



COMITÉ MARITIME INTERNATIONAL

PRESIDENT

President's Report

1. My last report was given to you in Genoa. After four substantial meetings in the previous four years (Dublin, Hamburg, Istanbul and New York) the Genoa meeting was intended to be a low key meeting. It achieved that objective in one sense: the fact that the Secretary-General did not have to be involved as directly as previously in the organisation of the intellectual or social aspects of the meeting. That was left, primarily, to the host Association. In all other respects it was not low key. To the credit of Giorgio Berlingieri and his colleagues, they exceeded all expectations. The meeting attracted over 200 delegates and the intellectual component was of a high standard and the social gatherings took place at venues that were eye wateringly beautiful. Rosalie Balkin reported on the meeting in News Letter No. 1 January 2018. Genoa had been chosen as the venue for the meeting in order to honour Francesco Berlingieri. Francesco attended the opening, the Assembly meeting and the Executive Council meeting. His presence was an inspiration to all of us and he will be sadly missed.

Finances

2. I am pleased to report that for our last financial year ending 31 December 2017 a surplus was achieved of income over expenditure of €51,675. The high number of registrants that came to the seminar in Genoa undoubtedly helped in achieving a modest surplus from that event. At the end of last year the CMI also held €661,798,040, mostly by way of short and medium term investments.

Subscriptions

3. The amount of subscriptions sought to be raised remains steady in the region of €197,000, although slightly less is received with the application of the early bird discount.
4. During my six year period as President we have not felt it necessary to increase subscriptions and in fact have reduced a couple of MLA's subscriptions when they were having difficulty meeting their obligations. This means that subscriptions have not changed since 2009 when a great number of MLAs were given a reduction in the subscriptions they needed to make and fees were discontinued for Titulary members. In fact I think it is fair to say that subscriptions had not been raised for some years prior to those changes taking effect. In 2014 Benoit Goemans, the Treasurer, suggested that subscriptions might need to be raised. He remarked that CMI's income in 2014 was some Euros 83,000 less than it had been in 1998.

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5. Whilst inflation has not been the scourge that it was, costs do not seem to go down and yet we have been able to hold our subscriptions for well over 10 years at the same level.
6. We have, over the last six years, tidied up considerably our outstanding subscriptions. It has meant that we had to expel a number of MLAs who had not paid their subscriptions for at least three years and in some cases many more years than that. Hopefully some of those MLAs will regroup and seek readmission to the CMI (and be able to meet their commitments) in the future.
7. Since the Assembly meeting in 2012, when the CMI had 53 members, 10 Associations have been expelled and 8 have joined the CMI so that there are now 51 members. In addition a number of Consultative members have joined including IMLI, ISU, ITF, Nautical Institute, IACS, FONASBA and the International Association of Average Adjusters.

Website

8. The major change that you will have seen in relation to our operations in the last 12 months is that we have recently launched our new website. This had been done previously, soon after I became President, but it needed a new look and also had become difficult for the Secretariat in Antwerp to make changes and update the website. I want to take this opportunity to express my thanks, and that of all of you, to Taco van der Valk and Evelien Peeters who have worked together in order to update the website and not only make it more user friendly but also more amenable to being updated by Evelien from her computer. The website is now hosted by a Belgian organisation and that is appropriate given Evelien's location in the Antwerp office and Taco's location nearby in Rotterdam.

Publications

9. Again, Taco and Evelien have done a marvellous job in taking over responsibility for the News Letter and the Yearbook. The Berlingieris have been a hard act to follow and I am sure there are improvements which can be made to the News Letter but I think you would agree with me that once again Taco and Evelien have done an excellent job and the transition from the Berlingieris back to Antwerp for the publishing of both the News Letter and the Yearbook has been relatively painless. My thanks go to Taco and Evelien for all the work they have done in relation to the website and both publications. I urge you to make use of both the website and the News Letter for publicising events which your MLA conducts and reporting on them so that other MLAs can learn from your experiences.

Judicial Sales

10. Two of my fellow Executive Councillors have spent an inordinate amount of their time on your behalf in assisting me in persuading UNCITRAL to put the Judicial Sales project on its work agenda. As you know when this matter was last dealt with by UNCITRAL in 2017 we were asked to organise a Colloquium at relatively short notice so that a report could be prepared to be utilised when the UNCITRAL Council met in late June and early July this year in New York. The two Executive Councillors that I am referring to are Alexander Von Ziegler and Ann Fenech. Many of you attended the Colloquium which Ann Fenech and her colleagues at the Malta MLA, with the assistance of Alexander Von Ziegler, organised at the end of February. It was extremely successful and by reason of the quality of the participants on the panels, and in the audience, the report which the Maltese government was able to submit to UNCITRAL showed overwhelming support for the project being taken up by UNCITRAL. The Maltese government sponsored the Colloquium. Attendees did not pay for anything. Our thanks are due to the Maltese government and Ann and her colleagues. Without their support and the success of the meeting I doubt whether UNCITRAL would have been persuaded to take on this work.
11. Both Ann Fenech and Alexander Von Ziegler also gave up their time to travel to New York and assist me to make presentations to the UNCITRAL meeting in late June. We all

