

CMI NEWS LETTER

Vigilandum est semper; multae insidiae sunt bonis.

COMITE MARITIME INTERNATIONAL — number 5 — July, 1977

Welcome to Rio !

The 31st International Conference of the CMI will take place in Rio from 25-30 September 1977 at the very kind invitation of the Brazilian Maritime Law Association. This follows the very successful conference held in Hamburg in April 1974 when the CMI prepared the final draft of the new convention on the Limitation of Liability for Maritime Claims, which was approved, with only minor changes, by the Diplomatic Conference convened in London by IMCO in December 1976. At the same CMI conference a revised text of the York/Antwerp rules was also approved and the new rules became known as the 1974 York/Antwerp Rules.

On the agenda of the Rio de Janeiro conference there appear subjects of equal importance, two of which, the draft convention on jurisdiction, choice of law and recognition and enforcement of judgements in collision matters and another draft convention on drilling platforms, come within the traditional method of work of the CMI, which is to promote the uniformity of maritime law through international conventions. The third subject, charter-party terms, involves a different technique which has a very successful precedent in the York/Antwerp Rules. The idea in this case is to prepare, in co-operation with other international organizations, a series of definitions of terms commonly used in charter-parties, with a view to achieving uniform interpretation of these terms on a voluntary basis, through the incorporation of the definitions in the charter-parties.

The aim of the CMI in preparing a draft convention on jurisdiction, choice of law and recognition and enforcement of judgements in collision matters is to make available to IMCO a draft convention which could replace the 1952 Convention on Civil Jurisdiction in Matters of Collision, widening the area of uniformity and also overcoming the objections which have prevented a number of maritime countries from ratifying that convention.

The International Sub-Committee established by the CMI for the preparation of the draft convention was chaired by Mr. Nicholas J. Healy and has approved the draft which will be submitted to the conference.

Bienvenue à Rio !

La 31ème conférence internationale du CMI aura lieu à Rio de Janeiro du 25 au 30 septembre 1977 à la très aimable invitation de l'Association brésilienne du droit maritime. Elle fait suite à la conférence très réussie tenue à Hambourg en avril 1974. Au cours de celle-ci le CMI a élaboré le projet final de la nouvelle convention sur la limitation des créances maritimes, qui fut approuvé, pour ainsi dire sans modifications, par la conférence diplomatique réunie à Londres par l'OMCI en décembre 1976. A la même 30ème conférence fut également approuvé un texte révisé des Règles d'York et d'Anvers connu sous le nom de Règles d'York et d'Anvers 1974.

A l'ordre du jour de la Conférence de Rio de Janeiro figurent des sujets d'égale importance. Deux de ceux-ci - la préparation d'un projet de convention sur la juridiction, le choix de la loi et la reconnaissance et l'exécution des jugements en matière d'abordage, et d'un autre projet de convention concernant les plates-formes de forage - sont traités suivant les méthodes de travail traditionnelles du CMI, qui consistent à promouvoir l'uniformité du droit maritime par des conventions internationales. Pour le troisième sujet, les termes des chartes-parties, on a recours à une technique différente qui a trouvé un heureux précédent dans les Règles d'York et d'Anvers. L'intention en l'espèce, est de rédiger, en collaboration avec d'autres organisations internationales, une série de définitions de termes couramment utilisés dans les chartes-parties, afin d'arriver à une interprétation uniforme de ces termes par le libre consentement, grâce à l'incorporation des définitions dans les chartes-parties.

Le but du CMI, en élaborant un projet de convention sur la juridiction, le choix de la loi et la reconnaissance et l'exécution des jugements en matière d'abordage, est de mettre à la disposition de l'OMCI un projet de convention qui pourrait remplacer la convention de 1952 sur la compétence civile en matière d'abordage, qui étendrait le champ de l'uniformité et qui viendrait à bout des objections qui ont empêché certains pays maritimes de ratifier cette convention.

La commission internationale, instituée par le CMI en vue de la préparation d'un projet de convention, est présidée par Mr Nicholas J. Healy. Elle s'est réunie

The CMI has decided to consider the legal status of drilling platforms which are not permanently linked with the seabed for it has appeared that the nature of these platforms differs in various countries and that consequently there is a substantial lack of uniformity in this area. The intention of the CMI would be to prepare an international convention which would apply to drilling platforms of a floating type the same rules as apply to ships. The method envisaged to achieve this result is that of making the international conventions presently in force applicable to drilling platforms; an alternative method, which is also under consideration by the international sub-committee, is that of making applicable to drilling platforms the national rules which apply to ships in certain areas, particularly in the areas which are of major interest, such as collision, salvage, limitation of liability and maritime liens and mortgages.

It is hoped that all the national associations of maritime law will, as they have done in the past, contribute to the discussion of these subjects and to the preparation of texts which will provide a further contribution by the CMI to the uniformity of maritime law.

Francesco Berlingieri,
President of the CMI.

à Londres le 16 juin 1977 et a approuvé le projet qui sera soumis à la Conférence.

Le CMI a décidé d'étudier le régime juridique des plates-formes de forage qui ne sont pas reliées en permanence à un fond marin, parce qu'il est apparu que la nature de ces plates-formes varie d'un pays à l'autre et, qu'en conséquence, il y a une sérieuse insuffisance d'uniformité dans ce domaine. L'intention du CMI serait d'élaborer une convention internationale qui rendrait applicables aux plates-formes de forage du type flottant les règles qui s'appliquent aux navires. La méthode envisagée pour atteindre ce but consisterait à rendre applicables aux plates-formes de forage les conventions internationales actuellement en vigueur; une méthode alternative également envisagée par la commission internationale, consisterait à appliquer aux plates-formes de forage les règles nationales régissant les navires dans certain secteurs, particulièrement dans les secteurs offrant un intérêt majeur, tels qu'abordage, sauvetage, limitation de la responsabilité et privilèges et hypothèques maritimes.

Il y a lieu d'espérer que toutes les Associations nationales du droit maritime contribueront, comme par le passé, à l'étude de ces sujets et à l'élaboration de textes qui permettront au CMI de concourir une nouvelle fois à l'uniformité du droit maritime.

Francesco Berlingieri
Président du CMI.

The XXXIst International Conference of the CMI La XXXIème Conférence Internationale du CMI

AGENDA:

- Draft convention on jurisdiction, choice of law and recognition and enforcement of judgments in collision matters.
- Draft convention on off-shore mobile craft.
- Charterparty terms.

PROGRAMME:

September

Sunday - 25:

Opening of the Conference
Cocktail at Hotel Nacional

Monday - 26:

Plenary session with reports from chairmen of International Sub-committees.
Meetings of the three International Subcommittees chaired by Nick Healy, Frode Ringdal and Walter Müller.
Night race at Jockey Club Brasileiro. C.M.I. prize.

ORDRE DU JOUR:

- Projet de convention concernant la compétence, la loi applicable, la reconnaissance et l'exécution de jugements en la matière des abordages en mer.
- Projet de convention concernant les engins mobiles "off-shore".
- Termes dans les chartes-parties.

PROGRAMME:

Septembre

Dimanche après-midi -25:

Séance inaugurale.
Cocktail à l'Hôtel Nacional

Lundi matin - 26:

Réunion plénière avec rapports des présidents de commissions

Lundi après-midi -26:

Réunions des 3 commissions internationales, de M.N.Healy, M.Frode Ringdal et M.Walter Müller.
Course nocturne au Jockey Club Brasileiro

Tuesday - 27:

International Subcommittee meetings
(continued).

Wednesday - 28:

Drafting - Full day tour to
Petropolis or half day boat tour
on Guanabara bay.

Thursday - 29:

Subcommittee meetings (continued).

