kuru Cüneyt Süzel Kerim Atamer Samim Ünan
UNITED KINGDOM	Andrew Taylor Stuart Beare Richard Shaw
UNITED STATES	Patrick J. Bonner Robert B. Parrish Robert G. Clyne