

# CMI NEWS LETTER

*Vigilandum est semper; multae insidiae sunt bonis.*

Winter 1986

— COMITE MARITIME INTERNATIONAL —

Hiver 1986

QUARTERLY

BULLETIN TRIMESTRIEL

## In Memoriam

### **Dr. Hans-Georg Röhreke, Hamburg**

The Maritime Law Association of the Federal Republic of Germany recently lost with the passing away of Dr. Hans-Georg RÖHREKE one of his most active members and to whose development he was particularly interested.

Dr. H.G. RÖHREKE used to be one of those eminent jurists who devoted themselves to the reconstitution of the German Association after the last war and gave it a new scientific spirit. He was Secretary of the German Association as from its first meeting in June 1953 until he was elected to the Board in June 1959 whilst contributing efficiently to the activities of the Association. It should be recalled that Dr. H.G. RÖHREKE did play a determined part in the re-admission of the Federal Republic of Germany as an unreserved member of the Comité Maritime International. His widespread knowledges were a valued contribution to our Organization within which he developed a constant activity in promoting international maritime law.

Lately he chaired the Study Group on compensation of claims in collision cases, which was a subject of particular interest to him all through his professional life. His incisive and clear exposés as well as his technical publications will definitely be missed by all those who collaborated with him within the Study Groups of the Comité Maritime International of which he used to be for a long time a very active member of the "Bureau Permanent" and of the Executive Council.

The President and the Officers of the CMI who knew him personally will remind Dr. H.G. RÖHREKE as a most appreciated colleague as well as a devoted friend.

L'Association de Droit Maritime de la République Fédérale d'Allemagne vient de perdre en la personne du Dr. Hans-Georg RÖHREKE un de ses membres les plus actifs et des plus éminents.

Le Dr. H.G. RÖHREKE fit partie de ce groupe de juristes maritimes qui se consacra à la reconstitution de l'Association Allemande de Droit Maritime après la deuxième guerre mondiale et qui lui insuffla un nouvel esprit scientifique. Il en fut le secrétaire dès sa première réunion en juin 1953 jusqu'à son élection au Bureau en juin 1959. Il joua un rôle déterminant dans la réadmission en qualité de Membre à part entière de l'Association de droit maritime de la République Fédérale d'Allemagne au sein du Comité Maritime International. Il apporta généreusement ses connaissances étendues à notre organisation et y développa une activité constante au profit de l'unification du droit maritime international.

L'indemnisation des dommages en cas de collision de navires était un sujet qui le préoccupa particulièrement tout au long de sa vie professionnelle. Tout récemment encore il fut, avec le regretté Kaj Pineus, l'auteur du livre "Limited Liability in Collision Cases". Ses exposés clairs et positifs de même que ses publications techniques manqueront beaucoup à tous ceux qui ont collaboré avec lui au sein des groupes de travail de son Association ainsi que du CMI dont il fut pendant de longues années un membre très actif au Bureau Permanent et plus tard au Conseil Exécutif.

Le Président et les membres du CMI qui l'ont connu personnellement garderont du Dr. H.G. RÖHREKE le souvenir ému d'un collègue apprécié et d'un ami dévoué.

Report on the meeting of the UNCITRAL Working Group on  
International Contract Practices 1-12 December, 1986, on the  
Liability of Operators of Transport Terminals

The meeting continued its revision of the draft of articles of an international convention or, alternatively, a model law on the subject of the liability of operators of transport terminals. It will be recalled that the CMI presented a study on this subject in 1975 (CMI Documentation 1975 II) and that I myself participated in the Study Group within UNIDROIT charged with the task to prepare a draft text. Further, CMI has set up an international sub-committee for the purpose of establishing draft standard conditions for terminal operators which work, however, has been suspended pending the outcome of the present project within UNCITRAL.

It should be noted that the approach presently employed within UNCITRAL is somewhat different from the approach suggested by the UNIDROIT Study Group. The latter suggested that the rules should be non-mandatory in the sense that the operators concerned would be free to subject themselves under the rules or not. However, if they did refer to the rules they would become mandatory throughout. In other words, they would be incorporated into the contractual relationship in the same manner as the Hague Rules could be incorporated by way of a "Paramount" clause. The reason why the Study Group chose this method stemmed from the fact that it would be extremely difficult to delimit the scope of any mandatory régime. Thus, the operations performed would in fact always take place in a specific territory as distinguished from carriage of goods which would take place between two points which could be situated in different countries. There was, in this sense, a considerable difference between regulation of "goods at rest" as distinguished from "goods in transit". In many cases it would not be possible to ascertain to what extent goods in a transport terminal would be intended for international transport by one mode of transport or another and, anyway, it would be difficult to resolve precisely at which time the relation to an intended or performed transport was sufficiently strong to bring the operation under the mandatory régime. At present, however, the UNCITRAL project is based on the traditional theory that the legal régime should be mandatory but it is still an open question whether the ultimate result will be a draft international convention or a draft model law. This approach makes it necessary to carefully determine, as precisely as possible, exactly the type of operations encompassed by the mandatory régime.

It is difficult to assess to what extent governments will be prepared to adhere to an international convention of this type. To some extent this is related to their willingness to adhere to the Hamburg Rules and the MT-Convention. It is reasonable to assume that the inclination to favour an international régime relating to "goods in transit" would be greater than with respect to "goods at rest", since the international element quite necessarily is considerably weaker with respect to operations which are wholly performed within each particular country. Nevertheless, it appeared during the meeting that the interest for the project had increased considerably within the United States, possibly because of the need to achieve a uniform régime for the different States within the United States themselves.

It is difficult, at this time, to indicate briefly and in some general words the present status of the project. However, there is clear ambition to simplify the draft as much as possible. The liability provisions take the Hamburg Rules and the MT-Convention as "points of departure". Although it will be extremely difficult - if not impossible - to "streamline" liability so that whatever liability rules apply during the actual carriage would be prolonged to encompass the periods before and after such carriage, efforts are made at least to draft the provisions so as to correspond with the general structure of the Hamburg Rules and the MT-Convention.

Particular difficulties exist with respect to the limits of liability. Although, in theory, it could be possible to apply a "net-work" system by using the limits which with respect to the goods in question apply for the mode of transport concerned, the practical difficulties to employ such a technique are obvious. In some instances it may be quite clear that the operations only concern goods which have been or will be carried by a particular mode of transport. In other cases this is not so. The present status of the project seems to be to use, as originally suggested by the UNIDROIT Study Group, a pure per kilo limitation resting on the rather low level of the maritime limitation under the Hamburg Rules - or possibly the MT-Convention - and then to depart from this basic rule when it is clear that maritime transport is not involved. It might be particularly necessary to establish higher limits of liability with respect to air cargo. A further difficulty is at hand with respect to liability for delay. First, the draft contains a provision whereby a pending delay might be "converted" into a final loss. When a certain period of time has elapsed counted from the time when a request for the delivery of the goods has been made, then the claimant may choose to treat the goods as lost. The original UNIDROIT draft did not contain any rule with respect to liability for delay in addition to the conversion rule just mentioned. However, the UNCITRAL draft contains such a provision corresponding to article 5.2 of the Hamburg Rules. Still, it has yet to be resolved to what extent one would employ the same limit of the liability for delay as in the Hamburg Rules article 6.1 b (two and a half times the charges payable to the operator but not exceeding the total of the charges in respect of the consignment of which the delayed goods were part).

Needless to say, it is of great importance for the CMI to follow the further development of the project and at a proper time to renew the co-operation with UNCITRAL and UNIDROIT on the elaboration of standard conditions for operators of transport terminals which might be worth-while irrespective of whether the pending project materializes into an international convention.

Jan Ramberg.

## Recent Changes in the Maritime Law of the Federal Rep. of Germany

The "DEUTSCHER VEREIN FÜR INTERNATIONALES SEERECHT", Hamburg, has advised us of recent changes in the Maritime Law of the Federal Rep. of Germany and made relating comments of which we reproduce extracts hereafter :

"The HGB (Handelsgesetzbuch, Commercial Code) has been revised by the 2. Seerechtsänderungsgesetz (2nd law amending Maritime Law) dated 25th July 1986. The law has come into force on 31st July 1986. It contains three main changes of maritime law.

First, it introduces the 1976 Limitation of Liability Convention. For this reason the LLC has been ratified by another law, dated also 25th July 1986. The LLC will be according to § 486 HGB, however, applied *tel quel*. The LLC and therefore § 486 HGB too will come into force on 1st. September 1987. The reason for this is simply that our Government did not feel in the position to denunciate the 1957 LLC before the new law had come into force. As you know the 1957 LLC provides for a one year term of notice. It has to be added that the Seerechtliche Verteilungsordnung (Law for the Distribution of Maritime Limitation Funds) has been adapted to the new rules on limitation of liability. The changing law is also dated 25th July 1986 and will come into force on 1st September 1987.

Second, the lawgiver has implemented the Hague-Visby Rules completely, but without ratification. The situation is now that, after coming into force of the law in this respect

## Changements Récents de la Loi Maritime de la Rép. Fédérale d'Allemagne

Le "DEUTSCHER VEREIN FÜR INTERNATIONALES SEERECHT", Hambourg, nous a avisés de récents changements de la Loi Maritime de la Rép. Fédérale d'Allemagne et communiqué ses commentaires dont nous reproduisons ci-après des extraits :

on 31st July 1986, West-Germany has materially but not formally the position of a contracting party of the Hague-Visby Rules. The Hague-Visby Rules cannot be applied, as a consequence, to those countries which only have ratified the Hague-Rules!

Third, the law of 25th July 1986 has revised the law of carriage of passengers and their luggage by sea. The new provisions follow the 1974 Athens Convention, but again, not in all aspects. We now have, since 31st July 1986, higher limits of liability and another rule regarding the loss of right to limit liability."

## **Reform of Civil Admiralty Jurisdiction in Australia**

Professor James Crawford, Challis Professor of International Law at the University of Sydney has kindly informed the CMI headquarters about the report No 33 that has been prepared by the Australian Law Reform Commission on : "Civil Admiralty Jurisdiction". This Commission is a Statutory Agency established by the Commonwealth of Australia to advise the Federal Government in respect of matters of law reform.

The report under reference is dealing with the reform of civil admiralty jurisdiction in Australia. It was tabled in Federal Parliament on 2 December, 1986 and is now under active consideration by the Federal Government. It makes detailed recommendations for updating the powers of Australian Courts over commercial shipping disputes and proposes a uniform Australia-wide system for dealing with those disputes.

Professor Crawford has prepared a summary of the report; this, with his kind permission, is hereafter reproduced.

### Admiralty jurisdiction.

Jurisdiction over maritime and shipping disputes has long existed separately from jurisdiction over other civil matters. This has partly been due to historical factors but has also reflected the special difficulties frequently created by these types of disputes, particularly the difficulties associated with commencing proceedings against and executing judgment upon foreign defendants with no assets within the jurisdiction of the court.

### The action in rem.

The key feature of admiralty jurisdiction, developed in response to these difficulties, has been the right to commence proceedings against property rather than against the person: the action in rem. These actions can be commenced by service of initiating process upon a ship or cargo in respect of which the claim arises rather than upon the wrongdoer, avoiding the difficulty and delay of personal service upon a defendant overseas. The ship or cargo can be seized or 'arrested' at the commencement of the action rather than only upon judgment, ensuring the existence of assets within the jurisdiction (either the ship or cargo or security put up to secure their release) against which judgment can eventually be executed. Moreover, service in rem within the territorial jurisdiction of the court is accepted as conferring jurisdiction wherever the dispute may have arisen.

Jurisdiction in admiralty also includes actions in personam to enforce maritime claims, but as most such actions already fall within the ordinary civil jurisdiction of Australian courts, this aspect of admiralty jurisdiction is (with certain exceptions) of considerably less significance. The focus of the jurisdiction is the action in rem.

## **Réforme de la « Civil Admiralty Jurisdiction » en Australie**

Le Professeur James Crawford, professeur en Droit International à l'Université de Sydney a eu l'amabilité d'informer le Bureau du CMI du rapport No.33 qui fut préparé par la "Australian Law Reform Commission (ALRC)" sur la "Civil Admiralty Jurisdiction". Cette Commission est un organisme Gouvernemental établi par le Commonwealth d'Australie pour conseiller le Gouvernement Fédéral en matière de réforme des lois.

Le rapport en question traite de la réforme de la "Civil Admiralty Jurisdiction" en Australie. Il fut soumis au Parlement Fédéral le 2 décembre 1986 et fait à présent l'objet d'un examen attentif par le Gouvernement Fédéral. Il contient des recommandations détaillées pour la mise à jour des pouvoirs des Tribunaux Australiens de décider des litiges maritimes de nature commerciale et propose un système uniforme pour toute l'Australie pour traiter de ces litiges.

Le Professeur Crawford a préparé un résumé de ce rapport. Ce résumé est reproduit ci-après avec son aimable permission.

### The need for reform.

This century has seen the gradual expansion in many countries of the limited class of maritime claims for which an action in rem will lie. It has also seen the extension of the scope of the action to permit the arrest of other ships owned by the person liable personally on the claim, rather than just the ship in respect of which the claim arose (the 'wrongdoing ship'). These and other developments in the exercise of jurisdiction over maritime disputes have largely passed Australia by. The reason lies in the principal source of jurisdiction over maritime disputes for Australian courts: the Colonial Courts of Admiralty Act 1890 (UK). That Act, which applies to Australia by paramount force, effectively restructures jurisdiction over maritime disputes in this country to the 'Admiralty jurisdiction' of the English High Court in 1890. Besides isolating Australia from overseas developments, the effect of this has been to envelop the Australian jurisdiction in uncertainty. Not only is the precise extent of English admiralty jurisdiction in 1890 uncertain, but the distribution of that jurisdiction under the Act among Australian courts is far from clear.

### The principles of reform.

As a starting point for reform the Commission accepted the need for the continued existence of a separate admiralty jurisdiction. Therefore, the Commission decided upon a clarification within the broad framework of admiralty jurisdiction rather than an abolition of that jurisdiction and a general restructuring of the remedial powers of the courts.

### Reform proposals.

Some of the main recommendations for the reform of the jurisdiction are set out below. The Commission recommends the repeal of the Colonial Courts of Admiralty Act 1890 (UK) and its replacement with Federal legislation containing a complete and concise statement of the admiralty jurisdiction seen as most suited to Australia's current needs.

### Expanded scope of jurisdiction

The Commission recommends that the action in rem be available for a wider and more clearly defined range of claims. These will include (either for the first time or for the first time in a comprehensive form) the following :

- . claims for pollution damage;
- . claims for loss or damage (including loss of life or personal injury) arising from the operation of a ship for which the shipowner, charterer or operator is responsible;
- . claims for the enforcement of arbitration awards arising from maritime claims;
- . claims for unpaid insurance premiums or P and I club calls.

A key feature of the Commission's proposals is that the list of maritime claims in the proposed legislation be exclusive. No reference will be made to any jurisdiction that the English Court of Admiralty may or may not have had in the past. This should eliminate much of the current uncertainty as to the limits of the jurisdiction.

### Demise charterers.

The Commission proposes that the existing right to arrest a wrongdoing ship owned by the person liable personally on the claim at the time the action is commenced be extended to demise charterers in the case of the broadest class of actions in rem, known as statutory rights of action in rem. This reflects changes that have already been made in the United Kingdom and elsewhere.

### Surrogate ships.

In Australia the right to arrest is currently restricted to the arrest of the wrongdoing ship, that is to say the ship in connection with which the cause of action arose. In the United Kingdom and elsewhere it has any ship owned by the person liable in personam on the claim. The Commission proposes the adoption of this extended right of arrest in Australia.

### Courts.

At present the High Court, State and Territory Supreme Courts and probably the Federal Court can exercise admiralty jurisdiction in Australia under the 1890 Act. The extent to which

other courts can do so is unclear. For the future exercise of jurisdiction, the Commission proposes that :

- . the High Court's original jurisdiction in admiralty be removed, in line with the current emphasis upon that Court's role as a constitutional and final appellate court;
- . jurisdiction in rem be exercised concurrently by the Federal Court and the Supreme Courts for each State and Territory, with appropriate provision for the transfer of proceedings between courts;
- . superior courts be given power to remit the hearing of actions in rem to inferior courts in appropriate cases, to avoid the present situation in which even minor actions in rem are heard by superior courts;
- . all Australian civil courts exercise admiralty jurisdiction in personam within the ordinary limits of their civil jurisdiction (except, for technical reasons, in the case of actions to limit liability);
- . appeals in admiralty actions follow ordinary channels.

#### Protection against abuse.

The action in rem is an effective means of overcoming the problems associated with suing foreign shipowners with assets overseas. The proposed expansion of its availability in line with other relevant countries is fully justified. The Commission recognises in its Report, however, that the procedure provides considerable scope for abuse in the hands of an unscrupulous plaintiff. Even a brief delay to a ship's sailing schedule can be very costly and an arrest can therefore put considerable pressure on the owner of the ship to settle a claim. For that reason care has been taken to build substantive and procedural safeguards against abuse into the Commission's recommendations.

#### Liability to pay damages.

At present the plaintiff is only liable to pay damages for what is eventually shown to be an ill-founded arrest if there was bad faith or gross negligence, something that is very rarely proven. The Commission proposes that there should instead be a liability to damages for any arrest that is "unreasonable and without good cause".