Friday - 30:

Plenary session
Farewell dinner at Rio de Janeiro
Yacht Club

A special programme has been prepared
for the ladies accompanying the
participants.

SECRETARIAT:

XXXI CMI CONFERENCE
c/o FOCO- Feiras,Exposições e
Congressos
Av.Rio Branco, 143/18°
20.000 -RIO DE JANEIRO - BRASIL
phone: 224-0039 - 224-4511
cable:THEMUDO -telex:02121864 FOCO BR.

Mardi - 27:

Réunions des commissions interna-
tionales.

Mercredi - 28:

Rédaction 2 Excursions :
Journée complète de visite à
Pétropolis ou demi-journée en
bateau dans la baie de Guanabara.

Jeudi - 29:

Réunions des commissions interna-
tionales.

Vendredi - 30:

Réunion plénière
Dîner de clôture à Rio de Janeiro
Yacht Club.

Un programme spécial a été préparé
pour les dames qui accompagnent les
participants.

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Foundation Albert Lilar Fondation Albert Lilar

As announced in connection with the
Assembly Meeting in March Baroness Su-
zanne Lilar and her two daughters have
established a foundation in the name of
our late President, Baron Albert Lilar,
aiming to promote the study of maritime
law.

The foundation has been approved by roy-
al decree of 18 March 1977. Article 10
of the Constitution provides as follows:

"The allocation of the revenue of the
Fund will be determined by the board of
directors. A prize will be awarded from
the revenue every three years to a scien-
tific study, published anywhere in the
world, which the board considers will
contribute to the unification of mariti-
me law and the study of comparative ma-
ritime law. The board will determine
the procedure for the allocation of the
prize and the amount thereof. "

The prize is expected to be in the
region of US \$ 5.500:-.

Ainsi qu'il a été annoncé à la réunion de
l'Assemblée au mois de mars, la Baronne
Suzanne Lilar et ses deux filles ont fon-
dé un établissement qui portera le nom de
notre défunt Président, le Baron Albert
Lilar, et qui a pour but la promotion de
l'étude du droit maritime.
La fondation a été approuvée par l'arrê-
té Royal du 18 mars 1977. L'article 10
de ses statuts prévoit que :

" Le revenu net de la fondation sera ac-
cumulé et sera consacré dans les limites
à déterminer par le conseil d'administra-
tion et tous les trois ans à l'attribu-
tion d'un prix destiné à couronner un ou-
vrage scientifique par excellence, publié
récemment n'importe où dans le monde, et
dont le conseil d'administration estimera
qu'il est de nature à promouvoir l'unifi-
cation du droit maritime, respectivement
l'étude du droit maritime comparé.
Le conseil déterminera, selon les circon-
stances, la procédure en rapport avec
les conditions d'attribution du prix et
le montant de ce prix ".

Le montant du prix sera de l'ordre de
\$. 5.500. -.

Combined Transports

The way from the CMI Tokyo Rules to the
Unctad Geneva discussions on combined
transports has been long and cumbersome.
In January a meeting was held with the
Unctad Intergovernmental Preparatory
Group (IPG) which demonstrated the dif-
ferent approaches to the project taken
by the Group of 77 (developing coun-
tries) on the one hand and Group B (mark-

et economy countries) and Group D
(planned economy countries) on the other
hand. The interest of the countries
belonging to the group of 77 focused
on the economic implications of combi-
ned transports - primarily container
transports - while Group B and Group D
wished to get into an immediate discus-
sion on the legal questions of scope of
application, documentation and liabili-
ty. They pointed out that the conventi-
on should be patterned on the existing

conventions dealing with transportation law (the Hague Rules, the Warsaw Convention, CMR and CIM). Further, they stressed that the discussion should not concern container transports but rather multimodal transports which comprised unitization of cargo on pallets, roll on-roll off traffic, lash (lighter aboard ships) and much more. However, the Group of 77 urged that shipping companies and consortia should not prematurely introduce technologies which were unsuitable for the infrastructure existing at ports and inland in developing countries. This being so, the convention should deal with matters such as the licensing and supervision of MTOs, customs matters and rules relating to consultation between MTOs, shippers and the competent government authorities, especially before the introduction of any new technology in the developing countries. The convention should ensure the compatibility with the 1974 Convention on a Code of Conduct for Liner Conferences. Further, it was necessary to make requirements for MTOs to use the local manpower in developing countries and to protect the interests of developing countries with respect to terms of shipment and insurance.

The attitude taken by the countries belonging to the Group of 77 was subsequently reflected in the discussions by the Working Group charged with the task to draft the specific articles of the future convention. The Group of 77 insisted on a full disclosure by the MTO of the contemplated route, the cost for each leg of the transport and such other matters which were thought to be necessary in order to safeguard the interest of developing countries, while Group B and Group D objected, since such provisions would defeat the flexibility required to make full use of the economic potential of multimodal transport.

It should be noted that the organizations representing air transport - IATA and ICAO - maintained their previous reserved attitude to the project, thus underlining the special features of combined air/truck transportation systems. They feared that the introduction of a convention on multimodal transport might interfere with the highly rationalized system already introduced by air carriers. This objection, of course, is valid for other multimodal operations as well and, if accepted, would require governments to discontinue altogether their present efforts to achieve an international convention for multimodal transports.

In the course of the meeting, the Group of 77 objected to the elaboration of terms of shipment by bodies outside the United Nations. This, of course, was directed primarily against the International Chamber of Commerce (ICC) whose representative made a statement explaining the nature of INCOTERMS and the aim of the ICC to remove any uncertainty with respect to the interpretation of the basic trade terms presently used on a worldwide basis. He stressed that

the ICC was completely neutral with respect to the choice of the one term or the other and that, therefore, Incoterms could not possibly be against the interests of developing countries.

In order to avoid a complete deadlock the chairman of the Intergovernmental Preparatory Group, professor Erling Selvig (Norway), succeeded to convince all groups that they should express a "common understanding" as drafted in a document prepared by him. This common understanding makes clear that the convention should contain the ordinary provisions of any transport convention such as

- the scope of application of the convention;
- the liability of the MTO;
- rules on the MT- document;
- the customary supplementary provisions.

Further, in order to avoid any misunderstanding, the convention should contain an article that all Contracting States should be free to apply whatever provisions that they may deem necessary with respect to the regulation and control of the transport operations. This would include measures relating to consultation between MTOs and shippers on the terms and conditions of service, licensing etc. It is further stated that the discussion with respect to "appropriate guidelines" for customs procedures relating to multimodal transport of goods should continue.

The president of the CMI, professor Francesco Berlingieri, participated in the meeting of the Plenary one day during the second week of the conference and expressed the willingness of the CMI to contribute to the work within Unctad with respect to matters relating to maritime law and, thus, correspond to the consultative status which recently had been granted by Unctad to the CMI.

1968 Protocol to the 1924 Brussels Convention on Bills of Lading

The 1968 Brussels protocol to the 1924 convention on bills of lading entered into force on 23rd June 1977 after the ratifications of the United Kingdom and France and the accession of Ecuador. The list of ratifications and accessions is presently as follows :

<u>Ratification</u>	<u>Accession</u>
Denmark	Ecuador
France	Lebanon
Norway	Singapore
Sweden	Syria
Switzerland	
U.K.	