arrived on the previous day and therefore spent time familiarising ourselves with both the venue and a number of the delegates. It was apparent that a number of MLAs had had considerable success in persuading their governments of the importance of this work and as a result there were very few voices that opposed the proposal that UNCITRAL take on this work and there were a number of voices in support that explained its significance and why UNCITRAL should agree to the proposal. On your behalf I would like to thank Ann and Alexander for all the work they put in to achieving the result that was achieved in New York.

Current Work Projects

12. Much work remains for the CMI to do. Once we know which working group of UNCITRAL will be taking on the Judicial Sales project we will need to become involved with that work again. The work which Tom Birch Reynardson's International Working Group is doing in relation to Unmanned Ships will keep that group occupied for a number of years whilst the IMO, both in its Legal Committee and its Maritime Safety Committee are considering what steps need to be taken to accommodate such vessels in the various regulatory regimes which govern ships. As you know from the programme for the London meeting, many of the Standing Committees and International Working Groups are meeting. Some of them are only just commencing their work, others are well advanced
13. New work projects were set up in 2014 and 2015 on the topics of Ship Financing Security Practices, Restatement of the Lex Maritima, Ship Nomenclature, Liability for Wrongful Arrest, Cybercrime in Shipping and, as part of the Fair Treatment of Seafarers IWG, Pandemic Response at Sea. In 2016 Refugee Migration at Sea was also added to the work of the Fair Treatment IWG. Many of those IWGs and ones established earlier such as the Polar Group will be continuing their work in London at either a meeting of the IWG or an International Sub-Committee meeting.

Implementation and Promotion of Conventions

14. Shortly after I was appointed President in Beijing in 2012 I wrote to the Presidents of the MLAs identifying certain areas in which I wanted to see CMI devoting more of its efforts. To that end I set up, soon after I became President, a new Standing Committee on the Implementation of International Conventions and Promotion of Maritime Conventions. My primary reason for setting up that Standing Committee was the awareness which I had gleaned from both the IMO Legal Committee and representatives of Shipowners' bodies such as the International Chamber of Shipping that they were frustrated with the lack of progress in ratification of a number of Maritime Conventions. Since the Standing Committee was appointed it has worked closely with both the IMO and the International Chamber of Shipping seeking to publicise the need for States to ratify a number of key Conventions. My second reason in setting up the Standing Committee was my familiarity, from the time when I had been President of the Maritime Law Association of Australia & New Zealand, with the difficulties which we had in both of those countries in gaining access to, and the attention of, the appropriate government representatives in order to persuade them of the need for those critical Maritime Conventions to be ratified. I hoped that having a formal structure within the CMI might empower MLAs to speak with one voice to their governments and seek to influence them to do more in this area.
15. I think the work that MLAs did with their governments in relation to the Judicial Sales project does show that with considerable tenacity results can be achieved and governments can be persuaded to take action. I am sure, however, that there is more that we can all do to try and have some of these Conventions ratified.

BIMCO and FONASBA

16. I mentioned earlier that a number of new Consultant members had been made to the CMI over the last six years. The value of building on those relationships has been brought home to us in the conduct of the Judicial Sales project with international organisations such as the IMO, the Hague Conference and UNCITRAL. One of the side benefits of the work that was done in relation to Judicial Sales is that we worked closely with two of our Consultant members, BIMCO and FONASBA. BIMCO held its board meeting and Documentary Committee meeting in New York at the same time as the USMLA held its Spring meeting in early May this year in that city. I attended that meeting as I wanted to seek BIMCO's support for the Judicial Sales project. I was invited to attend the Documentary Committee meeting. Apart from Allan Philip, who I think may have attended such a meeting in his home city of Copenhagen, I think I may have been the only other CMI President to attend a meeting of the Documentary Committee of BIMCO. I am hopeful that the relationship between CMI and BIMCO will continue to prosper as I am sure there are many areas in which we can assist each other and work together to the benefit of our respective memberships. The same applies to FONASBA and I am sure many other Consultative members that the CMI has.