#### Caveats against arrest.

A procedure is proposed under which an undertaking (in appropriate form) can be given to the Federal Court to provide security for claims that may be made against a ship during its visit to Australia. Such an undertaking - a 'caveat' against arrest - will prevent the arrest of the ship without leave of the court. This will provide an effective means for ship owners and operators to guarantee that their ships will not be delayed in Australia through civil actions. A system of caveats against arrest does exist in Australia at present but it does not effectively guarantee non-arrest and is not a national system, requiring separate caveats to be entered in each jurisdiction. The new proposal is considerably more effective and efficient.

The full report is available to the public through the Australian Government Publishing Service.

Ce rapport peut être obtenu in extenso en s'adressant à l'Australian Government Publishing Service.

## Brussels Conventions

RIDER TO THE STATEMENT OF THE RATIFICATIONS OF AND ACCESSIONS TO THE BRUSSELS INTERNATIONAL MARITIME LAW CONVENTIONS

### ACCESSION BY MOROCCO

On 12 February, 1987 was registered with the Ministère des Affaires Etrangères, du commerce extérieur et de la coopération au développement de Belgique, the instrument of accession by Morocco relating to the following Convention :

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO MARITIME LIENS AND MORTGAGES, DONE AT BRUSSELS ON 27 MAY, 1967

## Conventions de Bruxelles

AJOUTE A L'ETAT DES RATIFICATIONS ET ADHESIONS DES CONVENTIONS INTERNATIONALES DE DROIT MARITIME DE BRUXELLES

### ADHESION PAR LE MAROC

Le 12 février 1987 a été déposé au Ministère des Affaires Etrangères, du commerce extérieur et de la coopération au développement de Belgique, l'instrument d'adhésion du Maroc concernant la convention suivante:

CONVENTION INTERNATIONALE POUR L'UNIFICATION DE CERTAINES REGLES RELATIVES AUX PRIVILEGES ET HYPOTHEQUES MARITIMES, SIGNÉE A BRUXELLES LE 27 MAI 1967



This instrument of accession is accompanied by the following reservation :

" The Kingdom of Morocco accedes to the International Convention for the Unification of certain rules relating to Maritime Liens and Mortgages, done at Brussels on 27 May, 1967 provided Article 15 of the said Convention being not of application".

## IMO Conventions

RIDERS TO THE STATEMENT OF THE RATIFICATIONS OF AND ACCESSIONS TO THE IMO CONVENTIONS IN THE FIELD OF PRIVATE MARITIME LAW

INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE (CLC 1969)

accession: Peru 24 February, 1987

PROTOCOL TO THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR OIL POLLUTION DAMAGE (CLC PROT 1976)

accession: Peru, 24 February, 1987

INTERNATIONAL CONVENTION ON THE ESTABLISHMENT OF AN INTERNATIONAL FUND FOR COMPENSATION FOR OIL POLLUTION DAMAGE (FUND 1971)

accession: Greece 16 December, 1986

ATHENS CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR LUGGAGE BY SEA (PAL 1974)

ratification: Poland 28 January, 1987

In accordance with the provision of its Article 24, this Convention will enter into force on 28 April, 1987.

Cet instrument d'adhésion est accompagné de la réserve suivante :

" Le Royaume du Maroc adhère à la Convention internationale pour l'unification de certaines règles relatives aux privilèges et hypothèques maritimes faite à Bruxelles le 27 mai 1967 sous réserve de la non application de l'article 15 de ladite Convention".

## Conventions OMI

AJOUTES A L'ETAT DES RATIFICATIONS ET ADHESIONS DES CONVENTIONS DE L'OMI EN MATIERE DE DROIT MARITIME PRIVE

CONVENTION INTERNATIONALE SUR LA RESPONSABILITE CIVILE POUR LES DOMMAGES DUS A LA POLLUTION PAR LES HYDROCARBURES (CLC 1969)

adhésion: Pérou 24 février 1987

PROTOCOLE A LA CONVENTION INTERNATIONALE SUR LA RESPONSABILITE CIVILE POUR LES DOMMAGES DUS A LA POLLUTION PAR LES HYDROCARBURES (CLC PROT 1976)

adhésion: Pérou 24 février 1987

CONVENTION INTERNATIONALE PORTANT CREATION D'UN FONDS INTERNATIONAL D'INDEMNISATION POUR LES DOMMAGES DUS A LA POLLUTION PAR LES HYDROCARBURES (FUND 1971)

adhésion: Grèce, 16 décembre 1986

CONVENTION D'ATHENES RELATIVE AU TRANSPORT PAR MER DE PASSAGERS ET DE LEURS BAGAGES (PAL 1974)

ratification: Pologne 28 janvier 1987

Conformément aux dispositions de son article 24, cette Convention entrera en vigueur le 28 avril 1987.

## Personalia

YUGOSLAV MARITIME LAW ASSOCIATION

We have been advised on 13 March, 1987 of the new Board of the Yugoslav Maritime Law Association:

ASSOCIATION YUGOSLAVE DE DROIT MARITIME

En date du 13 mars 1987 nous avons été avisés de la nouvelle composition du Bureau de l'Association Yougoslave de Droit Maritime.

Jugoslavensko Udruženje Za Pomorsko Pravo  
Jadranski institut, Opatička 18, 41000 Zagreb  
Tel. 041.272-323

President: Mr. Miodrag Trajković, Assistant Federal Secretary for Foreign Affairs, Opatička 18, 41000 Zagreb.

Vice-President: Mr. Predrag Stanković, Professor University of Rijeka, 51000 Rijeka, Studentska 2.

Secretaries: Mr. Vojislav Borčić, Professor University of Rijeka, Legal Council of Jadroagent, Trg. 1, Koblera b.b., 51000 Rijeka.  
Mr. Velimir Filipović, Professor University of Zagreb, Trg M. Tita 3, 41000 Zagreb.

Treasurer: Mr. Vinko Hlača, Associate Professor University of Rijeka, Hahlić 6, 51000 Rijeka.

Titulary Members: Messrs. Vojislav Borčić, Vladislav Brajković, Velimir Filipović, Hrvoje Kačić, Emilio Pallua.

## Next Meetings

### THE EXECUTIVE COUNCIL

The next meeting of the Executive Council will be held on Thursday 9 April, 1987 and will start at 19:00 at the Brussels Hilton.

A second meeting is scheduled on Saturday 11 April, 1987 after the termination of the Assembly.

### THE ASSEMBLY

The 1987 regular meeting of the Assembly will be held on Friday 10 and Saturday 11 April, 1987.

The venue will be the Brussels Hilton, Boulevard de Waterloo 38, B-1000 Brussels (Tel:32(2)513.88.77 - Tlx:22744).

Arrangements have been made with the Brussels Hilton for a block reservation of rooms for the delegates at a reduced price.

Hence, when the delegates effect their bookings with the Brussels Hilton, they should mention that they are attending the CMI Assembly meeting.

The Agenda of the meeting is as follows:

1. New Members
2. XXXIVth International Conference of the CMI (Paris 1990)
3. Colloquium at Tulane University
4. Fourth Seminar in China
5. Seminar in Lagos
6. Work in progress :
  - CMI:--Compensation for Damages in Collision cases
  - Sea Waybills
  - Private International Maritime Law
  - Implementation of International Conventions
  - IMO:--Salvage
  - IMO/UNCTAD:-- Maritime Liens, Mortgages and Arrest of Ships.
7. CMI Charitable Trust
8. Report of the Treasurer and accounts of 1986
9. Budget for 1987
10. Contributions of the Member Associations and of the Titulary Members
11. Other matters.

## Subscriptions to CMI Publications

The **NEW ADDRESS** of the editors Almqvist & Wiksell International, The Almqvist & Wiksell Periodical Company is now : P.O.Box 638, S.101 28 Stockholm, Sweden. Telephone and Telex are unchanged; they are: Tel: 23.79.90 - Telex: 12430 Almqwik S.

## Prochaines Réunions

### LE CONSEIL EXECUTIF

La prochaine réunion du Conseil Exécutif se tiendra le jeudi 9 avril 1987 à 19h00 à l'Hôtel Brussels Hilton.

Une seconde réunion est prévue le samedi 11 avril 1987 après la clôture de l'Assemblée.

### L'ASSEMBLEE

La réunion statutaire 1987 de l'Assemblée aura lieu le vendredi 10 et le samedi 11 avril 1987 à l'Hôtel Brussels Hilton, Boulevard de Waterloo 38, B-1000 Bruxelles (Tél: 32(2)513.88.77 - Tlx: 22744).

Un arrangement a été pris avec l'Hôtel Brussels Hilton pour la réservation d'un certain nombre de chambres à prix réduit. Il convient, dès lors, que lorsqu'ils effectuent leurs réservations au Brussels Hilton, les délégués signalent qu'ils assisteront à l'Assemblée du CMI.

L'ordre du jour de la réunion est le suivant :

1. Membres et candidatures
2. XXXIVème Conférence Internationale du CMI (Paris 1990)
3. Colloque à l'Université de Tulane
4. Quatrième Séminaire en Chine
5. Séminaire à Lagos
6. Travaux et études en cours:
  - CMI:--Dommages-Intérêts en matière d'abordage
  - Lettres de transport maritime
  - Droit International Maritime
  - Privé
  - Mise en oeuvre des Conventions Internationales
  - OMI:--Assistance et Sauvetage
  - OMI/CNUCED:--Privilèges et Hypothèques Maritimes et Saisie des navires
7. CMI Charitable Trust
8. Rapport du Trésorier sur les comptes de 1986
9. Budget pour 1987
10. Cotisations des Associations Membres et des Membres Titulaires
11. Divers.

## Abonnements aux Publications du CMI

La **NOUVELLE ADRESSE** de la maison d'édition Almqvist & Wiksell International, The Almqvist & Wiksell Periodical Company, est maintenant P.O.Box 638, S.101 28 Stockholm, Suède. Les numéros de téléphone et de telex sont inchangés; les voici pour rappel: Tel: 23.79.90 - Telex: 12430 Almqwik S.



# CMI NEWS LETTER

*Vigilandum est semper; multae insidiae sunt bonis.*

Spring, 1986

— COMITE MARITIME INTERNATIONAL —

Printemps 1986

QUARTERLY

BULLETIN TRIMESTRIEL

**CMI Assembly 11 April, 1986**

**Assemblée du CMI 11 avril 1986**

Attending - Présents

OFFICERS - MEMBRES DU BUREAU

|   |   |
|---|---|
| President<br>Président  | : Francesco Berlingieri   |
| Honorary Vice-President<br>Vice-Président d'Honneur   | : Kaj Pineus  |
| Vice-Presidents<br>Vice-Présidents  | : William Birch Reynardson<br>: J.Niall McGovern<br>: Dr. Nagendra Singh<br>: Jean Warot        |
| Secretary General Executive<br>Secrétaire Général Exécutif  | : Jan Ramberg   |
| Members of the Executive Council<br>Membres du Conseil Exécutif                                       | : Hrvoje Kačić<br>: Allan Philip<br>: Jan C.Schultsz<br>: Lionel Tricot<br>: Jacques Villeneuve |
| Secretary General Administrative<br>and Treasurer<br>Secrétaire Général Administratif<br>et Trésorier | : Henri voet  |
| Secretariat<br>Secrétariat  | : Miss H.Schrynemakers<br>: Jan De Wacker   |

DELEGATES - DELEGUES

|                |  |
|----------------|--|
| BELGIQUE       | : Lionel Tricot (**)<br>: Jean Coens<br>: Henri Voet Jr. |
| CANADA         | : Prof.William Tetley                                    |
| CZECHOSLOVAKIA | : Bohuslav Klein   |
| DENMARK        | : Allan Philip (**)                                      |

(\*\*) Already mentioned as Member of the Executive Council  
(\*\*) Déjà mentionné comme membre du Conseil Exécutif

|                                 |           |                                   |
|---------------------------------|-----------|-----------------------------------|
| DEUTSCHE DEMOKRATISCHE REPUBLIK | :         | Prof.Ralf Richter                 |
| DEUTSCHLAND BUNDESREPUBLIK      | :         | Georg Röhreke                     |
| FRANCE                          | :         | Pierre Latron                     |
|                                 | :         | Ph.Boisson                        |
|                                 | :         | Alain Tinayre                     |
|                                 | :         | Jacques Villeneuve (**)           |
| INDIA                           | :         | Dr.Nagendra Singh (*)             |
| IRELAND                         | :         | J.Niall McGovern(*)               |
| ITALIA                          | :         | Giorgio Berlingieri               |
| JAPAN                           | :         | Seiichi Ochiai                    |
| KOREA                           | :         | Park, Yong-Sup                    |
| NETHERLANDS                     | :         | Jan C.Schultsz (**)               |
| NIGERIA                         | :         | Fola Sasegbon                     |
| POLAND                          | :         | Prof.Wojciech Adamczak            |
| PORTUGAL                        | :         | Eduardo Enrique Serra Brandão     |
| SUISSE                          | :         | Rudolf Th.Sarasin                 |
|                                 | :         | S. Cueni                          |
| SWEDEN                          | :         | Per Erik Hedborg                  |
|                                 | :         | Claës Palme                       |
| UNITED KINGDOM                  | :         | William Birch Reynardson (*)      |
|                                 | :         | Lloyd Watkins                     |
| U.S.A.                          | :         | Francis J.O'Brien                 |
| U.S.S.R.                        | :         | G.G.Ivanov                        |
|                                 | :         | A.G. Kalpin                       |
| YUGOSLAVIA                      | :         | Hrvoje Kačić (**)                 |
| OBSERVER                        |           |                                   |
| OBSERVATEUR:                    | INDONESIA |                                   |
|                                 | :         | Mrs.Chandra Motik Yusuf Djemat,SH |
|                                 | :         | Mrs.Olga Sujono                   |
|                                 | :         | Mrs. Rini Zmaluddin               |
|                                 | :         | Mrs.Mariam Widodo                 |
|                                 | :         | Mrs.Titik Pudjoko.                |

#### 1. New Members

a) The President informed that applications for membership had been received from the Indonesian Institute of Maritime Law and the Egyptian Maritime Society.

The applications were approved by acclamation. The President particularly addressed himself to the delegates representing the Indonesian Institute of Maritime Law who expressed their gratitude for their Institute having been accepted as Member of the CMI.

b) Upon the suggestion by Dr.Nagendra Singh, the Chairman of the Shipping Corporation of India, Mr.L.Rajwar, was by acclamation nominated Titulary Member of the CMI.

#### 1. Nouveaux Membres

a) Le Président fait part de la candidature en tant qu'Associations Membres, de l'"Institut Indonésien de Droit Maritime" et de la "Société Maritime Egyptienne".

Ces candidatures sont approuvées par acclamations. Le Président s'adresse tout particulièrement aux délégués présents de l'Institut Indonésien de Droit Maritime qui expriment leur gratitude pour l'acceptation de leur Institut en qualité de Membre du CMI.

b) Sur proposition du Dr.Nagendra Singh, le président de la "Shipping Corporation of India" Mr. J.Rajwar a été élu Membre Titulaire du CMI.

---

(\*) Already mentioned as Vice-President  
 (\*) Déjà mentionné comme Vice-Président  
 (\*\*) Already mentioned as member of the Executive Council  
 (\*\*) Déjà mentionné comme membre du Conseil Exécutif

## Co-operation with IMO and UNCTAD

The President reported that the Legal Committee of IMO and the Trade and Development Board of UNCTAD had approved the proposal to convene jointly an inter-governmental group of experts with a task of examining the subject of maritime liens and mortgages, including the possible consideration of :

- a. the review of the maritime liens and mortgages Conventions and related enforcement procedures, such as arrest;
- b. the preparation of model laws or guidelines on maritime liens, mortgages and related enforcement procedures, such as arrest;
- c. the feasibility of an International registry of maritime liens and mortgages.

The Secretariats of IMO and UNCTAD were subsequently requested to prepare the necessary studies and documentation to facilitate the work of the joint working group. Pursuant to such request, the two secretariats decided to appoint six consultants, namely Mrs. Chandra Motik Yusuf Djemat, SH (Indonesia), Mr. Luis Goñi (Spain), J. Domingo Ray (Argentina), Prof. Ralf Richter (DDR), Mr. Fola Sasegbon (Nigeria), and Prof. William Tetley (Canada), providing them with a list of the points on which their views and advice are invited. The intergovernmental group of experts will hold its first meeting in Geneva in Autumn this year.

The Consultants will hold the first meeting in London from 27th to 30th May, 1986.

## Colloquium at Tulane University, New Orleans

The President informed that a CMI Colloquium will take place at Tulane University in New Orleans 9-13 November, 1987.

The theme for the Colloquium will be "Protection against insolvency in maritime law". A Working Group consisting of Professor Jan C. Schultz (Chairman), Professor Jan Ramberg, Mr. Nicholas J. Healy and Mr. Lloyd Watkins has been appointed by the Executive Council with the task of preparing the work programme of the Colloquium.