The Uncitral Draft Convention on the Carriage of Goods by sea

Further, it has now been definitely decided that the diplomatic conference to

discuss the Uncitral draft of an entirely new convention relating to carriage of goods by sea will take place in Hamburg in March 1978. Governments and international organizations have been requested to submit their views on the draft not later than 1 July. The Assembly decided to delegate to the Executive Council the duty to submit such an answer based upon the CMI 1974 Hague Rules Recommendations. The Executive Council appointed for this purpose a Working Group under the chairmanship of Professor Jan Schultz, Amsterdam. The Working Group reported to the Executive Council at its meeting in London 1977-06-17 that, at this stage, the CMI would only deal with such articles of the Uncitral draft which are connected with the Hamburg Hague Rules Recommendations enlarging upon the reasons behind those Recommendations and also mentioning the views expressed at the CMI Seminar in

September 1976 at Aix-en-Provence on the subject of "Apportionment of risk in maritime law". The CMI, in its reply, underlines that the change of risk distribution suggested in the Uncitral draft would not benefit anyone of the contracting parties but rather tend to adversely effect the position of shippers, particularly in developing countries. Further, the general liability formula in article 5.1 of the Uncitral draft will lead to uncertainty and thus promote litigation in a field which in later years has been fairly well controlled by leading decisions in the convention countries. The Working Party will meet again in London 19 - 20 August to consider the remaining articles of the Uncitral draft and subsequently report to the National Associations. The subject will be further discussed at the Assembly held immediately after the Rio Conference.

The Convention on a code of conduct for liner Conferences

By 17 February 1977, 19 countries had signed (s), ratified (r) or acceded (a) to the Convention. The countries, arranged in chronological order, are :

Ghana	24 June 1975	r
Chile	25 June 1975	s
Togo	25 June 1975	s
Pakistan	27 June 1975	s
Gambia	30 June 1975	s
Sri Lanka	30 June 1975	s
Venezuela	30 June 1975	s
Bangladesh	24 July 1975	a
Nigeria	10 September 1975	a
Benin	27 October 1975	a
United Republic of Tanzania	3 November 1975	a
Niger	14 January 1976	r
Philippines	2 March 1976	r
Guatemala	3 March 1976	r
Mexico	6 May 1976	a
United Republic of Cameroon	15 June 1976	a
Cuba	23 July 1976	a
Indonesia	11 January 1977	r
Ivory Coast	17 February 1977	r

The Unctad Seminar on Charterparties

Unctad has arranged, sponsored by the Swedish International Development Authority (SIDA), a Seminar on the commercial and legal aspects on ocean chartering which will be held in London 15 August - 2 September. The Seminar will concentrate on the carriage of dry cargo and is aimed at educating the participants from developing countries. 24 participants have been selected primarily from the Far East, the Middle East and the African countries. The Chief Legal Officer of the CMI, Professor Jan Ramberg, has been appointed Tutor of the Seminar and

a number of personalities who take an active part in CMI affairs has been engaged as lecturers. It is hoped that the Seminar will contribute to a better understanding of the commercial and legal problems involved which in turn will facilitate the unification of legal and commercial practices in this field.

Minutes of the meeting of the Assembly of the CMI - Brussels 29-30 March, 1977

1. Opening of the meeting

The President, Professor Francesco Berlingieri, opened the meeting and particularly greeted the new presidents of the Maritime Law Associations of Belgium, Brazil, France and the United States namely Mr Claude Buisseret, Professor J C Sampaio de Lacerda, Professor René Rodière and Mr David R Owen.

The President acknowledged with thanks to Madame Lilar the generous gift from the late President Lilar's estate to a "Fondation Albert Lilar" aiming to promote the study of maritime law on the national and international level. For this purpose, every three years a prize will be given to an outstanding scientific work in this field regardless where in the world it originated. He urged that all steps should be taken by publication in maritime law journals

and otherwise to make the foundation known to universities all over the world as soon as the statutes were made public.

2. New member associations

The Maritime Law Association of Australia, represented at the Assembly by Mr P G Willis, was with acclamation elected a new member of the CMI.

The Maritime Law Association of Venezuela was conditionally approved as a new member of the CMI provided its by-laws conformed with the CMI constitution. The Assembly instructed the Executive to control that this condition is fulfilled.

3. Titulary Members

The following persons were elected Titulary Members of the CMI

BELGIUM Claude Buisseret
Roger Roland
Lionel Tricot
Jacques Van Doosselaere

BRAZIL João Vicente Campos
Armando Redig de Campos
Pedro Calmon Filho
Manoel Moreira de Barros e Silva
Stenio Duguet Coelho
Jorge Augusto de Vasconcellos
Carlos da Rocha Guimaraes

FRANCE Pierre Latron

SPAIN Juan Pascual Sanahuja

4. Annual report

The Secretary General Executive, Mr Kaj Pineus, commented on the CMI Annual Report which gave an account of the activities of the CMI during 1976.

5. Collisions at sea

Professor Nicholas J Healy, the Chairman of the International Sub-Committee, reported on the present status of the work. The Working Group had met at Brussels on Sunday 27 March and the International Sub-Committee on Monday 28 March.

The draft elaborated at the last-mentioned meeting was discussed. Views were presented that the provisions relating to recognition and enforcement of foreign awards had better be excluded and that such provisions should only be accepted if the jurisdictions available for arrest of vessels were defined and limited. It was further suggested that the contemplated convention should not only deal with vessels *stricto sensu* but with all floating objects. It met with general approval that the convention should contain provisions relating to conflicts of law. The discussion of the subject during the Rio Conference will show whether or not a complete text of a draft convention can be accepted by the CMI on that occasion.

6. Drilling rigs

Mr Frode Ringdal, the Chairman of the International Sub-Committee, reported on the present status of the work. The International Sub-Committee had met for

the second time on Monday 28 March. It appeared that drilling rigs existed in no less than 25 countries and that rules for registration had been introduced in UK and had been prepared in Norway. Consequently, something should be done to prevent different rules in different countries and, hence, promote the unification of the law in this field. However, there are different views among National Associations on the urgency of the matter.

The International Sub-Committee was of the view that there was a need for uniform rules on collisions, salvage, oil pollution, liens and mortgages and limitation. The Working Group, appointed by the International Sub-Committee, suggested that the method which should be adopted for the formulation of these rules had to be that of making the provisions of the maritime conventions applicable to drilling platforms by means of a new international convention, a preliminary draft of which has already been prepared.

At the last meeting of the International Sub-Committee the Norwegian Association suggested an alternative method, i.e. that of providing that in certain specified fields drilling platforms should be deemed to be vessels and in all respects be treated as such; this method would cause domestic rules to apply to drilling platforms irrespective of the contracting States having ratified the relevant international conventions.

Both methods will be again discussed at the next meeting of the International Sub-Committee.

7. Arbitration

Mr Jean Warot, the President of the International Sub-Committee, reported on the ICC/CMI draft rules which had only very recently been distributed to the National Associations. This being so, no decision could be taken by the Assembly on the draft rules themselves but views were presented as to the feasibility of the project as a whole. Mr Warot indicated that the Assembly in 1976 had requested him to explore the possibility of co-operation with ICC in this matter and that his mission had now been successfully completed. He stressed that the contemplated ICC/CMI arbitration was not intended to replace the existing arbitration procedures but rather to supplement current practice and that the ICC Secretariat in Paris would only be an administrative centre.

The actual place for the arbitral proceedings would be determined by the parties themselves or, failing such agreement, by the Court of Arbitration according to the status of the parties and the nature of the dispute. Some delegations raised the question whether the CMI according to its Constitution could assume the contemplated task, while other delegations pointed out that any such objections should have been raised before the ICC was approached and not afterwards and that, anyway, an ICC/CMI arbitration conformed with the aim of the CMI as expressed in art. 1 of the

Constitution "to contribute by all appropriate means and activities to the unification of maritime and commercial law, maritime customs, usages and practices".

The majority of the delegations were in favour of the project as such but, pending further study, reserved their opinion as to the draft articles.