Rotterdam Rules

17. The bread and butter work that I am sure a great many of us within Maritime Law Associations around the world rely upon in our practices relates to the Carriage of Goods by Sea. The liability regime is central to that work. I am due to speak at the China Maritime Law Association meeting in Shanghai, a few days before the CMI Assembly meeting in London. At that meeting I will be urging the China Maritime Law Association to persuade the Chinese government to ratify the Rotterdam Rules. I am going to suggest to them that the plethora of regimes that exist in this area (Hague, Hague-Visby, Hamburg and the hybrids which exist all around the world, including in my own country and China) makes a mockery of uniformity and must add considerably to the costs of claims handling for both shipowners and cargo owners. It is absurd in 2018 that Paramount clauses still incorporate the Hague Convention of 1924. Not only does that Convention, or its Hague Visby Protocol, make no reference to E-Commerce but the original Convention, of course, makes no reference to containerisation. I will be stressing the fact that the Rotterdam Rules make provision for E-Commerce. Those Rules were drafted with E-Commerce in mind. They are the only liability Convention that does so. Whatever its perceived faults might be there will be substantial cost savings which will accrue to all participants in international trade by the use of paperless transactions and processes, such as Block Chain, so the economists tell us.

Database on Maritime Jurisprudence

18. One of the other topics that I mentioned in my letter to MLA Presidents shortly after my election in 2012 was the development of the CMI's database on Maritime Jurisprudence. You will recall that at that time the database was the sole creation of Francesco Berlingieri who was dependent on being informed of cases from all around the world by MLAs. Whilst it took some time to achieve we have now established the database thanks to the work of the University of Singapore. The amount and quality of the information which is placed on that database depends on your efforts. A few MLAs have provided material but a lot more of us need to take steps to provide information about cases dealing with the nominated Conventions. I have set myself the task of assisting the MLAANZ to provide information in relation to its two jurisdictions, as I am hoping to have some more time to myself after 9 November to undertake such tasks. I hope some of you can do the same in your country.

Communication between the CMI and MLA Members

19. Another topic I mentioned in my letter to MLAs shortly after my election was the desire to increase the direct communications between the CMI and MLA members. There was a

facility available on the previous website by which communications could be sent direct from the website to your members. Only about 8 MLAs provided details of their membership which enabled such communications to be made. Unfortunately the same facility is not available on the new website and one of the problems with the previous facilities was that it was also dependent on those MLAs who supplied details of their membership to update email addresses and details of their membership. It is an area in which the new administration which you will be electing at the Assembly meeting will need to give fresh consideration to. It may be in the world of LinkedIn, Facebook and other social media that there are other ways of achieving what I had hoped to achieve by having that direct communication with MLA members. Essentially my wish was to increase the awareness of the CMI activities in order to make MLA members feel part of the CMI family.

CMI Administrative Arrangements

20. During 2013 the administrative arrangements of the CMI underwent considerable change. Wim Fransen stepped down as Administrator and soon after Benoit Goemans indicated that he would like to step down from Treasurer in the not too distant future. We moved CMI's registered office to that of the Belgium Shipowners Association at Ernest Van Dijckkaai 8 in Antwerp. Lawrence Teh took over the role of Administrator and has performed the role of the CMI representative in the regional office which had been set up in Singapore. Setting up that office was the brainchild of Karl Gombrii and Lawrence Teh has made it into a most useful point of contact for CMI members in that region, as well as for potential members. He has been extremely active in the Far East in encouraging MLAs to join CMI and to be more active participants. Benoit was persuaded to see us through to 2015 when he stepped down after many years in the post of Treasurer. That required us to find a new office for our Administrative Assistant. The Belgium Maritime Law Association suggested that an office might be found for CMI's only employee within the offices of the Belgium Shipowners Association. That has been a most successful transition and I am very grateful for the Belgium MLA's assistance in making that happen. At the same time Peter Verstuyft took on the role of Treasurer, after he had retired from being the managing director of the Belgium Shipowners Association. Later on he also introduced us to Evelien Peeters when we needed to find a new Administrative Assistant.
21. Over the last six years we have had a number of Management Committee meetings in that building and I encourage you, if you have an opportunity to visit Antwerp, to let Evelien know in advance so that you can go and visit it. (I am happy to report when the young lawyers from a number of the European countries met together for their annual meeting in Antwerp earlier this year, a group of them visited Evelien at the office).
22. I should also note that the Belgium Shipowners Association was extremely supportive of the Judicial Sales project.
23. In April this year Lawrence Teh visited Sydney on business and Rosalie, who had not returned to London for the northern summer and was in Canberra came up to Sydney for a meeting with us. It was a very useful opportunity to help them understand their respective roles and make preparations for the London meeting.

The Future of CMI

24. At the Assembly meeting at the Conference in Beijing the then President of the USMLA, Bob Parrish, suggested that the CMI should give consideration to appointing a committee from outside the Executive Council, to consider the future. That arose out of a discussion paper which I had prepared for that Assembly meeting, which raised various issues for debate as to the future direction and operations of the CMI. Such a committee was set up soon after the Beijing Conference. Unfortunately it has taken six years for that committee to complete its work. At the time of writing this report it has not been completed but I am hopeful that a report will be available for discussion at the Assembly meeting in London. I am very grateful to Liz Burrell for the work she and her colleagues did in the initial period

and to Steven Knudzon, Jesus Casas and Ed Sweetman for continuing on with that work over the last 12 months.