Professor Schultz reported on the preliminary preparations. It appeared that one of the subjects would be enforcement of mortgages, hypothecs and other registrable charges. Particularly in view of the uncertainties connected with such enforcement other forms of securities were frequently requested by the creditors (such as "formal" ownership of the "creditor" under leasing and bareboat

## 2. Coopération avec OMI et CNUCED

Le Président expose que le Comité Juridique de l'OMI et le Conseil de la CNUCED sur le Commerce et le Développement avaient approuvé la proposition de convoquer ensemble un groupe intergouvernemental d'experts avec mission d'examiner la question des privilèges et hypothèques maritimes en prenant en considération :

- a. un examen des Conventions sur les privilèges et hypothèques maritimes et des mesures d'application qui s'y rapportent telle que la saisie conservatoire;
- b. la préparation de modèles de lois et de règles de conduite applicables aux privilèges et hypothèques maritimes et aux mesures d'application qui s'y rapportent telle que la saisie conservatoire;
- c. la possibilité d'établir un registre international des privilèges et hypothèques maritimes.

En conséquence, les secrétariats de l'OMI et de la CNUCED ont été priés de réunir la documentation et de préparer les études nécessaires afin de faciliter la tâche du groupe de travail collectif. A cet effet, les secrétariats ont décidé de nommer six consultants, à savoir : Mme Chandra Motik Yusuf Djemat, SH (Indonésie) Mr. Luis Goñi (Espagne), Mr. J. Domingo Ray (Argentine) Prof. Ralf Richter (DDR), Mr. Fola Sasegbon (Nigeria) ainsi que le Professeur William Tetley (Canada) et de leur soumettre une liste des points sur lesquels leurs opinions et avis étaient souhaités. Le groupe intergouvernemental d'experts tiendra sa première réunion à Genève durant l'automne de cette année.

Les consultants tiendront leur première réunion à Londres du 27 au 30 mai 1986.

## 3. Colloque à l'Université de Tulane, New Orleans

Le Président signale qu'un Colloque du CMI aura lieu à l'Université de Tulane à New Orleans du 9 au 13 novembre 1987.

Le thème du Colloque sera "La protection contre l'insolvabilité en droit maritime". Un groupe de travail composé du Professeur Jan Schultz (Président), du Professeur Jan Ramberg et de Messieurs Nicholas J. Healy et Lloyd Watkins a été chargé par le Conseil Exécutif de préparer le programme de travail de ce Colloque.

Le Professeur Schultz fait rapport sur les travaux préliminaires. Un des sujets sera l'exécution des créances, hypothèques et autres droits de même nature susceptibles d'être enregistrés. Du fait, en particulier, des incertitudes liées à une telle exécution, d'autres formes de garanties sont fréquemment exigées par les créanciers (telles que la propriété de "forme" du créancier sous l'empire de

## 2. Co-operation with IMO and UNCTAD

The President reported that the Legal Committee of IMO and the Trade and Development Board of UNCTAD had approved the proposal to convene jointly an inter-governmental group of experts with a task of examining the subject of maritime liens and mortgages, including the possible consideration of :

- a. the review of the maritime liens and mortgages Conventions and related enforcement procedures, such as arrest;
- b. the preparation of model laws or guidelines on maritime liens, mortgages and related enforcement procedures, such as arrest;
- c. the feasibility of an International registry of maritime liens and mortgages.

The Secretariats of IMO and UNCTAD were consequently requested to prepare the necessary studies and documentation to facilitate the work of the joint working group. Pursuant to such request, the two Secretariats decided to appoint six consultants, namely Mrs. Chandra Motik Yusuf Djemat, SH (Indonesia), Mr. Luis Goñi (Spain), J. Domingo Ray (Argentina), Prof. Ralf Richter (DDR), Mr. Fola Sasegbon (Nigeria), and Prof. William Tetley (Canada), providing them with a list of the points on which their views and advice were invited. The intergovernmental group of experts will hold its first meeting in Geneva in Autumn this year.

The Consultants will hold the first meeting in London from 27th to 30th May, 1986.

## 3. Colloquium at Tulane University, New Orleans

The President informed that a CMI Colloquium will take place at Tulane University in New Orleans 9-13 November, 1987.

The theme for the Colloquium will be "Protection against insolvency in maritime law". A Working Group consisting of Professor Jan C. Schultz (Chairman), Professor Jan Ramberg, Mr. Nicholas J. Healy and Mr. Lloyd Watkins has been appointed by the Executive Council with the task of preparing the work programme of the Colloquium.

Professor Schultz reported on the preliminary preparations. It appeared that one of the subjects would be enforcement of mortgages, hypothecs and other registrable charges. Particularly in view of the uncertainties connected with such enforcement other forms of securities were frequently requested by the creditors (such as "formal" ownership of the "creditor" under leasing and bareboat

## 2. Coopération avec OMI et CNUCED

Le Président expose que le Comité Juridique de l'OMI et le Conseil de la CNUCED sur le Commerce et le Développement avaient approuvé la proposition de convoquer ensemble un groupe intergouvernemental d'experts avec mission d'examiner la question des privilèges et hypothèques maritimes en prenant en considération :

- a. un examen des Conventions sur les privilèges et hypothèques maritimes et des mesures d'application qui s'y rapportent telle que la saisie conservatoire;
- b. la préparation de modèles de lois et de règles de conduite applicables aux privilèges et hypothèques maritimes et aux mesures d'application qui s'y rapportent telle que la saisie conservatoire;
- c. la possibilité d'établir un registre international des privilèges et hypothèques maritimes.

En conséquence, les secrétariats de l'OMI et de la CNUCED ont été priés de réunir la documentation et de préparer les études nécessaires afin de faciliter la tâche du groupe de travail collectif. A cet effet, les secrétariats ont décidé de nommer six consultants, à savoir: Mme Chandra Motik Yusuf Djemat, SH (Indonésie) Mr. Luis Goñi (Espagne), Mr. J. Domingo Ray (Argentine) Prof. Ralf Richter (DDR), Mr. Fola Sasegbon (Nigeria) ainsi que le Professeur William Tetley (Canada) et de leur soumettre une liste des points sur lesquels leurs opinions et avis étaient souhaités. Le groupe intergouvernemental d'experts tiendra sa première réunion à Genève durant l'automne de cette année.

Les consultants tiendront leur première réunion à Londres du 27 au 30 mai 1986.

## 3. Colloque à l'Université de Tulane, New Orleans

Le Président signale qu'un Colloque du CMI aura lieu à l'Université de Tulane à New Orleans du 9 au 13 novembre 1987.

Le thème du Colloque sera "La protection contre l'insolvabilité en droit maritime". Un groupe de travail composé du Professeur Jan Schultz (Président), du Professeur Jan Ramberg et de Messieurs Nicholas J. Healy et Lloyd Watkins a été chargé par le Conseil Exécutif de préparer le programme de travail de ce Colloque.

Le Professeur Schultz fait rapport sur les travaux préliminaires. Un des sujets sera l'exécution des créances, hypothèques et autres droits de même nature susceptibles d'être enregistrés. Du fait, en particulier, des incertitudes liées à une telle exécution, d'autres formes de garanties sont fréquemment exigées par les créanciers (telles que la propriété de "forme" du créancier sous l'empire de

arrangements, governmental guarantees and other collateral securities). Also, a possible subject might be the position of other interested parties - such as charterers and cargo owners - who frequently suffer financial losses in the case of bankruptcy of the shipowner.

Professor Ramberg underlined that it would be quite impossible to deal exhaustively with the very vast subject chosen as a theme for the Colloquium and that one would have to select a number of problems which have proven to be of major importance. Advance notice of the Colloquium will appear in the next CMI NEWS LETTER and the final invitation to the National Maritime Law Associations not later than November 1986. The facilities at the Tulane University should allow as many as 150 participants.

#### 4. CMI Charitable Trust

Mr. Birch Reynardson reported on the establishment of the CMI Charitable Trust. He referred to the "Trust Instrument" included in the agenda for the Assembly meeting. As trustees had been appointed the President of the CMI, Sir John Donaldson, Mr. Henri Voet, Mr. Niall McGovern and Mr. Birch Reynardson himself. The Fund should be used to sponsor in particular research and study of maritime and commercial law on a comparative basis as well as the publication of the results of such research. A folder inviting contributions to the Fund was being prepared and will shortly be sent to the Maritime Law Associations. Mr. Birch Reynardson appealed to those present at the Assembly meeting to assist in forwarding the appeals for contribution to the Fund in their respective countries. The income on the capital possessed by the Fund would be tax-free. As a preliminary target for contributions the trustees had envisaged the sum of 500.000 £ Sterling. The Fund presently amounted to 30.000 £ Sterling resulting from CMI activities for the benefit of ESCAP in South East Asia.

#### 5. Next International Conference

The President informed that invitations to host the next CMI Conference had been received from the Maritime Law Association of Australia and the French Maritime Law Association. The Chairman of the French Maritime Law Association, Mr. Pierre Latron, addressed the Assembly indicating that the autumn of 1989 and perhaps preferably the spring of 1990 would be suitable dates for the CMI Conference.

Considering that the number of Maritime Law Associations in the Pacific region was still rather limited but envisaged to increase considerably, the delegates deemed it appropriate to accept the invitation from the French Maritime Law

conventions de leasing ou de coque-nue, des garanties gouvernementales ou d'autres garanties collatérales). Un autre sujet pourrait également être la situation d'autres parties intéressées - tels qu'affréteurs et propriétaires de cargaison - qui subissent fréquemment des pertes financières en cas de faillite du propriétaire de navire.

Le Professeur Ramberg souligne qu'il serait impossible de traiter de manière approfondie le sujet très vaste choisi comme thème du Colloque et qu'il conviendrait de sélectionner un nombre de problèmes s'étant démontrés être d'importance primordiale. Un avis préliminaire relatif au Colloque paraîtra dans le prochain CMI NEWS LETTER et une invitation finale aux Associations Membres suivra au plus tard en novembre 1986. Les facilités disponibles à l'Université de Tulane permettent d'envisager 150 participants.

#### 4. CMI Charitable Trust

Mr. Birch Reynardson fait rapport sur l'établissement du "CMI Charitable Trust". Il se réfère au "Trust Instrument" inclus dans l'ordre du jour de l'Assemblée. Ont été désignés comme administrateurs: le Président du CMI, Sir John Donaldson, Mr. Henri Voet, Mr. Niall McGovern et Mr. Birch Reynardson. Le Fonds devrait servir en particulier à aider à la recherche et à l'étude du droit maritime commercial sur base comparative ainsi qu'à la publication des résultats de telles recherches. Un prospectus invitant à des souscriptions au Fonds est en cours de préparation et sera prochainement adressé aux Associations Membres. Mr. Birch Reynardson exhorte ceux présents à l'Assemblée à faciliter la transmission de ces appels à contribuer au Fonds dans leurs pays respectifs. Le revenu du capital détenu par le Fonds n'est pas taxable. Comme premier objectif des contributions, les administrateurs du Fonds envisagent un montant de £.500.000.-. Le Fonds dispose actuellement de £30.000. résultant des activités du CMI en Asie du Sud-Est au profit d'ESCAP.

#### 5. Prochaine Conférence Internationale

Le Président informe que des invitations à accueillir la prochaine Conférence du CMI ont été reçues de l'Association Australienne de Droit Maritime et de l'Association Française du Droit Maritime. Le Président de l'Association Française du Droit Maritime, Mr. Pierre Latron, s'adressant à l'Assemblée, signale que l'automne 1989 et peut être, de préférence, le printemps 1990 seraient des périodes qui conviendraient à la tenue de la Conférence du CMI.

Considérant que le nombre d'Associations de Droit Maritime dans la région du Pacifique est encore assez limité, bien que susceptible de s'accroître considérablement, les délégués à l'Assemblée ont estimé adéquat d'accepter l'invita-

Association to hold the next CMI Conference in Paris which, apart from being easily accessible for delegates from most Maritime Law Associations, was an ideal venue for a Conference. At the same time, the Assembly expressed the hope that the Australian Maritime Law Association would renew its invitation to host the subsequent CMI Conference in Sydney. The Assembly authorized the Executive Council to decide the date of the Conference.

#### 6. Studies in progress

##### a) Assessment of damages in collision cases

The Chairman of the International Subcommittee, Mr. Jean Warot, reported on the present status of the preparatory work. Subsequent to the discussions held at the CMI Lisbon Conference the text of the rules had been further revised. The purpose of the rules would be to permit parties to agree on the application of the rules after a collision had occurred, but also to enable in particular insurers to agree on their application by a voluntary adoption. The rules would not have any binding force in the absence of such agreements. A meeting of the International Subcommittee will take place in the fall of 1986 and a further meeting is envisaged in the spring of 1987.

##### b) Transport documentation for the carriage of goods by sea

Professor Ramberg reminded the delegates that prior to the Lisbon Conference a special Working Group had been instructed to study the subject of "Sea Waybills" but that in connection with the Lisbon Conference the study had been broadened to include transport documentation for the carriage of goods by sea generally.

Mr. Hedborg, on behalf of the Swedish Maritime Law Association, announced that, if so desired, a Colloquium on the subject of Sea Waybills could be arranged in Gothenburg in the fall of 1986 and that such a Colloquium could be arranged simultaneously with a meeting of the International Subcommittee at the same place. He stressed the importance of giving priority to the continued study of "Sea Waybills", since time was of the essence.

Professor Schultz supported the views of Mr. Hedborg indicating that the subject of Sea Waybills was closely connected with the present studies to entirely replace documents by transmitting information to interested parties by electronic means (paperless documentation).

Several delegations, while appreciating the invitation from the Swedish Maritime Law Association, thought that it would be more expedient to have a separate meeting of the International Subcommittee as soon as possible and then to follow-up with a Colloquium later on.

The Chairman of the International Sub-

tion de l'Association Française du Droit Maritime de tenir la prochaine Conférence du CMI à Paris qui, en dehors du fait qu'il est facilement accessible pour la plupart des Associations de Droit Maritime, est un endroit idéal pour tenir une Conférence. En même temps, l'Assemblée a exprimé l'espoir que l'Association Australienne de Droit Maritime renouvellerait son invitation à accueillir la Conférence suivante du CMI à Sydney. L'Assemblée a autorisé le Conseil Exécutif à fixer la date de la Conférence.

#### 6. Etudes en cours

##### a) Fixation des dommages-intérêts en cas d'abordage.

Le Président de la commission internationale, Mr. Jean Warot, fait rapport sur l'état actuel des travaux préparatoires. A la suite des discussions qui eurent lieu lors de la Conférence de Lisbonne du CMI, le texte des règles a été revu. Le but des règles est de permettre aux parties de convenir de leur application après survenance d'un abordage mais également de permettre aux assureurs d'être d'accord de les appliquer en les adoptant volontairement. Les règles n'auraient aucune valeur obligatoire en l'absence de tels accords. Une réunion de la commission internationale aura lieu en automne 1986 tandis qu'une autre réunion est prévue au printemps 1987.

##### b) Documents relatifs au transport de marchandises par mer

Le Professeur Ramberg rappela aux délégués qu'avant la Conférence de Lisbonne un groupe de travail spécial avait été chargé d'étudier le sujet des "Sea Waybills" mais qu'à l'occasion de la Conférence de Lisbonne l'étude avait été étendue aux documents relatifs au transport de marchandises par mer en général.

Au nom de l'Association Suédoise de Droit Maritime, Mr. Hedborg annonça que, si on le désirait, un Colloque relatif aux "Sea Waybills" pourrait être organisé à Gothembourg à l'automne 1986 simultanément et au même endroit avec une réunion de la commission internationale. Il souligna l'importance qu'il y avait à donner la priorité à la continuation de l'étude sur les "Sea Waybills", la question de temps étant essentielle.

Le Professeur Schultz partage l'opinion de Mr. Hedborg. Il indique que le sujet des "Sea Waybills" était étroitement lié aux études actuelles relatives au remplacement de l'entièreté des documents par la transmission électronique de l'information aux parties intéressées (paperless documentation).

Tout en appréciant l'invitation de l'Association Suédoise de Droit Maritime, plusieurs délégations ont considéré qu'il était plus approprié de tenir dès que possible une réunion de la commission internationale et de poursuivre ultérieurement par un Colloque.

Le Président de la commission interna-



committee, Sir Anthony Lloyd, was presently preparing a questionnaire which will be sent to the Maritime Law Associations in the near future.

#### c) Operators of transport terminals(OTTs)

Professor Ramberg reported on the development of this subject since the preliminary CMI study under the title "Liability of Sea Terminals" in 1975. As a result of deliberations under the auspices of UNIDROIT a draft text to an international convention had been referred to UNCITRAL. At the last meeting in New York, in the beginning of January 1986, the CMI was represented by Mr. Nicholas J. Healy as observer. It appeared that no independent work by the CMI was required for the time being.

#### d) Towage

Mr. Palme reported on the subject of Towage informing that a standard form ("Towhire") for international ocean towage agreements had now been prepared by BIMCO. Although the CMI as such had not elaborated the draft texts, Mr. Palme considered that the CMI initiative to study the matter had contributed to this final result.

It was suggested that the possibility to establish standard conditions or rules for towage in seaports could be studied. Professor Ramberg deemed that, for the time being, such a study would not be appropriate considering the difficulties to obtain acceptance from the parties involved which included municipalities and governmental authorities in seaports all over the world.

#### e) Private International Maritime Law

The President reported on the subject in the absence of the Chairman of the International Subcommittee, Dr. Walter Müller. The President had made a synopsis on the basis of the replies submitted by 13 Maritime Law Associations. This synopsis will now be sent to the other Maritime Law Associations in the hope that it will assist and inspire them to submit their replies. The subject was of great practical importance and should therefore be of interest to every practitioner of maritime law. It might be difficult to reach agreement on an international convention on the subject considering the varying circumstances in the whole field of maritime law. But the result of the study would nevertheless be of great value. Professor Ramberg suggested that the study could be published in the "Series of CMI Studies in Maritime Law".