8. Uncitral draft

Several delegations had requested that the Uncitral draft convention on carriage of goods by sea be taken up as a subject at the Rio Conference. The President informed the meeting that the CMI and all other interested international organizations had been invited to submit comments on the Uncitral draft to the UN. Comments from governments and international organizations will then be summarized in a document which will constitute the basic working document for the forthcoming diplomatic conference in 1978. Comments should reach the UN not later than 1 July 1977. Views conveyed to the UN later would not be contained in the working document and, hence, fail to influence governments on the major policy issues.

The Assembly decided that the CMI in its reply to the UN before 1 July should confine itself to the issues contained in the Hamburg Recommendations but enlarging upon the reasons behind them and that a Working Group be appointed to prepare such a document for further consideration by the Executive Council. Subsequently, the Working Group should deal with the other articles of the Uncitral draft and report to the National Associations which by appropriate means should convey such views as they were willing to support to their respective governments. The matter should not be included as one of the subjects for the Rio Conference but any suggestions by the Working Group should be put before the Assembly held in connection with the Conference.

9. Charter party clauses

The President reported on the contacts which he himself and the Vice President, William Birch Reynardson, had taken with BIMCO (Baltic and International Maritime Conference) and GCBS (General Council of British Shipping) to explore the interest of these organizations to elaborate together with the CMI a set of interpretations of current c/p clauses. The Assembly approved this initiative and decided that an International Sub-Committee be set up leaving to the Executive Council to appoint its chairman.

10. Liability of sea terminals

The Chief Legal Officer, Professor Jan Ramberg, reported on the present status of the project and the contacts made with the International Association of Ports and Harbours (IAPH) in order to ascertain the interest of IAPH in recommended standard conditions relating to the liability of sea terminals. So far, the reaction seemed to be favourable but the matter will be further dis-

cussed within IAPH. He also mentioned that Unidroit explored the possibility of achieving an international convention on the contract of warehousing and that a preliminary study had been made by Mr Don Hill (Belfast). Considering the necessity to concentrate on the subjects for the Rio Conference, the further study on liability of sea terminals will be held in abeyance until after the Conference.

11. Multi-modal transport

The Chief Legal Officer, referring to his written report, informed the Assembly of the present status of the work within the Unctad intergovernmental Preparatory Group (IPG) charged with the task of elaborating a draft international convention on multi-modal transport. He stressed that the perspective had shifted considerably since the 1969 Tokyo Rules and that the discussion within IPG so far had mainly concerned rules and principles different from those which were customary in existing international conventions on transport law. The debate had focused on the economic implications of multi-modal transports and no definite standpoint had emerged so far on the important issue of liability. However, one could note a growing dissatisfaction with the optional system of the Tokyo Rules and the subsequent "TCM-draft" and the net-work principle as embodied therein. He also mentioned that the achievements of the CMI had been most successful, since the Tokyo Rules with very few amendments are reflected in the current combined transport documents (such as Combiconbill and the FIATA Combined Transport Bill of Lading) and in the subsequent ICC Rules for a Combined Transport Document.

The President of the Norwegian Maritime Law Association and also the President of the IPG, Professor Erling Selvig, informed the Assembly that a "common understanding" on the contemplated contents of a draft convention had been reached and that, therefore, one had to reckon with the possibility that an international convention on multi-modal transport may well be a reality within the not too distant future.

12. Agenda of the XXXIst International Conference at Rio de Janeiro

The Secretary General Administrative, Mr Henri Voet, reported on his visit to Rio to discuss the organization of the Conference with the representatives of the Maritime Law Association of Brazil. Its President, Professor J C Sampaio de Lacerda, extended a welcome to the delegates and members of the National Associations to Rio in September.

The Assembly decided that the following subjects should appear on the agenda of the Conference.

1. Draft convention on jurisdiction, choice of law and recognition and enforcement of judgements in collision matters.
2. Drilling vessels and drilling rigs.
3. Charter Party terms.

The subject of Arbitration should be discussed within the Assembly only.

13. Accounts and budget

The Secretary General Administrative reported in his capacity as Treasurer on the balance sheet and the profit and loss account. The expense was kept well within budget and, in particular, considerable savings had been made on the estimated expenses for the President's CMI-office at Genoa.

The Assembly approved the accounts and granted with thanks release to the Treasurer. The budget for 1977 was approved.

14. Contributions for 1977

The Assembly decided that the same contributions as for 1976 should be paid by the National Associations.

15. Shipbuilding Contracts.

The President, in his capacity as President of the International Sub-Committee on Shipbuilding Contracts, informed the Assembly that the amalgamation of the three studies made by the International Sub-Committee is under way. The National Associations will be requested to submit their views as to possible corrections and additions.

16. Two days' Assembly meetings

The Assembly welcomed the President's initiative to prolong the Assembly meetings so as to permit a full discussion on all important issues and thanked him for his efficiency in planning and leading the meeting.

Procès-verbal de la réunion de l'Assemblée du CMI - Bruxelles 29-30 mars 1977

1. Ouverture de la séance.

Le Président, le Professeur Francesco Berlingieri, en ouvrant la séance à tout particulièrement salué les nouveaux présidents des Associations de Droit Maritime de la Belgique, du Brésil de la France et des Etats-Unis, à savoir Monsieur Claude Buisseret, le Professeur J.C. Sampaio de Lacerda, le Professeur René Rodière et Monsieur David R. Owen.

Le Président a rendu un hommage reconnaissant à Madame Lilar pour la généreuse donation faite par la succession du défunt Président en faveur de la "Fondation Albert Lilar" qui a été créée en vue de promouvoir l'étude du droit maritime aux niveaux national et international. Dans ce but un prix sera décerné tous les trois ans à un ouvrage scientifique de valeur en cette matière, peu importe le lieu d'origine de cet ouvrage. Le Président a insisté pour que toute mesure utile soit prise afin de publier cette nouvelle dans les périodiques de droit maritime et autrement dans le but de faire connaître cette Fondation aux universités dans le monde entier, aussitôt que les statuts seront publiés.

2. Nouvelles Associations membres.

L'Association de Droit Maritime d'Australie, représentée à l'Assemblée par Monsieur P.G. Willis, a été élue comme nouveau membre du C.M.I. par acclamations.

L'Association de Droit Maritime du Venezuela a été agréée comme nouveau membre du C.M.I. à la condition que ses statuts soient conformes aux exigences posées par ceux du C.M.I. L'Assemblée a donné délégation à l'Exécutif aux fins de vérifier si cette condition était remplie.

3. Membres Titulaires

Les personnes suivantes ont été élues Membres Titulaires du C.M.I. :

BELGIQUE	Claude Buisseret Roger Roland Lionel Tricot Jacques Van Doosselaere
BRESIL	Pedro Calmon Filho Jorge Augusto de Vasconcellos Stenio Duguet Coelho Manoel Moreira de Barros e Silva Armando Redig de Campos Carlos da Rocha Guimarães José Vicente Campos
ESPAGNE	Juan Pascual Sanahuja
FRANCE	Pierre Latron.

4. Rapport annuel

Le Secrétaire Général Exécutif, Monsieur Kaj Pineus, a fait le commentaire sur le rapport annuel du C.M.I. qui passe en revue les activités du C.M.I. au cours de l'année 1976.

5. Abordages en mer

Le Professeur Nicholas J. Healy, Président de la commission internationale, a fait rapport concernant l'état actuel des travaux. Le groupe de travail s'est réuni à Bruxelles le dimanche 27 mars et la commission internationale le lundi 28 mars.