Constitution

25. I am grateful to John Hare, Patrice Rembauville-Nicolle, John O'Connor, Benoit Goemans and John Francois-Peters for all the work that was done to reform the Constitution which was approved at the Assembly meeting in Genoa last year. Whilst it was largely an exercise in tidying up and re-drafting some of the provisions there were a few substantive changes which were made which I trust will be found over the succeeding years to have been beneficial. Only time will tell whether the changes to the membership of the Nominating Committee fall into that category but I hope that will be the case. I am exceedingly grateful to Jean Francois-Peters for helping us put our house in order in order to comply with the formalities of Belgian law in reporting changes, not only to the Constitution, but also in respect of the officers of the Association whenever they occur.

Secretary-General

26. In looking back at the last six years I am extremely grateful for having inherited Nigel Frawley as the Secretary-General in my first couple of years and to have been able to persuade John Hare (with Karl Gombrii's help) to replace Nigel when he retired. The fact that we held large meetings in Dublin, Hamburg (and Berlin), Istanbul and New York in 2013, 2014, 2015 and 2016 placed huge pressures on the limited resources within the CMI. The fact that they were so successful, as I have said on many occasions, was due to the hard work put in by firstly, Nigel Frawley and then in the subsequent years by John Hare, as well as the host MLAs. I have already mentioned Genoa which was John Hare's final event and although not as pressurised as the earlier ones he was still intimately involved in its organisation. To ease the workload of our new Secretary-General and the Administrator, the Executive Council decided that the London meeting should only involve an Assembly meeting but with the opportunity for International Working Groups and Standing Committees to hold their meetings. As the programme notes, there will be plenty of activities to participate in and observe on 8 and 9 November 2018 in London.
27. The success of all the meetings that have taken place over the last six years has been due to the hard work that both Nigel Frawley and John Hare have put in, together with the host associations, and I am exceedingly grateful to both of them and all of you who have had that role.

Conclusion

28. The last six years have not been without their sadnesses. We lost many fine servants of the CMI. Those whom I knew best were: Richard Shaw, who died soon after I took over as President. Richard was the first maritime lawyer I ever knew before I had even considered a career in maritime law. We played hockey together in London before I emigrated to Australia in 1974. He was a wonderful Rapporteur for me when I chaired the Places of Refuge International Working Group and kept a close eye on me when I chaired the Salvage International Working Group. More recently, both Bill Birch Reynardson and Francesco Berlingieri, both of whom I regarded with enormous admiration for the ways in which they conducted themselves, have passed away. They all gave devoted service to the CMI over many, many years as did a number of others that I did not know so well who have passed away in the last six years.
29. Stepping down from the Executive Council in London will be Giorgio Berlingieri and Tomotaka Fujita. Neither will be lost to the CMI. The Nominating Committee has proposed that Giorgio be appointed to it and Tomotaka is very involved in the organisation of the Tokyo Conference in 2020 and will, I hope, continue to chair the Standing Committee on Carriage of Goods. When Giorgio stepped down as Publications Editor I expressed the CMI's deep appreciation to him for having carried out that task so expertly and, seemingly, effortlessly. I do so here again, but in addition commend him for being an

indefatigable member of the Executive Council and Vice-President of the CMI. The huge support he received from MLAs for his appointment to the Nominating Committee is testament to the affection and admiration in which he is held by MLAs all around the world. If Giorgio were a politician he could look forward to a highly lucrative career on the world's speaking circuit. Tomotaka has been no less an effective member of the Executive Council and Chair of the Carriage of Goods Committee. The CMI owes both of you a huge debt of gratitude for your service.

30. I would like to take this opportunity of thanking all the Chairs of all the Working Groups and Standing Committees and the members of the IWGs and Standing Committees for the time and effort they put into organising their meetings and carrying out the work which they do. I would also like to thank all the MLAs and their Presidents who have held office over the last six years for the work that they have done in participating in the affairs of the CMI and in particular in responding to questionnaires from the IWGs and Standing Committees.
31. Finally my thanks go to everyone who is serving or has served on the Executive Council in the last six years or whose contributions to the work of the CMI I have overlooked earlier in this Report for their time and hard work which has made my job so much easier. I should mention in particular my predecessor Karl Gombrii and thank him for all the help and assistance which he has provided to me over the last six years. Like all good immediate Presidents he has kept in the background but has always been available to take on a particular role or give advice when I requested him to do so.
32. I trust that the CMI will continue to thrive in the future and wish the new President and Executive Councillors continued success and enjoyment in their roles.

Stuart Hetherington

27 September 2018