#### f) General Average

The study of General Average, as originally envisaged, should concentrate on the impact of the changed risk allocation under the Hamburg Rules on General Ave-

tionale, Sir Anthony Lloyd, prépare actuellement un questionnaire qui sera adressé dans un tout prochain avenir aux Associations de Droit Maritime.

#### c) Opérateurs de Terminaux de Transport (OTTs)

Le Professeur Ramberg fait rapport sur le développement de ce sujet depuis l'étude préliminaire du CMI sous le titre de "Liability of Sea Terminals" en 1975. A la suite de délibérations sous les auspices de UNIDROIT, le texte d'un projet de convention internationale a été soumis à CNUDCI. Lors de la dernière réunion à New York au début de janvier 1986, le CMI était représenté par Mr. Nicholas J. Healy en qualité d'observateur. Il apparaît qu'à l'heure actuelle aucun travail indépendant de la part du CMI n'était requis.

#### d) Remorquage

Mr. Palme fit rapport sur la question du Remorquage en informant qu'une formule standard pour les conventions de remorquage océanique international avait été préparé par BIMCO. Bien que le CMI n'ait pas élaboré les projets de textes, Mr. Palme considère que l'initiative du CMI d'étudier le sujet avait contribué à ce résultat final.

Il a été suggéré d'étudier la possibilité d'établir des conditions ou règles standards pour le remorquage dans les ports maritimes. Le Professeur Ramberg estima, qu'à l'heure actuelle, une telle étude ne serait pas appropriée, compte tenu des difficultés qu'il y aurait à obtenir l'accord des parties impliquées, lesquelles comprennent les autorités municipales et gouvernementales dans les ports maritimes du monde entier.

#### e) Droit International Maritime Privé

Le Président fait rapport sur ce sujet en l'absence de Dr. Walter Müller, Président de la commission internationale. Le Président a établi un résumé des réponses fournies par 13 Associations de Droit Maritime. Ce résumé sera maintenant envoyé aux autres Associations

Membres dans l'espoir que cela les assiste et les incite à soumettre leurs propres réponses. Le sujet a une grande importance et devrait, dès lors, être d'un intérêt considérable pour chaque praticien du droit maritime. Il peut être difficile d'atteindre un accord sur une convention internationale sur le sujet, si l'on tient compte des circonstances variables dans le domaine du droit maritime, mais le résultat de l'étude pourrait néanmoins être de grande utilité. Le Professeur Ramberg suggère que l'étude soit publiée dans la série des "Etudes du CMI en matière de Droit Maritime".

#### f) Avarie Commune

Telle qu'envisagée à l'origine, l'étude sur l'avarie commune devait être concentrée sur l'impact sur l'avarie commune du changement de la répartition des ris-

rage. Presently, the work on the subject was kept in suspense. Mr. Watkins reported that the innovation contained in the CMI Montreal draft on Salvage, the enhancement of the salvage award as a result of measures taken to prevent damage to the environment, would also influence the distribution of costs in general average, since hull- and cargo insurers could possibly take the view that any such increase of the salvage remuneration would fall outside their cover. Therefore, it might be appropriate for the CMI to further study how this would influence distribution of costs in general average. The President suggested that the CMI should defer any such study until a text had been finally approved by IMO's Legal Committee.

#### g) Change of economic circumstances

Professor Ramberg informed that the subject of changed economic circumstances in maritime contracts was suggested in 1974 the purpose being to study the great number of clauses in maritime contracts (bills of lading, charter parties, shipbuilding contracts) dealing with this matter. He also informed that the International Chamber of Commerce recently had published a booklet on force majeure and hardship clauses in order to assist contracting parties in drafting these important provisions. However, as a matter of policy, the CMI should perhaps not assume the prime responsibility for contract forms and clauses, since these were taken care of by other organizations, such as BIMCO and the General Council of British Shipping. His suggestion that the subject be removed from the CMI agenda was therefore adopted.

As new possible studies were mentioned

- 1) "Damage by cargo" upon the suggestion by The Maritime Law Association of the United States.
- 2) "Implementation of international maritime conventions" upon the suggestion of the President.
- 3) A second edition of the CMI Study on Shipbuilding Contracts which should also include Repair Contracts, upon the suggestion of the President.

Professor Ramberg suggested, with respect to the study on damage by cargo that in view of the vast field covered by the subject and its relation to the draft Convention on Hazardous and Noxious Substances (HNS) presently under continued study in IMO, the CMI should try to define the scope of any such study more clearly.

ques sous l'empire des Règles de Hambourg. Actuellement, le travail sur ce sujet est tenu en suspens. Mr. Watkins indique que l'innovation contenue dans le projet CMI de Montreal sur l'Assistance, à savoir l'accroissement de la rémunération pour l'assistance résultant des mesures prises pour prévenir les dommages à l'environnement, influencera également la répartition des frais en avarie commune, les assureurs corps et cargaison pouvant éventuellement considérer qu'un tel accroissement de la rémunération pour l'assistance tomberait hors du cadre de leur couverture. Dès lors il pourrait être indiqué que le CMI étudie plus avant dans quelle mesure ceci pourrait influencer la répartition des frais en avarie commune. Le Président émet la suggestion que le CMI diffère une telle étude jusqu'à ce qu'un texte ait été finalement approuvé par le Comité Juridique de l'OMI.

#### g) Changement des circonstances économiques

Le Professeur Ramberg rappela que le sujet du changement des circonstances économiques dans les contrats maritimes avait été soulevé en 1974, le but étant d'étudier le grand nombre de clauses dans les contrats maritimes (connaissances, chartes-parties, contrats de construction de navires) traitant de cette question. Il informa également que la Chambre de Commerce Internationale avait publié récemment une brochure sur la force majeure et les "hardship clauses" de manière à assister les parties contractantes à formuler ces importantes stipulations. Cependant, par mesure de bonne politique, le CMI ne devrait peut-être pas assumer la responsabilité primaire de rédiger des formules et des clauses, puisque d'autres organisations s'en chargeraient, tels que BIMCO et le General Council of British Shipping. Sa suggestion de retirer ce sujet de l'ordre du jour du CMIfut dès lors adoptée.

Furent mentionnées comme nouvelles études possibles :

- 1) "Dommages causés par la cargaison" à la suggestion de l'Association de Droit Maritime des Etats-Unis.
- 2) "Mise en application des conventions maritimes internationales" à la suggestion du Président.
- 3) Une seconde édition de "Etude du CMI sur les contrats de construction de navires" qui devrait comprendre également les Contrats de Réparation, et ce à la suggestion du Président.

En ce qui concerne l'étude sur les dommages causés par la cargaison, le Professeur Ramberg suggéra qu'en considération du vaste domaine couvert par ce sujet et de sa relation avec le projet de Convention sur les substances nocives et dangereuses (HNS), présentement à l'étude à l'OMI, le CMI essaie de définir plus clairement la portée de pareille étude.

With respect to the subject of implementation of international maritime conventions, the President informed that the different methods used by different countries deserved further scrutiny so as to ensure a real unification of the law. The Assembly, underlining the importance of the subject, unanimously decided to include it in the CMI work programme.

The suggestion to publish a second edition of the CMI Study on Shipbuilding Contracts, also including Repair Contracts, met with general approval.

#### 7. Accounts for 1985

The Treasurer reported on the balance sheet as of 31 December, 1985 and on the profit and loss account for the year 1985; these papers had been circulated to the Presidents of the Member Associations by letter dated 29 January, 1986. He also mentioned that the expenses in relation with the Lisboa Conference had, for the major part, been met by the Conference fees.

The Assembly granted with thanks release to the Treasurer.

#### 8. Budget for 1986

The Treasurer introduced the budget for the year 1986. His proposals were received and approved by the Assembly.

#### 9. Contributions to the CMI for 1986

Upon the proposal of the Treasurer, the contributions of the Member Associations and of the Titulary Members to the CMI for the year 1986 were fixed at the same amounts as for the year 1985.

The amount of the basic yearly contribution of the new Member Associations will be fixed in agreement and after consultation with their President.

#### 10. Other matters

The President, addressing himself to Claës Palme, the brother of the former Prime Minister of Sweden Olof Palme who was brutally assassinated on the 28th February, 1986, expressed his deep regret for this tragic event.

Mr. Tricot expressed on behalf of all Delegates his sincere thanks to the President not only for his devoted and efficient work for the CMI but also for the excellent way in which he had conducted the meeting of the Assembly.

A propos de la mise en vigueur des conventions maritimes internationales, le Président souligna que l'application par les états de différentes méthodes justifiait un examen minutieux de manière à assurer une réelle unification du droit. En soulignant l'importance du sujet, l'Assemblée décida à l'unanimité de l'inclure dans le programme de travail du CMI.

La suggestion de publier une seconde édition de l'étude du CMI sur les contrats de constructions de navires y compris les contrats de réparation rencontra l'approbation générale.

#### 7. Comptes pour 1985

Le trésorier commenta le bilan arrêté au 31 décembre 1985 et le compte de profits et pertes se rapportant à l'année 1985; ces documents avaient été envoyés aux Présidents des Associations Membres par lettre circulaire du 29 janvier 1986. Il mentionna également que les dépenses en relation avec la Conférence de Lisbonne avaient, pour la plus grande partie, été couvertes par les droits d'inscription à cette Conférence.

L'Assemblée accorda, avec remerciements, au trésorier décharge de sa gestion.

#### 8. Budget pour 1986

Le trésorier présenta le projet de budget pour l'année 1986. L'Assemblée prit note de ses propositions et les accepta.

#### 9. Cotisations au C.M.I. pour 1986

Sur proposition du trésorier les cotisations des Associations Membres et des Membres Titulaires en faveur du CMI pour l'année 1986 furent fixées aux mêmes montants que ceux en vigueur en 1985.

Le montant de la cotisation annuelle de base des nouvelles Associations Membres sera fixé en accord avec et après consultation de leur Président.

#### 10. Divers

S'adressant à Mr. Claës Palme, frère du défunt Premier Ministre de Suède Olof Palme, qui fut brutalement assassiné le 28 février 1986, le Président exprima son profond regret pour cet événement tragique.

Monsieur Tricot exprima au nom de tous les délégués ses sincères remerciements au Président non seulement pour son dévouement et son activité si efficiente pour le CMI, mais également pour l'excellente façon dont il avait dirigé les débats de l'Assemblée.

## **IMO and UNCTAD establish jointly an Intergovernmental group of experts to examine the subject of Maritime Liens and Mortgages**

After the Draft Revisions of the 1967 Brussels Convention on Maritime Liens and Mortgages and the Draft Revision of the 1952 Brussels Convention on Arrest of Ships approved by the Lisbon Conference of the CMI have been submitted to IMO and UNCTAD, the two Organizations, who have both had these subjects in their working programme, considered the manner in which to continue jointly the study on such subjects and on other topics related thereto.

The question was discussed at the eleventh session of the UNCTAD Working Group on International Shipping Legislation held in October 1985 and a resolution was adopted proposing the establishment by IMO and UNCTAD of a joint intergovernmental group of experts to examine the subject of maritime liens and mortgages, including the possible consideration of:

- (a) the review of the maritime liens and mortgages conventions and related enforcement procedures, such as arrest ;
- (b) the preparation of model laws or guidelines on maritime liens, mortgages and related enforcement procedures, such as arrest ;
- (c) the feasibility of an international registry of maritime liens and mortgages.

The resolution also requested the Secretariats of UNCTAD and IMO to prepare the necessary studies and documentation to facilitate the work of the joint group at its 13th extraordinary session in November 1985. The Council of IMO noted the recommendations of the UNCTAD Working Group on International Shipping Legislation, and decided to postpone a final decision on the subject pending receipt of the views and recommendations of the Legal Committee.

The resolution of the Working Group was considered by the Trade and Development Board of UNCTAD at its 32nd session held from 10th to 21st March, 1986. The Trade and Development Board took note of and endorsed the resolution.

The recommendations of the UNCTAD Working Group were subsequently considered by the Legal Committee of IMO at its 50th session held from 7th to 11th April, 1986 and were approved unanimously.

The CMI welcomes this decision and expresses the sincere hope that the work on these important subjects may continue in the most efficient and profitable manner.

Prof. Francesco Berlingieri  
President of the C.M.I.

## **OMI et CNUCED forment conjointement un groupe inter-gouvernemental d'experts pour examiner le sujet des Privilèges et Hypothèques Maritimes.**

Après avoir eu communication par le CMI des projets de révisions de la Convention de Bruxelles de 1967 sur les Privilèges et Hypothèques Maritimes et de celle de 1952 sur la Saisie des Navires, projets qui avaient été approuvés par la Conférence de Lisbonne du CMI, les Organisations OMI et CNUCED - ayant ces sujets inclus dans leur programme de travail - ont considéré la façon dont il y a lieu de poursuivre conjointement l'étude de ces sujets ainsi que d'autres sujets qui y sont liés.

La question fut discutée lors de la onzième session du Groupe de Travail de CNUCED sur "International Shipping Legislation" tenue en octobre 1985. Une résolution fut adoptée proposant la formation par OMI et CNUCED d'un groupe mixte inter-gouvernemental d'experts avec mission d'examiner le sujet des privilèges et hypothèques maritimes, y compris les moyens possibles pour envisager :

- (a) la révision des conventions sur les privilèges et hypothèques maritimes et leurs procédures d'exécution, telle que la saisie ;
- (b) la préparation de lois modèles ou de directives sur les privilèges, les hypothèques maritimes et les procédures d'exécution qui s'y rapportent, tel que la saisie ;
- (c) la constitution d'un registre international des privilèges et hypothèques maritimes.

Par cette résolution les Secrétariats de CNUCED et de OMI furent également requis de préparer les études et la documentation nécessaires à faciliter le travail du groupe mixte lors de sa 13ème session extraordinaire de novembre 1985. Le Conseil de OMI a noté les recommandations du groupe de travail de CNUCED sur l'"International Shipping Legislation" et a décidé de remettre la décision finale à ce sujet dans l'attente des vues et recommandations du Comité Juridique.

La résolution du groupe de travail fut étudiée par le Conseil du Commerce et du Développement de CNUCED lors de sa 32ème session tenue du 10 au 21 mars 1986. Le Conseil du Commerce et du Développement a pris note de la résolution et lui a donné son aval.

Les recommandations du groupe de travail de CNUCED furent ensuite examinées par le Comité Juridique de OMI lors de sa 50ème session, tenue du 7 au 11 avril 1986. Elles furent approuvées à l'unanimité.

Le CMI applaudit cette décision et exprime le sincère espoir que les travaux concernant ces sujets importants puissent se poursuivre de la façon la plus efficace et la plus avantageuse.

Prof. Francesco Berlingieri  
Président du C.M.I.

## **The Montreal Draft Salvage Convention**

### **The work of the Legal Committee of IMO at its 56th session**

During its 56th session held from 7th to 11th April 1986, the Legal Committee of IMO continued the third reading of the CMI Montreal Draft.

#### Scope of Application (Art.2 Paragraph 2, formerly Art.1-2).

##### Sub-paragraph c.

The suggestion was made to exclude warships only when salvage operations are rendered to them, thereby entitling warships who render salvage services to a reward under the Convention. Alternatively, it was suggested to include warships entirely and to allow Contracting States to exclude them. It was agreed to re-examine these questions at the 4th reading.

##### Sub-paragraph d.

During the Committee's 55th meeting the definition of "vessel" in Art.1, sub-paragraph b, had been discussed and it had been agreed that the words "or sunk" should remain in brackets in the definition. As a consequence, the suggestion was made to delete sub-paragraph d. of Art.2, paragraph 2. It was agreed to consider the matter again at the 4th reading in connection with the definition of "vessel".

##### Sub-paragraph e.

The Committee agreed to reword this exclusion from the scope of application as follows :

"Whenever the property is permanently attached to the seabed for hydrocarbon production, storage and transportation systems ".

#### Salvage Operations Controlled by Public Authorities (Art.3, formerly art.1-3).

Paragraph 1 was accepted. Doubts were raised in respect of Paragraphs 2 and 3, in respect of the rights of salvors and public authorities. It was agreed to place both paragraphs in square brackets.

#### Duty of the Owner and Master (Art.6, formerly Art. 2-1).

It was suggested that Paragraphs 1 and 2 should be made compulsory. Another suggestion was made to reword the article so that it should provide that the duties were to be considered as duties between the salvor and the Owner or Master of the property in danger and vice-versa.

#### Duties of the Salvor (Art. 7, formerly Art.2-2).

It was questioned whether it was proper to use both the words "best endeavours" and "due care" in the first sentence of Paragraph 1. It was, however, pointed out that they mean different things, and that it is correct to state that the salvor shall use his best endeavours, which include employment of all means available in the performance of the salvage operations, and to state that the salvor shall carry out the operations with due care. It was also pointed out that the former is a subjective criterium, the latter an objective one. Finally, it was suggested that some language should be adopted in order to protect non-professional salvors.

It was then suggested to add a fourth paragraph in order to provide that the salvor has the duty, to the extent practicable, to consult and co-operate with the Owner and the master during the course of the salvage operations. The suggestion was accepted.