Le projet, qui avait été élaboré lors de la réunion mentionnée en dernier lieu, a fait l'objet d'échanges de vues. D'après certains on ferait mieux d'exclure les dispositions visant la reconnaissance et l'exécution de jugements étrangers, et elles ne devraient être acceptées que si les juridictions compétentes pour la mise à la chaîne de navires étaient définies et limitées. Il fut également proposé que la convention envisagée ne traite pas seulement de navires stricto sensu mais de tous objets flottants. L'idée que l'on reprenne dans la convention des dispositions visant les conflits de loi, recueillit l'approbation générale. La discussion autour de ce sujet à la conférence de Rio fera apparaître si le texte complet d'un projet de convention pourra déjà être accepté par le C.M.I. à cette occasion, ou non.

6. Plates-formes de forage.

M. Frode Ringdal, Président de la commission internationale, a fait rapport sur l'avancement des travaux. La com-

mission internationale s'était réunie pour la deuxième fois le lundi 28 mars. Il est apparu qu'il existe des plates-formes de forage dans pas moins de 25 pays et que des règles pour leur enregistrement ont été introduites au Royaume-Uni et sont en voie d'élaboration en Norvège. En conséquence, il convient d'entreprendre quelque chose afin d'éviter que différents pays aient différentes règles et, de ce fait, promouvoir l'unification du droit dans ce domaine. Cependant, les Associations Nationales sont partagées quant à l'urgence du sujet.

La commission internationale a été d'avis qu'il y avait un besoin pour des règles uniformes sur les abordages, le sauvetage, la pollution, les privilèges et hypothèques et la limitation. Le groupe de travail, qui a été désigné par la commission internationale, a suggéré que la méthode à adopter pour la formulation de ces règles devrait être celle qui rendrait les dispositions des conventions maritimes applicables aux plates-formes de forage par le moyen d'une nouvelle convention internationale et il a préparé un projet préliminaire d'une telle convention.

A la dernière réunion de la commission internationale l'Association Norvégienne a proposé une méthode alternative, c.à.d. de considérer dans certains domaines spécifiques les plates-formes de forage comme étant des navires et de les traiter comme tels à tous égards; cette méthode aurait pour conséquence que les lois nationales seraient d'application aux plates-formes de forage, que les Etats contractants aient ratifié les conventions internationales, qui s'y rapportent, ou non.

Les deux méthodes seront à nouveau examinées à la prochaine réunion de la commission internationale.

7. Arbitrage

M. Jean Warot, Président de la commission internationale, fit rapport sur le projet de règles CCI/CMI, qui n'avait que très récemment été distribué aux Associations Nationales. En conséquence, aucune décision ne put être prise par l'Assemblée concernant les règles proposées elles-mêmes, mais certains avis furent exprimés quant à la réalisation du projet dans son ensemble. M. Warot fit observer qu'on lui avait demandé, lors de l'Assemblée de 1976, de s'enquérir au sujet de la possibilité d'une collaboration avec la CCI en cette matière et que sa mission était, à présent, favorablement accomplie. Il mit l'accent sur le fait que la proposition d'arbitrage CCI/CMI n'était pas destinée à remplacer les instances d'arbitrage actuelles, mais qu'elle était plutôt une instance supplémentaire, et que le secrétariat de la CCI à Paris ne servirait que de centre administratif. L'endroit où la procédure arbitrale serait effectivement menée, serait déterminé par les parties elles-mêmes ou, à défaut d'un tel accord, par le tribunal arbitral, suivant le statut des parties et la nature du conflit. Certaines délégations soulevèrent la

question de savoir si, d'après les statuts, le C.M.I. pouvait assumer la tâche envisagée, cependant que d'autres délégations firent observer que de telles objections auraient dû être soulevées avant de prendre contact avec la CCI et non après, et que, de toute façon, un arbitrage CCI/CMI serait conforme à l'objet du CMI énoncé à l'article 1er des statuts: "de contribuer par tous travaux et moyens appropriés à l'unification du droit maritime et commercial, ainsi que des coutumes, des usages et des pratiques en matière maritime."

La majorité des délégations appuya le projet comme tel mais, en attendant une étude plus approfondie, réserve son opinion à propos des articles proposés.

8. Projet CNUDCI

Plusieurs délégations avaient demandé que le projet CNUDCI, concernant le transport de marchandises par mer, soit un des sujets abordés à la conférence de Rio. Le Président informa l'Assemblée que le CMI ainsi que toutes les autres organisations internationales intéressées avaient été invités à soumettre à l'ONU des commentaires sur le projet CNUDCI. Les commentaires des gouvernements et des organisations internationales seront alors résumés en un document qui constituera le document de travail de base pour la prochaine conférence diplomatique de 1978. Les commentaires devront parvenir à l'ONU pour le 1er juillet 1977. Tout commentaire reçu par l'ONU après cette date ne serait pas repris dans le document de travail et, en conséquence, resterait en défaut d'influencer les gouvernements sur les aboutissements de principe majeurs.

L'Assemblée décida que le C.M.I., dans sa réponse à l'ONU avant le 1er juillet s'en tienne aux questions reprises dans les recommandations de Hambourg, tout en s'étendant sur les raisons qui les animent, et qu'un groupe de travail soit désigné pour préparer cette réponse et la soumettre à plus ample considération par le Conseil Exécutif. Par la suite, le groupe de travail devrait traiter des autres articles repris dans le projet CNUDCI et faire rapport aux Associations Nationales, lesquelles devront, par des moyens appropriés, transmettre à leurs gouvernements respectifs les opinions qu'elles désirent soutenir. Cette question ne devrait pas figurer parmi les sujets abordés à la conférence de Rio, mais toute suggestion formulée par le groupe de travail devrait être soumise à l'Assemblée qui aura lieu après la conférence.

9. Clauses de chartes-parties.

Le Président fit rapport sur les contacts que le Vice Président William Birch Reynardson et lui-même avaient établis avec BIMCO (Baltic & International Maritime Conference) et GCBS (General Council of British Shipping) afin de s'enquérir de l'intérêt que ces organisations porteraient à l'éla-

boration avec le CMI d'un ensemble d'interprétations des clauses courantes des chartes-parties. L'Assemblée approuva l'initiative et décida de constituer une commission internationale, en laissant le soin au Conseil Exécutif de désigner son président.

10. Responsabilité des "Sea Terminals"

Le conseiller juridique principal, le Professeur Jan Ramberg, fit rapport sur la situation actuelle du projet et sur les contacts établis avec International Association of Ports and Harbours (IAPH) afin de connaître l'intérêt que porte cet organisme à des conditions uniformes recommandées visant la responsabilité des "Sea Terminals". Jusqu'à présent, les réactions ont paru favorables mais la question sera de nouveau débattue au sein de IAPH. Il mentionna également qu'UNIDROIT sonde la possibilité d'élaborer une convention internationale sur le contrat d'entreposage et qu'une étude préliminaire avait été faite par M. Don Hill (Belfast). Etant donné le besoin de se concentrer sur les sujets choisis pour la conférence de Rio, l'étude de la responsabilité des "Sea Terminals" sera mise en veilleuse jusqu'après la conférence.

11. Transport multimodal.

Se référant à son rapport écrit, le conseiller juridique principal informa l'Assemblée de la situation actuelle des travaux au sein du groupe préparatoire intergouvernemental (IPG) de CNUCED, chargé d'élaborer un projet de convention internationale sur le transport multimodal. Il insista sur le fait que les perspectives s'étaient considérablement modifiées depuis les Règles de Tokyo de 1969 et que, jusqu'à présent, la discussion au sein de l'IPG n'avait visé principalement que les règles et les principes différents de ceux que l'on trouve couramment dans les conventions internationales de droit maritime. Le débat avait porté sur les implications économiques du transport multimodal, et aucune prise de position ne s'était déjà dégagée sur la question importante de la responsabilité. On pourrait, toutefois, noter que le système à options des Règles de Tokyo et le "TCM-draft", qui l'a suivi, ainsi que le système des réseaux qui y est incorporé, donnent lieu à un mécontentement croissant. Il mentionne également que les travaux du C.M.I. avaient été couronnés de succès, puisqu'on retrouve les Règles de Tokyo, à peine modifiées, dans les documents courants pour les transports combinés (tels que Combiconbill et le connaissance FIATA pour les transports combinés) ainsi que dans les Règles CCI pour un document de transports combiné, qui ont suivi.

Le Professeur Erling Selvig, Président de l'Association Norvégienne de Droit Maritime en même temps que Président de IPG, informa l'Assemblée que l'on était arrivé à une "entente générale"

sur le contenu envisagé d'un projet de convention et qu'il fallait donc s'attendre à ce qu'une convention internationale sur le transport multimodal puisse voir le jour dans un avenir pas trop éloigné.

12. Ordre du jour de la XXXIème Conférence Internationale de Rio de Janeiro

Le secrétaire général administratif, M. Henri Voet, fit rapport sur son voyage à Rio pour y discuter l'organisation de la conférence avec les représentants de l'Association Brésilienne de Droit Maritime. Le Président de l'Association, le Professeur J.C. Sampaio de Lacerda, souhaita la bienvenue aux délégués et aux membres des Associations Nationales à Rio en septembre.

L'Assemblée décida de mettre les sujets suivants à l'ordre du jour de la conférence:

1. Projet de convention sur la juridiction, le choix de la loi et la reconnaissance et l'exécution de jugements en matière d'abordage.
2. Bâtiments de forage et plates-formes de forage.
3. Termes des chartes-parties.

Le sujet de l'arbitrage sera examiné au sein de l'Assemblée uniquement.

13. Comptes et budget.

Le secrétaire général administratif fit rapport, en qualité de trésorier, sur le bilan et le compte des profits et pertes. Les dépenses ont été maintenues dans les limites du budget et, en particulier, des économies considérables ont été réalisées en ce qui concerne les dépenses estimées pour le bureau du Président du C.M.I. à Gênes.

Les comptes recueillirent l'approbation de l'Assemblée qui remercia le trésorier. Le budget pour 1977 fut approuvé.

14. Cotisations pour 1977

L'Assemblée décida que les cotisations des Associations Nationales seraient les mêmes qu'en 1976.

15. Contrats de construction de navires de mer.

En sa qualité de Président de la commission internationale pour les contrats de construction de navires de mer, le Président du C.M.I. informa l'Assemblée qu'une amalgame des trois études entreprises par la commission internationale est en voie de réalisation. Les Associations Nationales seront priées de soumettre leurs idées en vue de la possibilité de corrections et d'ajouts.

16. Réunions d'Assemblée de deux jours.

L'initiative prise par le Président de prolonger les réunions de l'Assemblée afin de permettre une discussion approfondie de toutes les questions importantes fut favorablement accueillie. L'Assemblée remercia le Président pour son efficacité dans la conception et la conduite de la réunion.

CMI NEWS LETTER

Vigilandum est semper; multae insidiae sunt bonis.

COMITE MARITIME INTERNATIONAL — number 6 — December, 1977

The Rio de Janeiro Conference

The 1977 CMI Conference was held at Rio de Janeiro in pleasant surroundings and enjoyed the warm hospitality of the Brazilian Maritime Law Association. It was a productive and successful Conference. Two draft conventions resulted therefrom - a Draft Convention on the Unification of Certain Rules concerning Civil Jurisdiction, Choice of Law, and Recognition and Enforcement of Judgments in Matters of Collision ("Collision Jurisdiction Convention") and a Draft Convention on Off-shore Mobile Craft ("Drilling Rigs Convention"). Furthermore, the CMI, following its aim of producing also rules not requiring legislative action, discussed and approved as a draft definitions of words and phrases affecting lay time (The "Rio de Janeiro Charterparty (lay time) Definitions"). At the Assembly concluding the Conference other matters of great importance were discussed, such as the establishment of rules for international maritime arbitration in co-operation with the International Chamber of Commerce in Paris, the Uncitral Draft Convention on Carriage of Goods by Sea, and the elaboration of Protocols to the 1924 Brussels Convention on Bills of Lading ("the Hague Rules") and the Conventions on the Limitation of Shipowners' Liability of 1924 and 1957, to solve the present problem of converting limits of liability expressed in gold francs into national currencies by replacing such francs by the Special Drawing Rights (SDRs) of the International Monetary Fund. A brief report will be given below of the main subjects dealt with at the Conference. The full texts will be published in CMI Documentation 1977 II.

The «Collision Jurisdiction Convention»

The full background of the project is explained in the CMI Documentation 1977-I, p.6 et seq. The reason why the CMI undertook to prepare the Draft Collision Jurisdiction Convention is explained by the fact that the present 1952 Convention has met with only limited success. One reason for this may be that it is a cold comfort for a shipowner that jurisdiction may be limited to certain fora, when any resulting judgment may not be recognized in other countries. Hence, the whole matter may well start all over again in countries where the foreign

judgment is not enforceable. This being so, one might even argue that the effect of the present convention, in barring further actions in other jurisdictions pending a final decision or a discontinuance of the action lawfully instituted according to the 1952 Convention - the so-called effect of lis pendens - may in certain instances be detrimental, since it may prevent a claimant from obtaining an enforceable judgment. This, of course, is particularly harmful if a new action cannot be instituted within the applicable prescription period. Furthermore, the International Law Association (ILA) approached the CMI with the purpose of finding out whether choice of law rules could be established to solve difficult problems in cases of collisions, particularly on the high seas, where the lex loci delicti could not be applied and where the application of the lex fori could lead to unwarranted "forum shopping". The preparatory work on this subject was performed with the cooperation of the ILA.

After a number of meetings of the Working Group and the International Sub-Committee under the able chairmanship of Professor Nicholas J. Healy (New York) a draft comprising the subjects of jurisdiction, choice of law, and recognition and enforcement of judgments was presented to the Rio Conference. It soon appeared that most of the matters covered by the present 1952 Convention were less controversial than the "new" subjects relating to choice of law and recognition and enforcement. It is understandable that some States may be reluctant to recognize foreign judgments in collision matters from all over the world. Differences in legal principles and standards still explain the lack of the confidence required to give full effect to foreign judgments. However, from the view-point of the affected parties, it may be said that they should perhaps take this risk together with the others, since there is presently no guarantee that their assets will not be seized in an "inconvenient" forum and, consequently, they may have to suffer from any adverse judgment resulting therefrom. This may explain why there was some support for a "trade-off", whereby the permitted fora under the convention should be restricted, but, in turn, foreign judgments should be recognized and enforceable instead of the present

system with a wide choice of fora but without any means of enforceability provided for by the 1952 Convention. The Draft Convention, as finally adopted, contains a "compromise provision" whereby enforceability of judgments is stipulated only if the contracting State in which enforcement is sought has a supplementary agreement on recognition and enforceability of judgments with the State where the judgment was rendered. One might of course query whether it is likely that such supplementary agreements will be made, since States may well prefer general agreements on enforceability of judgments to the pragmatic approach of entering into various supplementary agreements on specific subjects. But in any event the provisions of the Draft Collision Jurisdiction Convention concerning recognition and enforcement of judgments will not be harmful to States which may not like them, since they are at worst merely irrelevant.