Co-operation of Contracting States (Art.9, formerly Art.2-4).

The suggestion to provide further duties of Contracting States was not retained. It was pointed out that the text adopted by the CMI was very carefully drafted, and that it should not be changed.

Duty to Render Assistance (Art.8, formerly Art. 2-3).

It was pointed out that this provision is not required at present, since the duty to render assistance is part of international customary law. It was added that such duty, in different words, is also provided in other conventions. It was objected by others that the Salvage Convention of 1910 had been the first to provide this duty, and that there was no reason to delete the provision. A final decision was left to the Diplomatic Conference.

Amount of the Reward (Art.11, formerly Art. 3-2).

The provisions on the amount of the reward and on the special compensation are the heart of the draft and embody the commercial compromise reached in Montreal, reference to which has been made in the Status Report on the work in the Legal Committee of IMO by Bent Nielsen, published in the Winter issue of 1985 CMI NEWS LETTER. A statement was made by IUMI at the 56th session in which it was mentioned, inter alia, that an explanatory letter outlining the details of the Convention had been sent to all member organizations, and that of the replies received which account for approximately 35% of member organizations, there was a distinct majority in favour of accepting the compromise, but one major insurance market had categorically declined to do so. The statement then enumerated the points which had caused concern to some insurers. These points included a criticism of the inability or reluctance of arbitrators to give a separate figure for the so-called "enhancement" and the injustice of the "innocent" cargo contributing to an award as a result of dangerous cargo being shipped at the same time. A statement was then made on behalf of the International Group of P. & I. Clubs, wherein it was firstly pointed out that although the statement of IUMI contained certain reservations, the International Group of P. & I. Clubs regarded it as an expression of substantial support for the compromise contained in the Montreal Draft. It was added that it was a commercial compromise and that it would, therefore, be unrealistic to expect unanimous support, and that there was sufficient support in the view of the International Group of P. & I. Clubs for them to continue with their part of the bargain, the so-called safety net, which is provided in Article 12. It was then stated that the reservations which had been expressed are based on misconceptions and the reasons of this statement were given in detail.

The President of the CMI, in his turn, pointed out that it had always been the tradition of the CMI to find equitable solutions to controversial problems involving economic interests, and this had been done in Montreal. He added that a compromise cannot satisfy everybody, and that what was important was that the solution adopted be legally satisfactory, commercially workable and clear. The CMI was convinced that the Montreal Compromise had these characteristics, and, therefore, urged that it should be maintained.

The Chairman of the Legal Committee agreed with these remarks and pointed out that after the views of the industry had been considered, it was the responsibility of the governments to make a decision, and he, therefore, invited the delegates to express their views on Article 11 and then on Article 12.

It was discussed whether or not the list of considerations should be exhaustive. In order to avoid that the list might be considered exhaustive, it was proposed to insert in the opening sentence the words "amongst others". After the observer from the CMI had pointed out that it would be un-



wise to seek uniformity on this question in view of the different attitudes adopted in the States parties in the 1910 Convention, it was decided to leave the proposal for further examination.

The only consideration which was discussed was that in Paragraph b), viz., "the skill and efforts of the salvors in preventing or minimizing damage to the environment". A French proposal to delete this consideration from the list, and to provide separately for the reward payable to the salvors who had prevented or reduced damage to the environment was not retained, and a substantial majority favoured the Montreal text. A proposal was made by the International Chamber of Shipping to expressly provide in Article 11 that the reward should be paid by the owners of the property salvaged in proportion to its value. After the objection that under the laws of some States, the Owner of the vessel was primarily responsible for the whole of the salvage remuneration, it was agreed that a formula should be sought in order not to affect this domestic rule.

#### Special Compensation (Art. 12, formerly Art. 3-3).

As previously stated, a proposal had been made by the French delegation to the effect that an entirely separate compensation, independent from the ordinary salvage reward, should be provided in favour of the salvor, who, when rendering salvage services, has carried out specific preventive measures to protect the environment. The French proposal is inspired to the Montreal Draft in that it provides that the Salvor is always entitled to the reimbursement of his reasonable expenditure, but, as regards the ceiling of the compensation, it relates such ceiling not to the expenditure, but to the value of the property salvaged prior to the occurrence, i.e., to its sound value.

After many delegations had repeated their opinion that the provisions on special compensation should be kept as close to the CMI draft as possible, the Committee decided that the French proposal should not be inserted in the draft text.

The Committee then discussed the proposal by OCIMF that Article 12 should contain two additional clauses, the first one of which to the effect that any enhancement of a reward or the special compensation shall be for the account of the Owner, and not subject to general average apportionment; the second one of which to the effect that the officers and crew of the salvaging vessel shall not be entitled to any special compensation. It was, however, pointed out that these provisions should rather be inserted in the York-Antwerp Rules and the Committee decided that the proposal by OCIMF had not received the support necessary for inclusion in the draft text.

The Committee then discussed the proposal of the Federal Republic of Germany to add an additional paragraph 4, providing that the special compensation would be paid only if and to the extent that it is greater than any reward recoverable by the salvor under Article 11, less an amount of 5 per cent of the value of the property salvaged. The proposal, according to the explanations given by the German Delegation, was intended to insure that the salvor who succeeded both in salvaging property and in preventing or minimizing damage to the environment would not be awarded compensation in an amount no greater than the salvor who had not succeeded in salvaging property, but had prevented damage to the environment. The Committee decided to consider further this proposal and to postpone a decision to the 57th Session.

As regards the ceiling of the special compensation, Intertanko pointed out that 100% of the expenses was too high a figure. The Committee decided to leave the matter to the diplomatic conference and to retain the word "doubled" in brackets.

The delegation of the Netherlands pointed out that Article 12 did not cover the situation of a salvor who, after having been requested to render salvage service, does not find any vessel upon his arrival on the scene, but is able

to prevent or minimize damage to the environment. The insertion of an additional paragraph in Article 12 was, therefore, suggested by the delegation of the Netherlands. The Committee agreed that this proposal should be given further consideration.

#### Apportionment between Salvors (Art.13, formerly Art. 3-4).

A proposal of ISU aiming at regulating the apportionment of the reward between the Salvor and his servants and agents, and between the salvor and his sub-contractors was also considered by the Committee which agreed that further study should be given to it.

The Legal Committee concluded its 3rd reading of the draft article with Article 13. The 3rd reading will be completed during the 57th Session of the Legal Committee which will be held from 27-31 October 1986. It is expected that during the same session a 4th and last reading will also take place.

Prof.Francesco Berlingieri  
President of the C.M.I.

Bent Nielsen,  
Copenhagen.

## Private International Maritime Law

Answers to the Questionnaire prepared by the Chairman of the International Subcommittee on Private International Maritime Law, circulated amongst the National Associations on 31st August, 1983, (Doc. PRIMARLAW - 1/VIII-83) have been received by the National Associations of :  
- Argentina - Australia - Bulgaria - Czechoslovakia - Federal Republic of Germany - German Democratic Republic - Greece - Italy - Japan - Portugal - Spain - United Kingdom and United States.

A synopsis of the answers received so far has been prepared and has been sent to all National Associations. It is hoped that the Associations who have not replied will do so in the near future.

## Droit International Privé Maritime

Des réponses au questionnaire rédigé par le président de la commission internationale sur le Droit International Privé Maritime et circulé parmi les Associations Nationales le 31 août 1983, (Doc. PRIMARLAW-1/VIII-83) ont été reçues de la part des Associations Nationales des pays suivants :  
Argentine - Australie - Bulgarie - Espagne - Etats Unis - Grèce - Italie - Japon - Portugal - République Démocratique Allemande - République Fédérale d'Allemagne - Royaume Uni - Tchécoslovaquie.

Un sommaire des réponses reçues jusqu'à présent a été envoyé à toutes les Associations Nationales. On peut espérer que les Associations qui n'ont pas répondu le feront prochainement.

## Brussels Conventions

RIDERS TO THE STATEMENT OF THE RATIFICATIONS OF AND ACCESSIONS TO THE BRUSSELS INTERNATIONAL MARITIME LAW CONVENTIONS

### ACCESSION BY POLAND

On 14 March 1986 was registered with the Ministère des Affaires Etrangères, du Commerce Extérieur et de la Coopération au Développement de Belgique, the instrument of accession by Poland relating to the

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO CIVIL JURISDICTION IN MATTERS OF COLLISION DONE AT BRUSSELS ON 10 MAY 1952.

## Conventions de Bruxelles

AJOUTES A L'ETAT DES RATIFICATIONS ET ADHESIONS DES CONVENTIONS INTERNATIONALES DE DROIT MARITIME DE BRUXELLES

### ADHESION PAR LA POLOGNE

Le 14 mars 1986 a été déposé au Ministère des Affaires Etrangères, du Commerce Extérieur et de la Coopération au Développement de Belgique, l'instrument d'adhésion de la Pologne concernant la :

CONVENTION INTERNATIONALE POUR L'UNIFICATION DE CERTAINES REGLES RELATIVES A LA COMPETENCE CIVILE EN MATIERE D'ABORDAGE SIGNEE A BRUXELLES LE 10 MAI 1952.

In accordance with the provisions of Article 13 of the Convention, it will enter into force as regards Poland on 14 December, 1986.

#### RATIFICATION BY THE NETHERLANDS

On 18 February, 1986 was registered with the Ministère des Affaires Etrangères, du Commerce Extérieur et de la Coopération au Développement de Belgique, the instrument of ratification by the Kingdom of the Netherlands, for the Kingdom in Europe, relating to the

PROTOCOL, DONE AT BRUSSELS ON 21 DECEMBER 1979, TO AMEND THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO BILLS OF LADING OF 25 AUGUST 1924 AS MODIFIED BY THE AMENDING PROTOCOL OF 23rd FEBRUARY, 1968.

In accordance with the provision of its Article VIII(a) this Protocol will enter into force as regards The Kingdom of the Netherlands on 18 May, 1986.

### IMO Conventions

#### CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS (LLMC 1976)

At 30 April, 1986 the following countries have ratified, approved or acceded to this Convention :

|                |            |                  |
|----------------|------------|------------------|
| Bahamas        | (a)        | 7 June 1983      |
| Benin          | (a)        | 1 November 1985  |
| Denmark        | (r)        | 30 May 1984      |
| Finland        | (r)        | 8 May 1984       |
| France         | (approval) | 1 July 1981      |
| Japan          | (a)        | 4 June 1982      |
| Liberia        | (a)        | 17 February 1981 |
| Norway         | (r)        | 30 March 1984    |
| Poland         | (a)        | 28 April 1986    |
| Spain          | (r)        | 13 November 1981 |
| Sweden         | (r)        | 30 March 1984    |
| United Kingdom | (r)        | 31 January 1980  |
| Yemen          | (a)        | 6 March 1979     |

In accordance with the provisions of its Article 17, this Convention will enter into force on 1 December, 1986.

### Next meetings

The next meeting of the Executive Council will take place on 29 September, 1986 at 9.30 a.m. The venue will be the offices of Messrs. Thomas R. Miller & Son in London.

Conformément aux dispositions de l'article 13 de la Convention, celle-ci entrera en vigueur à l'égard de la Pologne, le 14 décembre 1986.

#### RATIFICATION PAR LES PAYS-BAS

Le 18 février 1986 a été déposé au Ministère des Affaires Etrangères, du Commerce Extérieur et de la Coopération au Développement de Belgique, l'instrument de ratification du Royaume des Pays-Bas, pour le Royaume en Europe, relatif au

PROTOCOLE FAIT A BRUXELLES LE 21 DECEMBRE 1979, PORTANT MODIFICATION DE LA CONVENTION INTERNATIONALE POUR L'UNIFICATION DE CERTAINES REGLES EN MATIERE DE CONNAISSEMENT DU 25 AOÛT 1924, TELLE QU'AMENDEE PAR LE PROTOCOLE DE MODIFICATION DU 23 FEVRIER 1968.

Conformément aux dispositions de son article VIII(a), ce Protocole entrera en vigueur à l'égard du Royaume des Pays-Bas le 18 mai 1986.

### Conventions OMI

#### CONVENTION SUR LA LIMITATION DE LA RESPONSABILITE EN MATIERE DE CREANCES MARITIMES (LLMC 1976)

Au 30 avril 1986 les pays suivants avaient ratifié ou approuvé la Convention ou y avaient adhéré.

|            |                  |
|------------|------------------|
| (a)        | 7 June 1983      |
| (a)        | 1 November 1985  |
| (r)        | 30 May 1984      |
| (r)        | 8 May 1984       |
| (approval) | 1 July 1981      |
| (a)        | 4 June 1982      |
| (a)        | 17 February 1981 |
| (r)        | 30 March 1984    |
| (a)        | 28 April 1986    |
| (r)        | 13 November 1981 |
| (r)        | 30 March 1984    |
| (r)        | 31 January 1980  |
| (a)        | 6 March 1979     |

Conformément aux dispositions de son Article 17, cette Convention entrera en vigueur le 1er décembre 1986.

### Prochaines réunions

La prochaine réunion du Conseil Exécutif aura lieu le 29 septembre 1986 à 9h30 dans les bureaux de Messieurs Thomas R. Miller & Son à Londres.

## CMI Publications

## Publications du CMI

The following publications are available from the Administrative Secretariat of the C.M.I. c/o Messrs. Henry Voet-Genicot, Borzestraat 17 - B.2000 Antwerpen - Belgium :

Les publications ci-dessous sont disponibles au Secrétariat Administratif du C.M.I. c/o Firme Henry Voet-Genicot, Borzestraat 17 - B.2000 Antwerpen - Belgique :

### A. CONFERENCE DIPLOMATIQUE DE DROIT MARITIME DE BRUXELLES

1. 9ème session - Bruxelles 1952
2. 10ème session - Bruxelles 1957
3. 11ème session - (1ère phase)-Bruxelles 1961
4. 11ème session - (2ème phase)-Bruxelles 1962
5. 12ème session - (1ère phase)-Bruxelles 1967
6. 12ème session - (2ème phase)-Bruxelles 1968

L'exemplaire / per copy : US\$ 30.00

### B. PROCES-VERBAUX DES CONFERENCES DU C.M.I. MINUTES OF THE C.M.I. CONFERENCES

1. Anvers/Antwerp 1947 (20)
2. Amsterdam 1949 (21)
3. Naples 1951 (22)
4. Madrid 1955 (23)
5. Rijeka 1959 (24)
6. Athènes/Athens 1962 (25)
7. Stockholm 1963 (26)
8. New York 1965 (27)

L'exemplaire / per copy : US\$ 20.00

9. Tokyo 1969 (28) (7 fascicules - 7 booklets)
10. Hambourg/Hamburg 1974 (30) (2 fascicules - 2 booklets)
11. Rio de Janeiro 1977 (31) épuisé - out of print.

Par fascicule / per booklet : US\$ 5.00

- |                   |      |             |                |
|-------------------|------|-------------|----------------|
| 12. Montreal 1981 | (32) | MONTREAL I  | - : US\$ 15.00 |
|                   |      | MONTREAL II | - : US\$ 15.00 |
| 13. Lisboa 1985   | (33) | LISBOA I    | - : US\$ 15.00 |
|                   |      | LISBOA II   | - : US\$ 15.00 |

### C. DOCUMENTATION CMI

1. Documentation CMI 1968 (6 fascicules - 6 booklets)
2. Documentation CMI 1969 (6 fascicules - 6 booklets)
3. Documentation CMI 1970 (6 fascicules - 6 booklets)
4. Documentation CMI 1971 (6 fascicules - 6 booklets)
5. Documentation CMI 1972 (3 fascicules - 3 booklets)
6. Documentation CMI 1973 - épuisé - out of print -
7. Documentation CMI 1974 (4 fascicules - 4 booklets)
8. Documentation CMI 1975 (4 fascicules - 4 booklets)
9. Documentation CMI 1976 (4 fascicules - 4 booklets)

Par jeu de fascicules - Per annual set : US\$.30.00

### D. CMI NEWS LETTER & ANNUAIRE/YEARBOOK

1. 1978
2. 1979 (février: épuisé - February: out of print)
3. 1980
4. 1981
5. 1982 (décembre: épuisé - December: out of print)
6. 1983

Série annuelle complète - Full yearly set : US\$.15.00

7. As from : 1984: available from : The ALMQVIST & WIKSELL  
Depuis : 1984: disponible chez : PERIODICAL COMPANY  
Stockholm

E. DOCUMENTS C.M.I.

1. CONVENTIONS INTERNATIONALES DE DROIT MARITIME  
- TEXTES  
INTERNATIONAL CONVENTIONS ON MARITIME LAW -TEXTS  
- épuisé, réimpression envisagée  
- out of print, reprinting envisaged
2. CMI SEMINAR ON APPORTIONMENT OF RISKS IN  
MARITIME LAW - Aix-en-Provence - September 1976  
- épuisé - out of print -
3. CMI COLLOQUIUM ON THE HAMBURG RULES, Vienna  
January, 1979 - L'exemplaire / per copy: US\$.15.00
4. CMI COLLOQUIUM ON BILLS OF LADING -  
Venezia 1983 :  
-Report available from : The ALMQVIST & WIKSELL  
-Rapport disponible chez : PERIODICAL COMPANY,  
Stockholm
5. ICC-CMI RULES INTERNATIONAL MARITIME ARBITRATION  
ORGANIZATION  
REGLEMENT CCI-CMI ORGANISATION INTERNATIONALE  
D'ARBITRAGE MARITIME  
L'exemplaire / per copy : US\$. 10.00
6. COURT APPOINTED EXPERTS IN MARITIME CASES,  
A Comparative Law Study by Arthur Boal and David  
R.Owen - L'exemplaire / per copy : US\$.10.00

IMPORTANT

Tous les prix mentionnés ci-dessus ne comprennent  
PAS les frais d'envoi.