There was general support for application of the lex loci delicti when a collision occurs in the internal waters or territorial sea of a State, and of the lex fori when a collision occurs in waters beyond the territorial sea. The discussion mainly focused on the exceptions to these basic principles. The first exception - which was acceptable to all - is the case when all of the vessels belong to the same State. In such a case, the law of that State would apply, wherever the collision occurred. A further exception concerns the situation where the vessels involved belong to different States, but where those States have adhered to the same international convention. In this situation also, the court should give effect to any convention to which all of the States involved have given effect. However, it is not uncommon that States prefer not to ratify a convention but, instead, to embody the principles of the convention into their national laws. The Draft Convention therefore provides that this should constitute a further exception to the application of the lex loci delicti and the lex fori, respectively, and that, consequently, the court seized of the case should apply such principles common to all the States involved, regardless of where the collision happened to occur or where the parties may have chosen to institute legal action. Deletion of the last-mentioned exception was suggested, but it was retained by a substantial majority vote (18 voted for retention, 4 against, and 2 abstentions).

Another matter much-debated was the question whether the Draft Convention should cover all damages resulting from collisions, including not only property claims but death and personal injury claims as well. A suggestion that the Convention be enlarged to comprise the last-mentioned type of claims was rejected by a very close

vote (13 yes, 12 no and 2 abstentions). The exclusion of death and personal injury claims was based on the fact that such claims may well call for other solutions, since the victims require better protection than the victims of property damage. Another matter which resulted in a fairly close vote was the question whether jurisdiction should be allowed in any State where the defendant has property subject to attachment under the law of the State where jurisdiction is sought. The suggestion to delete the provision providing for such jurisdiction was rejected by 14 votes to 11, with 2 abstentions.

The difference of views on the above-mentioned and other subjects manifested themselves by 1 no and 7 abstentions when the Draft Convention as a whole was adopted by 15 votes in favour. Considering the "innovations" consisting of the "choice of law" and "recognition and enforcement" additions, this result perhaps does not indicate resistance strong enough to prevent the future success of the Draft Convention which has since been sent to IMCO for consideration by its Legal Committee.

The «Drilling Rigs Convention»

New technology creates new legal problems. This has been the case with the container, the computer, the hovercraft - no one knows whether it is a bird or a fish - and with the structures which now appear to an increasing extent off the shores of States which are fortunate to have oil in the sea-bed adjacent to their territory. As mentioned in the report of the chairman of the International Sub-Committee, Mr Frode Ringdal (Oslo) in CMI Documentation 1977: I, there were at the end of 1976 374 mobile drilling units in existence registered in no less than 23 different countries.

The fact that these structures are mobile and may leave the place where they have been engaged for the exploitation of the sea-bed and move to another one poses the problem whether they should be regarded as "vessels" or something else. To some States this is regarded as an urgent problem, while other States seem to think that it can still wait some time until the problems relating to drilling rigs should be subjected to international legislation. This being so, the International Sub-Committee did not make a firm recommendation to the Conference on whether or not a new draft convention on the subject should be adopted. However, the Conference did accept by the overwhelming majority of 23 votes for, nil votes against and 4 abstentions the draft convention which emerged from the work of the Conference under the skilful chairmanship of Mr Frode Ringdal who for various reasons had to exercise the utmost diplomacy.

The draft convention does not deal with the industrial aspects of off-shore activities, such as the drilling operations themselves and the oil production processes. Only the problems confronting the rig-owner or rig-operator responsible for the maritime and nautical running of the rig are covered by the convention. Further, the "draft" covered does not comprise stationary units permanently fixed to the sea-bed. This is underlined by the very title of the convention "draft convention on off-shore mobile craft".

In approaching the problem it appeared that there were different options available. One option would be to set up a complete set of rules which would exclusively deal with the legal problems applicable to "craft" within the scope previously mentioned. Another option would be to make the international maritime conventions relating to vessels also applicable to "craft" to the same extent as they apply to vessels. Still another method would be to stipulate that in the specific fields covered "craft" shall be deemed to be vessels and in all respects be treated equally as such. This method would mean that the national rules relating to vessels would also be applicable to "craft". The International Sub-Committee suggested to the Conference that the second option should be preferred - namely to make some of the international maritime conventions applicable to "craft" - while the Norwegian Maritime Law Association preferred the third approach. In the course of the debate it appeared that this method - apart from the fact that the precise consequences were difficult to foresee - could lead to unwarranted results. To take one example, the Norwegian maritime Law Association itself suggested that limitation of liability under the recently adopted 1976 international convention for the limitation of liability for maritime claims was unsuitable to "craft" since the limits were too low. This topic, constituted one of the subjects where there was some disagreement in substance. In the end, a compromise was worked out whereby the draft purports to make not only the international conventions relating to collisions, salvage, arrest, limitation of liability and rights in craft (maritime liens and mortgages and registration of rights in respect of vessels under construction) and liability for oil pollution applicable to "craft" but also the national rules which States not parties to these conventions apply to "vessels" with respect to the subject-matters dealt with therein.

The 1976 convention on limitation of liability for maritime claims contains in art.15 § 5 a provision excepting "floating platforms" from that convention. Consequently, the draft convention on "drilling rigs" in art. 5 says that the limitation of liability according to that convention shall apply notwithstanding the provisions of art.15 § 5 of the limitation convention.

However, the draft convention on "drilling rigs" stipulates in art.9 that craft which are platforms shall be deemed to be of not less than a certain amount of tons yet to be decided for the purposes of calculating the limit of liability.

The Rio de Janeiro Charterparty Laytime Definitions

In 1974, UNCTAD presented a study on charterparties as background for possible legislative action in the field of charterparties aiming at producing greater certainty in this important field. As distinguished from the situation in liner trade there is no need to interfere with mandatory provisions, since the bargaining position of the charterer may often be stronger than that of the shipowner.

However, even a non-mandatory international legislation may not be warranted, provided the organisations responsible for the elaboration of standard charterparty forms succeed in developing rules sufficiently clear to permit the contracting parties to ascertain their legal position at the time when the contract is entered into.

This, generally speaking, is the background to the CMI initiative to develop definitions of some charterparty terms in co-operation with the General Council of British Shipping (GCBS) and The Baltic and International Maritime Conference (BIMCO).

Disputes concerning the interpretation of various terms frequently arise in the law of demurrage. It is therefore natural to start efforts to promote a greater certainty within this area.

The subject was discussed at the CMI XXV Conference at Athens 1962. However, the aim is not now to suggest legislation but rather to leave to the contracting parties the option to refer to the Rio de Janeiro charterparty lay time definitions in their charterparties. If they should do so, they will no longer depend upon the interpretation of the various terms given in various national laws. The terms, like Incoterms 1953 laying down definitions of terms in contracts of sale - such as FOB and CIF -, will thus enable the contracting parties to determine the risk falling upon each of them and, provided reference will frequently be made to the terms, thus greatly enhance the unification of the law of demurrage.

Even though reference has been made in the charterparty to the charterparty definitions, they will not take effect if the charterparty contains other express provisions which are inconsistent with them. This follows from the general principle that terms specifically agreed upon always should be given priority over general standard terms.

The Rio charterparty definitions concern the following 24 terms.

"Port"
"Berth"
"Lay Time"
"Per workable hatch per day"
"Per working hatch per day "
"As fast as the vessel can receive/
deliver "
"Day"
"Holidays"
"Working days"
"Weather working day"
"Excepted
"Unless used"
"Weather permitting"
"Customary despatch"
"Average"
"Reversible"
"Notice of Readiness"
"Reachable on arrival"
"Time lost waiting for berth to count
as loading (or "as laytime")
discharging time "
"Whether in berth or not" or "Berth
no berth"
"Strikes"
"Demurrage"
"On demurrage"
"Despatch money" or "Despatch"

The draft definitions adopted at the Rio Conference will be further discussed with GCBS and BIMCO, before they are finally agreed upon.

Arbitration

At the Assembly held after the Conference of Rio de Janeiro the problem of a joint initiative with the ICC in the field of maritime arbitration was further discussed. Clearly, the very fact that the CMI would engage itself in the administration of international maritime arbitration would constitute quite a different activity compared with the traditional methods used by the CMI to promote the unification of maritime law by preparing drafts for international conventions. However, this is further evidence of the "new face of the CMI". No doubt, the CMI could considerably contribute to the unification of maritime law by other means, not only by promoting standard terms such as the York-Antwerp Rules for general average and standard charterparty terms, but also by ascertaining that maritime disputes will be solved with expediency and certainty. The Assembly decided to accept the project in principle and empowered the Executive Council to finalize a set of arbitration rules for subsequent implementation by the 1978 Assembly.

It should be stressed that the contemplated ICC/CMI arbitration does not in any way infringe upon the present practices to refer disputes to arbitration in London, New York, Moscow, Tokyo etc. It is foreseen, and even recommended, that the contracting parties when referring to ICC/CMI arbitration should determine the place for the arbitration procedure. It may even make it easier for the parties to agree upon arbitration in a particular place outside their home country if, at the same time, they can be reassured that the umpire or the sole arbitrator will be chosen with due consideration to the nature of the dispute and the nationalities of the contracting parties. The joint Working Party with members from the ICC and the CMI will meet again in order to finalize the draft on 10 January 1978 at the ICC international headquarters.

Replacement of Gold Francs by SDRs

Serious problems arose subsequent to the changes in the international monetary system resulting from the abolishment of the so-called "official value" of gold. Although the courts in most countries still reject the idea of converting the gold francs of the various maritime international conventions to the market value of gold, considerable difficulties exist to determine the present official gold value. This explains why, in the 1976 international convention on the limitation of liability for maritime claims, the gold franc has been replaced by the so-called Special Drawing Right (SDR) at least as between the member States of the International Monetary Fund (1 SDR was worth approximately 1.16 US\$ in November 1977). In connection with the diplomatic conference on the last-mentioned convention three so-called mini-conferences were held in order to amend the manner of expressing the limits of liability in the 1969 civil liability for oil pollution convention, the 1971 fund convention and the 1974 Athens convention on the carriage of passengers and their luggage by sea. These mini-conferences resulted in Protocols where the limits have been expressed in SDRs. Even though the 1976 convention is intended to replace the 1924 and 1957 conventions it will undoubtedly take quite some time until this has occurred. Similarly it will take some time before we may have a new international convention on the carriage of goods by sea resulting from the so-called Uncitral draft. This being so, Protocols to amend the conventions dealing with limitation of the shipowner's liability as well as carriage of goods by sea (the 1924 Brussels bill of lading convention and the 1968 Protocol thereto, should be accepted as soon as possible). The Assembly concluding the Conference unanimously decided to accept the proposal of the Norwegian Law Association and to instruct the CMI International Sub-

Committee on gold clauses to immediately consider the matter with a view to preparing draft Protocols for a forthcoming diplomatic conference.

In this context, it should be mentioned that the British Maritime Law Association has revised its gold clause agreement whereby the package limitation has been increased to £400 (in force as from 1 July 1977).

Highlights from the CMI Assembly concluding the Conference

New members

In Peru a maritime law association was formed on 20 September 1977 under the name of Asociacion Peruana de Derecho Maritimo.

The Assembly unanimously accepted the application for membership of the Peruvian Maritime Law Association.

Kaj Pineus - Honorary Vice President of the CMI

At the Assembly meeting, Mr Kaj Pineus (Gothenburg) resigned from the post as Secretary General Executive after a long time of active service to the great benefit of the CMI. The Assembly expressed its great and deep appreciation for the work that he has so successfully performed during a difficult period for the CMI and expressed the wish that he still continue to take some part in its work. On the proposal of the President Mr Pineus was then unanimously elected Honorary Vice President of the CMI.

Jan Ramberg resigns as Chief Legal Officer.

Following the decision of the 1976 Assembly not to have a fulltime Chief Legal Officer in the future, Professor Jan Ramberg had since then served on an "ad hoc basis". In order to formalize the decision of the previous Assembly, Professor Ramberg resigned from the function of Chief Legal Officer which the Assembly accepted expressing to him its gratitude for the able and competent manner in which he had performed his duties.

Future re-organization of the board of officers of the CMI

Following the suggestion of the President, the Assembly decided to postpone any action following the resignation of the Secretary General Executive and the Chief Legal Officer until the Assembly of March 1978. The President agreed to prepare and to circulate amongst the national associations a working paper on the re-organization of the CMI for consideration by the next Assembly.

Albert Lilar Foundation

The Board of directors of the Albert Lilar Foundation has recently decided that the prize will be awarded for the first time in the spring of the year 1978. The amount of this first prize will be Belgian francs 200.000.

Applications should be sent to the secretary of the Foundation, Mr Henri Voet, 17 Borzestraat 2000 Antwerpen, Belgium soonest and not later than the 15th March, 1978.

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Fondation Albert Lilar

Le conseil d'administration de la Fondation Albert Lilar a récemment décidé que le prix sera attribué pour la première fois au printemps de l'année 1978. Ce premier prix sera de francs belges 200.000.

Toute proposition doit parvenir au secrétaire de la fondation, Mr. Henri Voet, 17 Borzestraat 2000 Antwerpen, Belgique avant le 15 mars 1978.

CMI Publications

During 1977 the subscribers have received N°I, II, and III of the C.M.I. DOCUMENTATION. They have also received the book of the "Maritime Conventions". Additional copies of this book may be obtained at the price of BF.600.-.

As from 1978, the CMI NEWS LETTER will become a quarterly publication and the announcements regarding ratifications, accessions and denunciations of the International Maritime Conventions, will be published in that letter.

The CMI DOCUMENTATION will be issued once a year as a supplement to the NEWS LETTER and, apart from the usual information regarding the C.M.I. Associations, Officers and Titulary Members, will contain the Statement of the Ratifications of and Accessions to the Brussels Maritime Law Conventions and to the International IMCO Conventions in the field of private maritime law.

The annual subscription to both publications combined will be BF.500. Supplement for despatch by airmail: 100% of value or order.

Applications for subscriptions are dealt with by :

HENRY VOET-GENICOT
Borzestraat, 17,
B- 2000 ANTWERPEN-Belgium

Publications du C.M.I.

Au courant de 1977 les abonnés ont reçu les N°s I, II et III de la DOCUMENTATION C.M.I. Ils ont également reçu le livre des "Conventions Maritimes". Des exemplaires supplémentaires de ce dernier livre peuvent

être obtenus au prix de FB.600.-
A partir de 1978 la CMI NEWS LETTER
sera publiée trimestriellement, et
c'est dans ce périodique que paraî-
tront les avis concernant les ratifi-
cations, adhésions et dénonciations des
Conventions maritimes internationales.
La DOCUMENTATION CMI sera publiée
une fois l'an en guise de supplément
à la NEWS LETTER et, à part les ren-
seignements habituels concernant les
Associations du C.M.I., les membres
du Bureau et les membres titulaires,
y figurera l'état des ratifications

et adhésions des conventions de droit
maritime de Bruxelles et des conven-
tions internationales de l'OMCI, dans
le domaine du droit maritime privé.
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B- 2000 ANTWERPEN, Belgique.

NEXT ASSEMBLY OF THE C.M.I.

The next meeting of the Assembly of
the C.M.I. will be held at Hamburg
on Tuesday 7 and Wednesday 8 March,
1978.

PROCHAINE ASSEMBLEE DU C.M.I.

La prochaine réunion de l'Assemblée
du C.M.I. aura lieu à Hambourg le
mardi 7 et le mercredi 8 mars 1978.