All above mentioned prices DO NOT include mailing  
expenses.

---

# CMI NEWS LETTER

*Vigilandum est semper; multae insidiae sunt bonis.*

Summer, 1986

— COMITE MARITIME INTERNATIONAL —

— Eté 1986

QUARTERLY

BULLETIN TRIMESTRIEL

## Lectures of the President of the CMI at the World Maritime University

Following the invitation of the President of the World Maritime University, Mr. Erik NORDSTRÖM, and the co-ordinator of the course module on International Maritime Law, Professor Edgard GOLD, the President of the Comité Maritime International, Professor Francesco BERLINGIERI, went to Malmö on 30th June 1986, where is the seat of the W.M.U., to give the ICOD opening lecture on International Maritime Law on the subject: "The Present status of International Maritime Law". Professor Berlingieri also lectured on the additional subject "The Unification of Maritime Law through the Comité Maritime International."

## International Conventions on Maritime Law

A new edition of the CMI Booklet on this subject will be published by the end of the current year in a format similar to the CMI YEARBOOK.

## Private Maritime Law

A Synopsis on this subject has been distributed at the Assembly of the CMI on April 1986. A copy together with a reminder was despatched at a later date to all Member-Associations.

## Sea Waybills

Copies of the replies to the questionnaire already received from a number of Maritime Law Associations can be obtained on request from the Secretariat of the CMI. The replies received so far emanate from the following countries:

Belgium  
U.S.A.  
Italy  
Denmark  
United Kingdom  
Switzerland  
Sweden  
Uruguay  
Philippines  
Japan

## Conférences du Président du CMI à la World Maritime University

A l'invitation du Président de l'Université Maritime Mondiale, M. Erik NORDSTROM et du co-ordinateur du module de cours sur le droit maritime international, le Professeur Edgard GOLD, le Président du Comité Maritime International, le Professeur Francesco BERLINGIERI s'est rendu le 30 juin 1986 à Malmö, où se trouve le siège de l'U.M.M., pour y donner la conférence d'ouverture de l'ICOD sur le sujet "L'état actuel du droit maritime international". Le Professeur BERLINGIERI s'est exprimé également sur le sujet complémentaire: "La contribution du Comité Maritime International à l'unification du droit maritime".

## Conventions Internationales de Droit Maritime

Une nouvelle édition de la brochure du CMI à ce sujet sera publiée vers la fin de l'année en cours dans le même format que l'Annuaire du CMI.

## Droit Maritime Privé

Un synopsis à ce sujet a été distribué à l'Assemblée du CMI du 11 avril 1986. Ultérieurement des copies ont été envoyées, accompagnées d'un rappel à toutes les Associations Membres.

## Lettres de Transport Maritime

Des copies des réponses au questionnaire reçues d'un certain nombre d'Associations de Droit Maritime, peuvent être obtenues sur demande auprès du Secrétariat du CMI. Les réponses reçues jusqu'à présent émanent des pays suivants:

France  
Sovjet Union  
Portugal  
Ireland  
Argentine  
India  
Spain  
Bulgaria  
Israel  
Canada



## Maritime Liens and Mortgages

The first meeting of the Joint Intergovernmental Group of Experts on Maritime Liens and Mortgages has now been fixed on 1 December 1986 at Geneva and will be followed by a Meeting of the Consultants on 15 December 1986.

## Brussels Conventions

RIDERS TO THE STATEMENT OF THE RATIFICATIONS OF AND ACCESSIONS TO THE BRUSSELS INTERNATIONAL MARITIME LAW CONVENTIONS.

(Erratum)

ACCESSION BY POLAND

to the

INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO CIVIL JURISDICTION IN MATTERS OF COLLISION DONE AT BRUSSELS ON 10 MAY 1952.

Contrarily to what appears under this heading in our "SPRING 1986" Issue, it is in fact on 14 SEPTEMBER 1986 that this Convention will enter into force as regards Poland and not on 14 December 1986, as erroneously mentioned.

INTERNATIONAL CONVENTION RELATING TO THE LIMITATION OF THE LIABILITY OF OWNERS OF SEAGOING SHIPS SIGNED IN BRUSSELS ON 10 OCTOBER 1957.

In accordance with the provisions of its Article 14 the Convention regarding the Kingdom of the Netherlands, which was only applicable to the Kingdom in Europe, will be extended to ARUBA as from 11 June 1986, with retroactive effect on 1 January 1986.

PROTOCOL OF 23 FEBRUARY 1968 TO AMEND THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES OF LAW RELATING TO BILLS OF LADING SIGNED AT BRUSSELS ON 25 AUGUST 1986.

In accordance with the provisions of its Article 15 the Protocol, regarding the Kingdom of the Netherlands, which was only applicable to the Kingdom in Europe, will be extended to ARUBA as from 11 June 1986, with retroactive effect on 1 January 1986.

## Privilèges et Hypothèques Maritimes

La prochaine réunion du Groupe International Conjoint d'Experts Gouvernementaux sur les Privilèges et Hypothèques a été fixée au 1 décembre 1986 à Genève et sera suivie par une réunion des Consultants le 15 décembre 1986.

## Conventions de Bruxelles

AJOUTES A L'ETAT DES RATIFICATIONS ET ADHESIONS DES CONVENTIONS INTERNATIONALES DE DROIT MARITIME DE BRUXELLES.

(Erratum)

ADHESION PAR LA POLOGNE

à la

CONVENTION INTERNATIONALE POUR L'UNIFICATION DE CERTAINES REGLES RELATIVES A LA COMPETENCE CIVILE EN MATIERE D'ABORDAGE SIGNEE A BRUXELLES LE 10 MAI 1952.

Contrairement à ce qui figure sous ce titre dans notre Edition "PRINTEMPS 1986", c'est en fait le 14 SEPTEMBRE 1986 que cette Convention entrera en vigueur à l'égard de la Pologne et non le 14 décembre 1986, comme indiqué erronément.

CONVENTION INTERNATIONALE SUR LA LIMITATION DE LA RESPONSABILITE DES PROPRIETAIRES DE NAVIRES DE MER SIGNEE A BRUXELLES LE 10 OCTOBRE 1957.

Conformément à son article 14 la Convention, qui était, en ce qui concerne le Royaume des Pays-Bas, uniquement applicable au Royaume en Europe, sera étendue à ARUBA à partir du 11 juin 1986, avec effet rétroactif à compter du 1er janvier 1986.

PROTOCOLE DU 23 FEVRIER 1968 PORTANT MODIFICATION DE LA CONVENTION INTERNATIONALE POUR L'UNIFICATION DE CERTAINES REGLES EN MATIERE DE CONNAISSEMENT SIGNEE A BRUXELLES LE 25 AOUT 1924.

Conformément à son article 15 le Protocole qui était, en ce qui concerne le Royaume des Pays-Bas, uniquement applicable au Royaume en Europe, sera étendu à ARUBA à partir du 11 juin 1986, avec effet rétroactif à compter du 1er janvier 1986.

## UNCTAD

### U.N. Conference on Condition for Registration of Ships.

The final act of the Convention was signed by 86 States on 7 February 1986. The Convention will enter into force when it has been ratified by 40 States representing 25 % of relevant gross registered tonnage.

### Convention on a Code of Conduct for Liner Conference.

This Convention entered into force on 6 November 1986. As of November 1985, 40 countries had acceded to the Convention, 2 had approved and 1 had accepted it and 5 had given definite signatures.

## Next Meetings of Subcommittees

The International Subcommittee on Compensation for Damages in Collision cases will meet on 30 September, 1986 at 10a.m. under the chairmanship of Mr. Jean Warot. The venue will be the Offices of Thos. R. Miller & Son, International House, 26, Creechurch Lane, London EC3 5BA.

## CNUCED

### Conférence des Nations Unies pour l'Enregistrement des Navires

Le texte final de la Convention a été signé par 86 Etats le 7 février 1986. La Convention entrera en vigueur quand elle aura été ratifiée par 40 Etats représentant 25 % du tonnage brut enregistré.

### Convention pour un Code de Conduite pour les Conférences de Lignes Régulières.

Cette Convention entrera en vigueur le 6 novembre 1986. En novembre 1985, 40 pays avaient accédé à la Convention, 2 l'avaient approuvée, 1 l'avait acceptée et 5 avaient apposé leur signature définitive.

## Prochaines Réunions de Commissions

La Commission Internationale dommages-intérêts en matière d'abordage se réunira sous la présidence de Mr. Jean Warot, le 30 septembre 1986 à 10 h. La réunion se tiendra dans les bureaux de Thos R. Miller & Son, International House, 26 Creechurch Lane, London EC3 5BA.

## Personalialia

### UNITED STATES OF AMERICA

The New Board of the Maritime Law Association of the United States is composed as follows :

PRESIDENT : FRANCIS J. O'BRIEN  
21 West Street  
New York, New York 10006  
Telex No. WUI 667275 - "WILMOTH"

FIRST VICE PRESIDENT: RICHARD W. PALMER  
Public Ledger Building  
600 Chestnut Street  
Philadelphia, Pennsylvania 19106

SECOND VICE PRESIDENT: KENNETH H. VOLK  
One Battery Park Plaza  
New York, New York 10004

SECRETARY : DAVID W. MARTOWSKI  
21 West Street  
New York, New York 10006

TREASURER : MARSHALL P. KEATING  
14 Wall Street  
New York, New York 10005

MEMBERSHIP SECRETARY: HOWARD M. McCORMACK  
29 Broadway  
New York, New York 10006

### ETATS-UNIS D'AMERIQUE

Le nouveau Conseil de l'Association Américaine de Droit Maritime (Maritime Law Association of the United States) est composé comme suit :

## SPAIN

The new Board and Executive Council of the Spanish Maritime Law Association (Asociación Española de Derecho Marítimo) is composed as follows :

## BOARD :

PRESIDENT : JOSÉ LUIS GÓÑI - Lawyer. C.M.I. Titular Member.

VICE-PRESIDENTS : JOSÉ LUIS ALBACAR - Judge at the Supreme Court of Justice of Spain.

RAÚL GONZÁLES HEVIA - Insurer. Lawyer. Vice-Director of MUSINI. C.M.I. Titular Member.

GENERAL SECRETARY: JOSÉ MARIA RUIZ SOROA - Professor of Maritime Law. Lawyer.

TREASURER : FERNANDO CASAS. - Naval Architect. General Manager Spanish Shipowners Association (ANAVE).

## EXECUTIVE COUNCIL :

JOSÉ LUIS GÓÑI - President of A.E.D.M.

JOSÉ LUIS ALBACAR - Vice-President of A.E.D.M.

RAÚL GONZÁLES HEVIA - Vice-President of A.E.D.M.

JOSÉ MARIA RUIZ SOROA - General Secretary of A.E.D.M.

FERNANDO CASAS - Treasurer of A.E.D.M.

JAVIER EXPOSITO - Lawyer. General Manager Spanish Shipagent's Association (ANESCO)

AGUSTÍN GARCÍA MORATILLA - Lawyer EMPRESA NACIONAL DEL PETROLEO (EMPETROL)

MIGUEL PARDO - Naval Architect, President INSTITUTO MARÍTIMO ESPAÑOL (Spanish Maritime Institute)

FERNANDO DE LA VEGA - Lawyer. MARÍTIMO ANTARES. - Average Adjuster.

ALVARO DELGADO (Late President Spanish MLA). Lawyer. - General Manager NAVIERA DE CASTILLA S.A. and TRANSPORTES DE PETROLEO S.A.

## ESPAGNE

Le nouveau Bureau et Conseil Exécutif de l'Association Espagnole de Droit Maritime (Asociación Española de Derecho Marítimo) est composé comme suit :

## BUREAU :

## CONSEIL EXECUTIF :



# CMI NEWS LETTER

*Vigilandum est semper; multae insidiae sunt bonis.*

Autumn 1986

— COMITE MARITIME INTERNATIONAL —

Automne 1986

QUARTERLY

BULLETIN TRIMESTRIEL

## IN MEMORIAM



### **KAJ PINEUS, Honorary Vice-President of CMI**

The name of Kaj Pineus is associated with the CMI, at least since 1947 when he attended the 20th CMI Conference in Antwerp, spoke on the subject of Limitation of Shipowners' Liability, and was elected Titulary Member of the CMI. Since then, he attended all the CMI Conferences as well as to the work of a great many international sub-committees. I met him for the first time in Naples in 1951 when he was elected Vice-President of the Conference. He was leading the Swedish delegation and spoke very authoritatively on the subject of Arrest of Ships.

In the following 35 years, he made a great contribution to the work of the CMI and to the unification of maritime law. He was a hard worker and many times during the work of the international sub-committees or during conferences, when I had the privilege of working with him, I was forced to meet with him in the very early morning and when we met, as early as 6 o'clock in the morning, he produced drafts he had already prepared.

When as a consequence of the law making function having passed from the Conférence Diplomatique de Droit Maritime to the United Nations Organizations it proved necessary to bring new life into the CMI, Kaj Pineus took upon himself the responsibility of attempting to reorganize the CMI and became the Secretary General Executive of the CMI in 1972. He held this post until 1977, and during those five years, he did a marvelous job.

In 1977 he was elected Honorary Vice-President of the CMI and he continued to work as actively as ever until the day of his death. Last year when I was asked by ESCAP and the Chinese Ministry of Communications to organize a second seminar in China on the subjects of Collision, Salvage and Limitation of Shipowners' Liability, I thought that Kaj Pineus, notwithstanding his age, would greatly contribute to the success of the Seminar and asked him to write papers on the three subjects. As always, he did so very well and very quickly. We met in Hong Kong. I was coming from Jakarta, and he was coming directly from Sweden. He was less tired than I was and very courageously continued the trip from Hong Kong to Canton and then to Xiamen, where the Seminar was going to be held.

One might believe that Kaj Pineus devoted the whole of his activities to the CMI, but that was not so. He had a great many other interests and activities. He had been average adjuster in Gothenburg since 1936 and the sole adjuster in Sweden since 1975. He had been President of the International Association of European Average Adjusters from 1969 to 1973.

He took an active part in the administration of his city, Gothenburg, and was a member of the Municipal Council from 1949 to 1973 and Vice-President of the Council in the last three years.

The CMI has lost with Kaj Pineus one of its greatest supporters. I have lost one of my best friends.

Francesco Berlingieri.

Kaj Pineus - a close friend and a strong and unique personality - has left us. He worked until the very last moment of his life in the interest of the international development of maritime law. Having returned home from Southampton he left his office in the morning - a little bit tired - and in his characteristic manner reached his home by using his bicycle. He was found the next day on his bed fully dressed in what appeared to be a peaceful sleep.

We, his colleagues from all over the world with an interest in the international development of maritime law, all know of his deep knowledge and indefatigable efforts to promote the work within the CMI. He was one of the foremost organizers of the 1963 Stockholm Conference leading to the 1968 Protocol to the 1924 Brussels Convention on Bills of Lading (the Hague/Visby Rules) and he actively participated in practically every CMI project. I have, since 1972 when I undertook the function of Chief Legal Officer of the CMI, had the extreme privilege to work very closely together with Kaj. In many respects he was indeed unique. Never have I worked together with a person who has taken such

pleasure in his work. Kaj did not only demonstrate skill and deep interest in maritime law but he had a wonderful way of approaching whatever he did with his characteristic humor. It was always great fun to work together with him. Unfortunately law is not always an easy matter and it becomes even more difficult when different legal systems should be transformed into international compromises. Kaj never accepted the complexities of maritime law and the difficulties to reach compromises. He always insisted that the fundamentals of the law were simple and that any difficulties preventing international compromises were minor hindrances which should be quickly removed. In his view, time was of the utmost essence and he detested the heavy bureaucracy which - particularly in later years - tends to slow down the legislative process. I will forever miss Kaj in many respects - as a close friend, as a "godfather" in the family of maritime lawyers and as a constant source of inspiration and promotion in the pending work to unify maritime law on a worldwide basis. He was a remarkable person and can never be replaced.

Jan Ramberg.

Nous, ses très nombreux amis, sommes profondément affligés par la mort de Kaj Pineus, cet homme éminent et attachant auxquels tant d'heureux souvenirs nous unissaient. Nous avons perdu un excellent camarade. Le Comité Maritime International se retrouve privé d'un de ses plus ardents zéloteurs.

Son inlassable et toujours ponctuelle activité s'est épanouie pendant un demi-siècle tant sur le plan national suédois que sur celui de l'universalité; son domaine de prédilection était le droit maritime privé et son agissante ambition visait à en promouvoir l'unification à l'échelle mondiale. A cette fin il a oeuvré sans désespérer à la fois au sein de l'Association suédoise de droit maritime et dans le cadre des organisations internationales concernées. Il était de toutes les conférences et d'innombrables réunions. Ses propos étaient écoutés avec attention et plus tard avec déférence. On connaissait son esprit d'initiative; on attendait de lui des propositions pour rapprocher des points de vue divergents ou pour l'étude de nouveaux sujets; on n'était jamais déçu. Il n'a pas gardé pour lui le fruit de son érudition et de son expérience; nombreux sont les ouvrages, les articles, les discours dans lesquels il a partagé généreusement son précieux savoir.

Il a excellé dans sa profession comme en

tant d'autres domaines et ce n'est pas le moindre de ses titres de gloire que d'avoir été nommé seul dispacheur pour la Suède en 1975 après une carrière de 39 ans en qualité de dispacheur à Göteborg. Ses mérites furent, par ailleurs, reconnus par ses collègues de toute l'Europe lorsqu'il fut élu président en 1969 de l'Association Internationale de Dispa-cheurs Européens.

Il ne fut pas moins honoré par les Associations du droit maritime, membres du Comité Maritime International, lorsqu'il fut élu par acclamation en 1977 Vice-Président d'Honneur de ce Comité.

Grâce à sa connaissance des langues il a pu être étroitement associé aux travaux de juristes de très nombreux pays en dehors du sien et participer dans leur langue à leurs échanges de vues.

Qu'il suffise de citer à ce propos ses articles dans le périodique "Le Droit maritime français" et ses interventions dans la langue de Voltaire dans les débats à propos des projets du C.M.I.

La personnalité de Kaj Pineus était fascinante. Il possédait à la fois le sérieux nordique, l'humour anglais et l'esprit latin. Fidèle dans ses convictions il l'était tout autant dans ses amitiés. Nous garderons de lui un merveilleux souvenir.

Henri Voet.

## In Memory of Kaj Pineus

### Liber Amicorum

Some time ago the Executive Council of the CMI decided to initiate a series entitled "CMI Studies in Maritime Law". It would seem very appropriate, indeed, to publish the first volume in this series in the form of a Liber amicorum in the memory of Kaj Pineus. I am convinced that many of Kaj's friends would like to contribute.

This being so, I would be grateful to receive notice by the end of March, 1987, at the latest from anyone wishing to write an article with the name of the topic and the approximate number of pages (preferably not more than 15 printed pages). Such information may be sent directly to me: Professor Jan Ramberg, Vretvägen 13, S-183 63 Täby, Sweden.

Jan Ramberg.

### CMI Charitable Trust

In order to commemorate the life of Kaj Pineus the Swedish Maritime Law Association has invited its members to make a contribution to the CMI Charitable Trust. To enable all Kaj's friends outside Sweden to make similar contributions, should they so wish, a special account has been opened in London. Anyone wishing to contribute should send cheques or bank transfers to :

Mr.W.Birch Reynardson,  
International House,  
26 Creechurch Lane,  
London EC3A 5BA.

marked "CMI Charitable Trust - in memory of Kaj Pineus".

Cheques and transfers should be made out to CMI Charitable Trust account number: 61122010.

### The Montreal Draft Salvage Convention

Status Report on the work of the Legal Committee of IMO at its 57th Session by President Francesco Berlingieri and Mr.Bent Nielsen.

### Projet de Convention de Montreal sur l'Assistance

Rapport actuel des activités du Comité Juridique de l'OMI en sa 57ème session par le Président Francesco Berlingieri et M. Bent Nielsen.

During the 57th Session 27-31 October 1986 the Legal Committee concluded the substantive work on the draft and agreed to recommend to the Council of IMO to arrange for a Diplomatic Conference to consider and adopt the Convention to be held during the 1988/89 biennium.

However, during its 58th Session to be held in October 1987 the Committee will have a final look at the draft to clean up the text and to deal with any minor questions which may emerge between now and the next meeting. The Committee will not take up any of all the many questions which have already been settled in the Legal Committee.

As we have reported in the spring issue of CMI's NEWS LETTER the Committee in May 1986 concluded its 3rd reading of the draft Articles with Article 13. During the 57th Session the Committee finished its 3rd and final reading of the remainder of the Articles while it had a 4th and final reading of the Articles 1-13 incl.

#### Salvage of persons (Art. 14, formerly Art. 3-5)

It was suggested to add an additional paragraph securing contracting states' extensive possibilities in domestic law to provide for compensation to life salvors. In support of this it was pointed out that it would be unfair to make the life salvor bear the costs of his endeavours and that life salvors, particularly when no property could be salvaged, would be discouraged from undertaking life salvage operations if they were not assured a reasonable compensation.

It was also pointed out that the draft submitted by the CMI sub-committee to the Montreal Conference contained rules on compensation to life salvors. The proposal, however, did not obtain much support and was not carried. The main objections were that it would jeopard-



dize the uniformity of the new salvage regime and that the provisions as drafted reflected long established principles which had stood the test of time and which should not be changed without very clear justification.

#### The effect of salvor's misconduct (Art. 16, formerly Art. 3-7)

In a previous meeting proposals had been made to delete from the CMI draft the phrase "to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or", and as a consequence these words had been put between square brackets. The Committee, however, now decided to retain the phrase without any square brackets.

#### Prohibition by the owners or master (Art. 17, formerly Art. 3-8)

The Committee had earlier bracketed the words "of the vessel", as it had been felt that owners of other property than the vessel should also be entitled to prohibit salvage hereof. The Committee had an extensive exchange of views on this. It was realized that the problem depended on the definition of the term "salvage operation", which had not been decided. If the term were to be defined broadly to include assistance to property which is not a vessel, then the owner of such property might be allowed to prohibit salvage hereof when such services are directed solely to his property and the property is not onboard the vessel. However, only the owner or the master of the vessel should have the right to prohibit salvage in respect of the vessel and any property onboard the vessel. The Committee therefore at this early stage of its 57th Session decided to retain the words "of the vessel" in square brackets. As mentioned below, however, the Committee during its later 4th reading of Art. 1 decided to include assistance to property which is not a vessel, and one may expect therefore that the Committee during the "clean-up" to be done at the next Session will decide to amend this Article so as to make it clear that also the owner of property outside the vessel may prohibit salvage.

An addition to the Article earlier proposed saying that the prohibition of salvage may be given at any time was deleted as it was felt superfluous.

#### Maritime lien (Art. 18, formerly Art. 4-1)

##### Sub-paragraph 1.

The Committee had earlier added in the CMI draft the words "existence of a" to the term "the salvor's maritime lien...". This, however, was now felt inappropriate since the intention of the Article was to exclude completely all questions relating to the salvor's maritime liens, and the words were deleted.

#### Limitation of actions (Art. 21, formerly Art. 4-4)

A proposal to delete the second sentence of paragraph 3 and the entire paragraph 4 on the grounds that these were unnecessary and perhaps might cause confusion was accepted by the Committee.

#### Jurisdiction (Art. 22, formerly Art. 4-5)

The Committee had an extensive discussion of this Article. Some delegations felt it should be made clear that the list in paragraph 1 of places for jurisdiction was open-ended, others objected to this. As was the case during the CMI Conference in Montreal, there were others who felt that such a provision was unnecessary in the Salvage Convention, while the observer for the salvors stated that the salvors were in favour of a jurisdiction provision. The Committee decided not to carry proposals making it clear that the list was open-ended, but on the other hand to put the whole Article in square brackets to indicate the considerable doubts and controversy expressed in the Committee.

#### Publication of arbitral awards (Art. 24, formerly Art. 4-7)

This Article has been put in square brackets during an earlier reading and the Committee discussed a proposal to delete it entirely. In support of this proposal it was pointed out that it would have little practical use, as it did not impose a firm obligation on contracting states. It was also doubted how a state could actually im-

plement the provision. However, many delegations felt the provision would serve a practical purpose by encouraging the publication of arbitration awards. As a result the Committee decided to retain the Article without change but to keep it in square brackets.

#### Definitions Art. 1, formerly Art. 1-1)

The submission was made to exclude as subject of salvage such property not onboard the vessel, which could not be considered a "craft" (or rather in French "engin"), however, making it optional for the contracting states to include all property in danger. This was extensively discussed, whereupon the Committee concluded not to amend the draft as proposed. It seems, however, possible that during the Diplomatic Conference efforts will be made to the effect that the Convention shall contain a provision that a contracting state when ratifying the Convention can make a special exclusion of such property from the application of the Convention.

#### Sub-paragraph a

To make it clear, which was also the intention of the CMI but perhaps not clearly enough expressed in the CMI draft, that salvage operations conducted from land are also covered by the definition, the Committee adopted a proposal to reword this sub-paragraph as follows :

"Salvage operations means any act or activity undertaken to assist a vessel or any other property in danger in navigable or any other waters whatsoever".

#### Sub-paragraph b

During the Committee's discussion concerning the objects of salvage it appeared that the words of the draft "including any vessel which is stranded, left by its crew or sunk" caused heavy problems, in particular in relation to the rules of some countries concerning wrecks. On this background the Committee decided to delete the words as well as Art. 2, sub-paragraph 2 d, according to which the Convention does not apply to removal of wrecks.

#### Sub-paragraph c

In the CMI draft this sub-paragraph only deals with freight, as property was already defined in sub-paragraph a. The Committee, however, found it more appropriate to repeat this definition also in sub-paragraph c, and this paragraph now reads as follows :

"Property means any property not permanently and intentionally attached to the shoreline and includes freight for the carriage of the cargo, whether such freight be at risk of the owner of the goods, the shipowner or the charterer".

#### Sub-paragraph d

Proposals to extend the term "coastal or inland waters or areas adjacent thereto" were discussed, but did not obtain sufficient support. However, it is to be expected that these proposals will be retabled during the Diplomatic Conference.

During an earlier reading the Committee had put square brackets around the words "explosion" and "fire". The Committee now agreed to remove the square brackets and keep these words in the definition thus following the reasoning that by keeping these words in, one broadens somehow the concept of damage to the environment.

#### Scope of application (Art. 2, formerly Art. 1-2)

#### Sub-paragraph 2 (a)

The submission was made to replace this sub-paragraph with a provision stating that the Convention shall not apply "to operations in inland waters not involving seagoing vessels".

It was felt that the provision was clearer than the existing text in that it based the determination of the applicability of the convention primarily on, whether the salvage operation took place in "inland waters" and not on the type of the vessels involved. Further an inland navigation vessel under the amended text would still be covered by the Convention if it was involved in salvage operations outside inland waters. Others felt that the term "vessels of inland navigation" in the present text was unclear. However, most delegations expressed preference for the provision as originally prepared by the CMI, in particular they felt that

the concept of "inland waters" was unclear and that it could be too far-reaching as it would exclude e.g. the Great Lakes. In conclusion the Committee decided to retain the present text of Art. 2.2 (a) unchanged. However, one may expect that this is a point which will be re-opened during the Diplomatic Conference.

#### Sub-paragraph 2 (c)

The Committee discussed at length whether the exclusion of the Convention should apply only to state-owned non-commercial vessels which were the objects of salvage, and whether the Convention should be deemed applicable to state-owned vessels, unless they were specifically excluded by the contracting state, or one should provide that the Convention should not apply except where the contracting state so declares. Finally the Committee discussed a proposal to exclude cargo or other property "owned, possessed, shipped or controlled by a state and not in use or intended for use for commercial purposes".

The Committee decided not to accept this latter proposal and decided to retain the text of sub-paragraph 2 (c), however with the addition of a new sub-paragraph 3 to Art. 2 reading as follows:

"Where a state decides to apply the Convention to warships or other vessels owned or operated by that state and being used, at the time of the salvage operation, exclusively on governmental non-commercial services, such state shall notify the depositary thereof, specifying the terms and conditions of such application".

#### Sub-paragraph 2 (d)

As mentioned it was decided to delete this paragraph.

#### Sub-paragraph 2 (e)

During an earlier reading the Committee has added a paragraph saying that the Convention does not apply "whenever the property is permanently attached to the sea-bed for hydrocarbon production, storage and transportation".

The Committee discussed alternative wordings of this exclusion which could not, however, obtain sufficient support. Therefore (although the Committee seemed to feel that the text could be improved) it could not find for the time being a better wording. One may expect that during the "clean-up" at the next meeting, the Committee will agree to an amended wording of this exclusion.

#### Salvage operations controlled by public authorities (Art. 3, formerly Art. 1-3)

The Committee discussed an alternative wording of sub-paragraph 1 as well as a proposal to delete sub-paragraph 2 and 3. These proposals were not adopted and the Committee decided to remove the square brackets it had put around sub-paragraph 2 and 3 during an earlier meeting.

#### Salvage contracts Art. 4, formerly Art. 1-4)

##### Sub-paragraph 2

In the interest of greater clarity the Committee agreed upon the following new and slightly amended wording of sub-paragraph 2:

"The master shall have the authority to conclude contracts for salvage operations on behalf of the owner of the vessel. The master or the owner of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property onboard the vessel".

##### Sub-paragraph 3

The Committee added to sub-paragraph 3 the following phrase:  
"nor duties to prevent or minimize damage to the environment".

Thereby the Committee has made the provisions concerning the duty to protect the environment mandatory. In doing so, however, the Committee noted that it might be appropriate (at the Diplomatic Conference) to extend this prohibition to other duties under the Convention.

Duty of the owner and master (Art. 6, formerly Art. 2-1) - and  
Duties of the salvor (Art. 7, formerly Art. 2-2)

The CMI draft provides duties with relation to matters of public law as well as private law matters relating to third-party liability and private law matters between the salvors and the owner of the vessel and the salvaged property. The Committee felt that public law matters should be taken up in the context of the 1973-1978 Marpol Convention and that private law matters relating to third-party liability should be dealt with by the general law on negligence or other appropriate international conventions. The Committee therefore decided to limit these Articles accordingly and approved a proposal for the following new Article to replace Articles 6 and 7 :

- " 1. The salvor shall owe a duty to the owner of the property in danger :
  - (i) to exercise due care to save the property in danger;
  - (ii) to carry out the salvage operations with due care;
  - (iii) in performing the duties specified in (i) and (ii) to exercise due care to prevent or minimize damage to the environment;
  - (iv) whenever circumstances reasonably require, to seek assistance from other salvors; and
  - (v) to accept the intervention of other salvors when reasonably requested to do so by the owner or master of the property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.
2. The owner and master of the property in danger shall owe a duty to salvor :
  - (i) to co-operate fully with him during the course of the salvage operations;
  - (ii) in so doing to exercise due care to prevent or minimize damage to the environment ;
  - (iii) when the property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so ".

Conditions for reward (Art. 10, formerly Art. 3-1)

Sub-paragraph 3

The Committee discussed whether sub-paragraph 3 should be amended to make it clear that the chapter also applied if other salvaged property than vessels were involved or other equipment was used in the salvage operations than vessels belonging to the same owners, but could not find an appropriate text to reflect this and therefore left this sub-paragraph as presently worded. One may expect that this will be finally dealt with during the "clean-up" at the next meeting of the Committee.

The amount of the reward (Art. 11, formerly Art. 3-2)

The Committee very thoroughly discussed a proposal by the United States to delete from the catalogue in sub-paragraph 1 the reference to the skill and efforts of the salvors in preventing or minimizing damage to the environment and to add a new sub-paragraph 2 as follows :

"The reward determined under paragraph 1 may be adjusted based upon the skill with which the salvor prevented or minimized damage to the environment. Any adjustment under this paragraph may not increase the reward determined under paragraph 1 by more than \_\_\_\_\_ % " .

If this proposal is to be followed, it means that the so-called "enhancement" will have to be disregarded when fixing the award and then added as a separate figure which must not exceed a certain percentage of the total award.

The United States delegation explained that although many felt it unsatisfactory that the CMI compromise would place most of the

burden of preventing damage to the environment on innocent cargo, the objects of the proposal was not to deviate from this solution as also the additional remuneration proposed would have to be shared proportionate by all property salvaged. The aim of the proposal only was, it was stated, to place a limit on the burden that could fall on cargo as a result of measures taken for preventing damage to the environment.

Some delegations expressed support for this proposal. However, many were strongly opposed.

The CMI observer indicated that having consulted the industry and commercial interests on the United States proposal, it could be clearly stated that the proposal was not compatible with the Montreal compromise and its adoption would result in many of these interests withdrawing from the understanding reached in 1981. The observer of the P&I Clubs made a rather strong statement that if the proposal were to be included, the clubs would no longer consider themselves bound by the compromise.

Many delegations strongly opposed the proposal and felt that one should still strongly rely on the Montreal compromise, and as a result the Committee decided to retain the present wording of Art.11. However, there was a certain support from important countries, and no doubt such a proposal will be retabled during the Diplomatic Conference. One may therefore expect efforts to weaken the overwhelming support still existing to the Montreal compromise and also perhaps initiatives to try to amend this compromise during the period until the Diplomatic Conference is held.

In an earlier report on the Montreal Draft Salvage Convention printed in CMI NEWS LETTER winter issue 1985 some main points in support of the compromise have been stated in a rather detailed manner and there should therefore not be any need to repeat this.

However, one of the main objections to the US proposal would be that it is highly speculative and difficult for any tribunal or arbitrator to quantify the "enhancement". When fixing the award the tribunal takes into account the facts of the actual situation which among many others may include a danger to the marine environment. Such danger may have required quite different methods of salvage than would otherwise have been used. To say what the award would have been, if such an element among many others had not been there, would be just as difficult as e.g. to say what the award would have been if the vessel salvaged had grounded on sand, not on rocks, had been a container vessel or bulkcarrier difficult to lighten, not a tanker, or had been exposed to the dangers in a storm force 10 at an unsheltered coast, not to limited dangers in sheltered and calm waters.

#### Sub-paragraph 1 (e)

It was pointed out that the catalogue of sub-paragraph 1 does not contain a specific reference to the skill and efforts of the salvors "in salvaging the vessel, property and life", and the Committee agreed to insert these words in sub-paragraph 1 (e) after "... the salvors".

#### Sub-paragraph 2

As it will be recalled, the CMI draft as the 1910 convention does not contain any provision as to who should pay the reward. Discussions in the Committee, however, have revealed that it might be possible to obtain a broad agreement on this issue and the Committee therefore accepted to substitute the present sub-paragraph 2 with the following :

"Notwithstanding that the court having jurisdiction may, under national law, order payments under paragraph 1 to be made initially by any of the property interests, these amounts shall be borne by the property interests in proportion to their value.

The awards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the value of the salvaged property.

Nothing in this Article shall prejudice any right of recourse or defence ".

The Committee further agreed to add a foot-note indicating that the wording of this paragraph needs further consideration. It is expected that this will be finally dealt with at the next and final meeting of the Committee.

Special compensation (Art. 12, formerly Art. 3-3)

The Committee agreed to retain the text of the CMI draft and deleted proposals for amendments made during earlier meetings. It was also agreed that the word "doubled" in sub-paragraph 2 should be retained in square brackets for final determination by the Diplomatic Conference.

Francesco Berlingieri

Bent Nielsen

## CMI Yearbook 1985-1986

The following corrections should be made in the last issue of the CMI YEARBOOK:

page 80 :

"PORTUGAL (r) 25.VII.1913" should be added after "POLOGNE".

page 89:

"ZAIRE REPUBLIC (a) 17.VII.1967" should be added after "YUGOSLAVIE".

page 96:

"SPAIN (r) 6.I.1982" should be added before "SWEDEN".

page 97:

Remove "IRAN" which should appear after "HONGRIE" and before "ITALIE".

page 99 :

"PORTUGAL (r) 27.VI.1938" should be added after "POLOGNE".

page 102 :

Remove "TOGO" which should appear after "TCHAD" and before "TONGA".

page 104 :

"FIJI (a) 29.III.1963" should be added before "FRANCE".

page 112 :

"YUGOSLAVIA (r) 25.VII.1967" should appear before "ZAIRE REPUBLIC".

## Annuaire CMI 1985-1986

Les corrections suivantes doivent être apportées à la dernière édition de l'ANNUAIRE CMI :

page 80 :

"PORTUGAL (r) 25.VII.1913" doit être ajouté après "POLOGNE".

page 89 :

"ZAIRE REPUBLIC (a) 17.VII.1967" doit être ajouté après "YUGOSLAVIE".

page 96 :

"SPAIN (r) 6.I.1982" doit être ajouté avant "SWEDEN".

page 97 :

Déplacer "IRAN" qui doit figurer après "HONGRIE" et avant "ITALIE".

page 99 :

"PORTUGAL (r) 27.VI.1938" doit être ajouté après "POLOGNE".

page 102 :

Déplacer "TOGO" qui doit figurer après "TCHAD" et avant "TONGA".

page 104 :

"FIJI (a) 29.III.1963" doit être ajouté avant "FRANCE".

page 112 :

"YUGOSLAVIA (r) 25.VII.1967" doit être ajouté avant "ZAIRE REPUBLIC".

## Brussels Conventions

RIDERS TO THE STATEMENT OF THE RATIFICATIONS TO THE BRUSSELS INTERNATIONAL MARITIME LAW CONVENTIONS

INTERNATIONAL CONVENTION RELATING TO THE LIMITATION OF THE LIABILITY OF OWNERS OF SEA GOING SHIPS, SIGNED AT BRUSSELS ON 10 OCTOBER, 1957

Contrarily to what appears under this heading in our "SUMMER 1986" issue, it is in fact as from 16 December, 1986 that the above Convention has been extended to Aruba.

PROTOCOL OF 23 FEBRUARY, 1968 TO AMEND THE INTERNATIONAL CONVENTION FOR THE UNIFICATION OF CERTAIN RULES OF LAW RELATING TO BILLS OF LADING, SIGNED AT BRUSSELS ON 25 AUGUST, 1924.

## Conventions de Bruxelles

AJOUTES A L'ETAT DES RATIFICATIONS DES CONVENTIONS INTERNATIONALES DE DROIT MARITIME DE BRUXELLES

CONVENTION INTERNATIONALE SUR LA LIMITATION DE LA RESPONSABILITE DES PROPRIETAIRES DE NAVIRES DE MER, SIGNEE A BRUXELLES LE 10 OCTOBRE 1957

Contrairement à ce qui figure sous ce titre dans notre édition "ETE 1986", c'est en fait le 16 décembre 1986 que cette Convention a été étendue à Aruba.

PROTOCOLE DU 23 FEVRIER 1968 PORTANT MODIFICATION DE LA CONVENTION INTERNATIONALE POUR L'UNIFICATION DE CERTAINES REGLES EN MATIERE DE CONNAISSEMENT, SIGNEE A BRUXELLES LE 25 AOÛT 1924

Contrarily to what appears under this heading in our "SUMMER 1986" issue, it is in fact as from 16 September, 1986 that the above Protocol has been extended to Aruba.

#### DENUNCIATION BY THE FEDERAL REPUBLIC OF GERMANY

On 1 September 1986, was registered with the Ministère des Affaires Etrangères, du Commerce Extérieur et de la coopération au développement de Belgique, the denunciation by the Federal Republic of Germany of the following Convention and Protocol of Signature :

INTERNATIONAL CONVENTION RELATING  
TO THE LIMITATION OF THE LIABILITY  
OF OWNERS OF SEAGOING SHIPS AND  
PROTOCOL OF SIGNATURE, SIGNED AT  
BRUSSELS ON 10 OCTOBER, 1957.

#### RATIFICATION BY FRANCE

On 18 November, 1986 was registered with the Ministère des Affaires Etrangères, du commerce extérieur et de la coopération au développement de Belgique the instrument of ratification by France relating to the :

PROTOCOL SIGNED AT BRUSSELS ON 21  
DECEMBER, 1979 TO AMEND THE INTERNA-  
TIONAL CONVENTION FOR THE UNIFI-  
CATION OF CERTAIN RULES RELATING  
TO BILLS OF LADING OF 25 AUGUST,  
1924 AS MODIFIED BY THE AMENDING  
PROTOCOL OF 23rd FEBRUARY, 1968.

In accordance with the provisions of Article VIII(2) of the afore mentioned Protocol this ratification will enter into force as regards France on 18 February, 1987.

### IMO Conventions

RIDER TO THE STATEMENT OF THE RATIFI-  
CATIONS OF AND ACCESSIONS TO THE IMO  
CONVENTIONS IN THE FIELD OF PRIVATE  
MARITIME LAW

PROTOCOL TO THE INTERNATIONAL  
CONVENTION ON CIVIL LIABILITY FOR  
OIL POLLUTION DAMAGE  
(CLC PROT 1976)

accession : China - 29 September 1986

### UNCTAD

UNITED NATIONS CONVENTION ON A CODE OF  
CONDUCT FOR LINER CONFERENCES

In contradiction to what is mentioned in CMI NEWS LETTER - Summer 1986 - the above Convention actually entered into force on 6 November, 1983 and at present 67 countries are Contracting Parties to the Convention.

Contrairement à ce qui figure sous ce titre dans notre édition "ETE 1986" c' est en fait depuis le 16 septembre 1986 que ce Protocole a été étendu à Aruba.

#### DENONCIATION PAR LA REPUBLIQUE FEDERALE D'ALLEMAGNE

Le 1er septembre 1986 a été enregistrée au Ministère des Affaires Etrangères, du Commerce Extérieur et de la coopération au développement de Belgique, la dénonciation par la République Fédérale d'Allemagne de la Convention et du Protocole de signature suivants :

CONVENTION INTERNATIONALE SUR LA  
LIMITATION DE LA RESPONSABILITE DES  
PROPRIETAIRES DE NAVIRES DE MER ET  
PROTOCOLE DE SIGNATURE, SIGNES A  
BRUXELLES LE 10 OCTOBRE 1957.

#### RATIFICATION PAR LA FRANCE

Le 18 novembre 1986 a été déposé au Ministère des Affaires Etrangères, du commerce extérieur et de la coopération au développement de Belgique l'instrument de ratification de la France concernant le :

PROTCOLE FAIT A BRUXELLES LE 21  
DECEMBRE 1979, PORTANT MODIFICATION  
DE LA CONVENTION INTERNATIONALE  
POUR L'UNIFICATION DE CERTAINES  
REGLES EN MATIERE DE CONNAISSEMENT DU  
25 AOÛT 1924, TELLE QU'AMENDEE PAR  
LE PROTCOLE DE MODIFICATION DU 23  
FE VRIER 1968

Conformément aux dispositions de l'article VIII(2) du Protocole précité, cette ratification sortira ses effets à l'égard de la France le 18 février 1987.

### Conventions OMI

AJOUTE A L'ETAT DES RATIFICATIONS ET  
ADHESIONS DES CONVENTIONS DE L'OMI EN  
MATIERE DE DROIT MARITIME PRIVE

PROTCOLE A LA CONVENTION INTERNA-  
TIONALE SUR LA RESPONSABILITE POUR  
LES DOMMAGES DUS A LA POLLUTION PAR  
LES HYDROCARBURES (CLC PROT 1976)

adhésion : Chine - 29 septembre 1986

### CNUCED

CONVENTION DES NATIONS UNIES SUR UN CODE  
DE CONDUITE POUR LES CONFERENCES MARI-  
TIMES

Contrairement à ce qui est mentionné dans CMI NEWS LETTER - Eté 1986 -, la Convention ci-dessus est, en réalité, entrée en vigueur le 6 novembre 1983 et 67 pays en sont actuellement parties contractantes.



## Compensation for Damages in Collision Cases

The Member Associations have received the text of the "Draft Rules September 1986" and should address their suggested amendments, if any, to the C.M.I. Secretariat not later than 20 January, 1987.

A Working Group will consider any such suggestions and should this lead to further amendments of the draft it would be again submitted to the Member Associations by the end of February 1987 so as to limit the debate at the Assembly to the amendments suggested and dealt with by the Working Group.

## Private International Maritime Law

A Questionnaire prepared by Vice-President Dr. Walter Müller on 31 August, 1983 has been mailed in due course to all the Member Associations.

Further, a copy of the Synopsis of the replies that had been received from the Member Associations up to 31 December, 1985, prepared by President Francesco Berlingieri has also been sent to the Member Associations.

The deadline for sending the replies has meanwhile been postponed until 31 December, 1986 and the kind cooperation of the Member Associations to abide to this limit would be much appreciated.

## Albert Lilar Prize 1987

The Albert Lilar Foundation will award its prize in 1987 for the fourth time.

Consideration will be given to works of which three copies will have been received at the Registered Office of the Foundation, 17 Borzestraat, B-2000 Antwerpen, Belgium, before 15 May, 1987.

The selection committee will pay attention only to works brought out in book form and, as such, put at the disposal of the public less than five years prior to 15 May, 1987.

The works may be published in the following languages: english, french, italian, spanish.

A copy of the Rules for the awarding of the prize may be obtained on application at the Registered Office of the Foundation.

## Next Meetings

### SEA WAYBILLS

There will be a meeting of the International Subcommittee, under the Chairman-

## Dommages-Intérêts en matière d'Abordage

Les Associations Membres ont reçu le texte d'un Projet de Règles- Septembre 1986 et il conviendrait qu'elles fassent parvenir leurs éventuelles suggestions d'amendements au secrétariat du C.M.I. au plus tard pour le 20 janvier 1987.

Un groupe de travail examinera ces suggestions et, au cas où elles amèneraient de nouveaux amendements au Projet, celui-ci serait à nouveau soumis aux Associations Membres à la fin de février 1987, de façon à limiter les débats en Assemblée aux seuls amendements proposés et retenus par le groupe de travail.

## Droit International Maritime Privé

Un questionnaire établi par le Vice-Président, Dr. Walter Müller en date du 31 août 1983 a été envoyé en son temps à toutes les Associations Membres.

Par ailleurs, un tableau synoptique des réponses reçues au 31 décembre 1985 des Associations Membres et établi par le Président Francesco Berlingieri a également été envoyé aux Associations Membres.

La date limite pour faire parvenir les réponses a entretemps été reportée au 31 décembre 1986 et la bonne coopération des Associations Membres pour l'observation de cette limite serait vivement appréciée.

## Prix Albert Lilar 1987

La Fondation Albert Lilar décernera son prix pour la quatrième fois en 1987.

Seront pris en considération les ouvrages dont trois exemplaires seront parvenus au siège de la Fondation, 17 Borzestraat, B-2000 Antwerpen, Belgique, avant le 15 mai 1987.

Le jury ne pourra retenir que les ouvrages publiés en librairie et, comme tels, mis à la disposition du public moins de cinq ans avant le 15 mai 1987.

Les ouvrages peuvent être publiés dans les langues suivantes: français, anglais, espagnol, italien.

Un exemplaire du Règlement du prix peut être obtenu sur demande au siège de la Fondation.

## Prochaines Réunions

### LETTRE DE TRANSPORT MARITIME

Une réunion de la Commission Internationale sous la présidence du Rt.Hon. Lord

ship of The Rt.Hon.Lord Justice Lloyd, on Thursday 22 January, 1987 at 10:00 a.m. in the Parliament Chamber, Inner Temple, London EC4.

#### THE EXECUTIVE COUNCIL

The next meeting of the Executive Council will be held on Thursday 9 April, 1987 and will start at 19:00 at the Brussels Hilton.

A second meeting is scheduled on Saturday 11 April, 1987 after the termination of the Assembly.

#### THE ASSEMBLY

The 1987 regular meeting of the Assembly will be held on Friday 10 and Saturday 11 April, 1987.

The venue will be the Brussels Hilton, Boulevard de Waterloo 38, B-1000 Brussels (Tel:32(2)513.88.77 - Tlx:22744).

Arrangements have been made with the Brussels Hilton for a block reservation of rooms for the delegates at a reduced price.

Hence, when the delegates effect their bookings with the Brussels Hilton, they should mention that they are attending the CMI Assembly meeting.

#### Next CMI Colloquium

At the April 1986 meeting of the Assembly the President of the C.M.I. informed that upon the invitation of The Maritime Law Association of the United States and of the Tulane University a Colloquium on "Protection against Insolvency in Maritime Law" will take place in New Orleans from Monday 9 November, 1987 to Thursday 12 November, 1987 and that a Working Group under the Chairmanship of Professor Mr. Jan C. Schultsz had been set up to prepare the work programme for this Colloquium.

The Executive Council has meanwhile accepted the suggestion by the Working Group that the various subjects be dealt with as follows :

- a. Protection of banks, including mortgage banks;
- b. Protection of lessors;
- c. Protection of shipbuilders;
- d. Protection of shipowners;
- e. Protection of charterers and cargo-owners;
- f. Protection of insurers.

The Colloquium will be chaired by Prof. Francesco Berlingieri. Judge S. Haight Jr. has accepted to act as "rapporteur général".

Justice Lloyd, aura lieu le jeudi 22 janvier 1987 à 10h00, Parliament Chamber, Inner Temple, London EC4.

#### LE CONSEIL EXECUTIF

La prochaine réunion du Conseil Exécutif se tiendra le jeudi 9 avril 1987 à 19h00 à l'Hôtel Brussels Hilton.

Une seconde réunion est prévue le samedi 11 avril 1987 après la clôture de l'Assemblée.

#### L'ASSEMBLEE

La réunion statutaire 1987 de l'Assemblée aura lieu le vendredi 10 et le samedi 11 avril 1987 à l'Hôtel Brussels Hilton, Boulevard de Waterloo 38, B-1000 Bruxelles (Tél.:32(2)513.88.77 - Tlx:22744).

Un arrangement a été pris avec l'Hôtel Brussels Hilton pour la réservation d'un certain nombre de chambres à prix réduit. Il convient, dès lors, que lorsqu'ils effectuent leurs réservations au Brussels Hilton, les délégués signalent qu'ils assisteront à l'Assemblée du CMI.

#### Prochain Colloque du CMI

A la réunion de l'Assemblée du mois d'avril 1986 le Président du C.M.I. informa qu'à l'invitation de l'Association de Droit Maritime des Etats-Unis et de l'Université de Tulane, un Colloque aurait lieu à la Nouvelle Orléans du lundi 9 novembre 1987 au jeudi 12 novembre 1987 ayant pour thème "Protection contre l'insolvabilité en droit maritime", et qu'un groupe de travail, sous la présidence du Professeur Jan C. Schultsz, avait été formé en vue de préparer le programme de travail pour ce Colloque.

Entretemps le Conseil Exécutif a accepté la proposition faite par le groupe de travail de traiter les sujets suivants:

- a. Protection des banques y compris les banques de crédit hypothécaire;
- b. Protection des bailleurs;
- c. Protection des chantiers navals;
- d. Protection des propriétaires de navires;
- e. Protection des affréteurs et des propriétaires de marchandises;
- f. Protection des assureurs.

Le Colloque sera présidé par le Professeur Francesco Berlingieri. Le Juge S. Haight Jr. a accepté la fonction de "rapporteur général".

*Avv. Berlingieri*