



**COMITÉ MARITIME INTERNATIONAL**  
SECRETARY-GENERAL

**MINUTES OF CMI ASSEMBLY HELD ON 21 OCTOBER 2022 (14:00-17:30)**

**QUEEN ELISABETH HALL**

**FLANDERS CONGRESS AND CONVENTION CENTRE**

**KONINGIN ASTRIDPLEIN 20, 2018 ANTWERPEN**

**1. Report of the Credentials Committee**

John O'Connor reported that the Assembly had been properly convened with notice of the agenda as tabled, that a quorum of Member Associations was present, and that, in terms of the Constitution, all Member Associations represented were entitled to vote.

**2. Memorials**

The President advised the Assembly of the passing of the following distinguished members of the CMI family:

- |   |                     |
|---|---------------------|
| (a) Jose Modesto Apolo Teran (Ecuador)  | (Javier Cardoso)    |
| (b) Francisco Arca Patiño (Peru)        | (Katerina Vuskovic) |
| (c) Anthony Diamond, QC (UK)            | (Stuart Beare)      |
| (d) Rodolfo A. Gonzalez-Lebrero (Spain) | (Eduardo Albors)    |
| (e) James F. Moseley, Sr. (USA)         | (Barbara Holland)   |
| (f) Guillermo Sarmiento (Colombia)      | (Javier Franco)     |

At the request of the President, Javier Cardoso said a few words about Jose Modesto Apolo Teran; Katerina Vuskovic said a few words about Francisco Arca Patiño; Stuart Beare said a few words about Anthony Diamond, QC; Mercedes Duch, on behalf of Eduardo Albors said a few words about Rodolfo A. Gonzalez-Lebrero; Barbara Holland said a few words about James F. Moseley, Sr.; and Javier Franco said a few words about Guillermo Sarmiento.

The Assembly then spent a moment in silent tribute to those who had passed.

**3. Approval of the Minutes of the Correspondence Assembly held on 30 June 2022**

The President tabled the Minutes of the Correspondence Assembly held on 30 June 2022. These were duly approved and adopted by a majority of the Assembly.

**Resolved: that the Minutes of the Correspondence Assembly held on 30 June 2022 be approved.**

**4. Approval of Proposed Amendments to CMI**

**(a) Articles of Association**

**(b) Change of Accounting Year from 1 January-31 December to 1 May-30 April**

**(c) Approval of Extension of 2022 Accounting Year by four (4) months to 30 April 2023**

The President invited John O'Connor to introduce this item. In so doing John noted that all Assembly members had access to the amendments, both the under-scored and the clean copies. He noted that the official version of the Constitution was in Dutch but copies were available in both English and French, which are the working languages of CMI.

The most important amendment was the change of the fiscal year in Section 4(b) to facilitate compliance with Belgian law which requires the annual Assembly to approve the previous year's finances by no later than 6 months following the end of the fiscal year.

In view of the CMI conference scheduled to be held in Montreal in June 2023, he noted that here might be a need to convene a Correspondence Assembly to approve the finances for the extended fiscal year.

**Resolved: that the proposed amendments be approved.**

**5. Approval of GA Guidelines (and Security Wordings)**

The President requested Dieter Schwampe to introduce this item. Dieter referred to the Plenary held earlier in the day, led by Jorn Groninger, where the Guidelines and Security Wordings had been discussed and approved by those present. The President noted that this concluded the work begun in New York and would be welcomed by all stake holders.

**Resolved: that the GA Guidelines (and Security Wording) be approved.**

**6. Finances**

**[Items (a) and (b) below for informational purposes as they were approved at the Correspondence Assembly held on 30 June 2022]**

**(a) Treasurer's Report**

**(b) Cash Position**

**(c) Budget Review 2022-2023**

The Treasurer was called on by the President to present his Report as well as the Cash Position and the Budget Review 2022-2023.

The Treasurer did so by way of a power-point presentation which he had prepared for the Assembly, essentially providing an “operations” report, which included both income and expenditure. With regard to income he noted that in comparison with previous years the situation was stable.

He then provided an explanation of the expenses associated with CMI’s various publications. With regard to the Yearbooks, he noted that, as there was no separate Yearbook for 2020, there had been no associated costs. By way of comparison, the costs for the 2019 Yearbook had been substantial due to the costs of postage. He hoped to avoid these this year by distributing as many Yearbooks as possible at the Assembly.

With regard to EXCO’s costs, he noted that in 2019 there had been costs associated with travel to Mexico as well as to UNCITRAL and IMO meetings. There were no such costs in 2020 and 2021 due to the pandemic.

Administrative costs, including the salary for the Head Office Manager, telecommunications, office rental, archives and Assembly-related expenses were largely fixed.

He noted that the sum set aside for support of the NUS database had been increased from €5000.00 to €10,000.00. There were also extra costs due to the extension of the fiscal year by four months.

With regard to expenses for the coming year, including the impact that the change of the Accounting Year would involve, he noted inter alia the cost of publications, including postage if necessary. He noted further that the item on “Legal assistance/formalities” had been included due to necessary work on constitutional changes.

With regard to the sum set aside for “Projects Judicial Sales”, it was agreed to increase the estimate to €10,000 to allow some latitude in the budget to cover not only the signing ceremony but also in-person meetings with NMLAs and other international organisations to encourage them to push for ratification and implementation of the new treaty instrument,

With regard to activities of IWGs and SCs, while most costs would be covered by the various law firms, the sum of €5,000 had been included to cover travel expenses in respect of events organised by the IWG on Unified Interpretation to inform national administrations and courts of the existence and binding effect of the Unified Interpretations.

The President pointed out that the Assembly had already approved the Budget but in view of the changes now introduced due partly to the extension of the fiscal year, he requested the Assembly to approve the revised Budget.

**Resolved: that the revised Budget be approved**

The President then thanked the Treasurer for his years of service to CMI and presented him with an inscribed silver salver as a measure of the Organisation’s esteem.

**(d) Audit Committee Report**

Måns Jacobsson, in his capacity as Chair of the Audit Committee, presented the Committee's Report. He first emphasised that the Audit Committee did not carry out an audit of the CMI which was the task of the CMI's External Auditor Vandelanotte cvba represented by Mr Chris Meuldermans; the task of the Audit Committee was to supervise the audit and to ensure that the audit was carried out properly and covered the important issues relating to the organisation's activities.

Mr Jacobsson mentioned that after a virtual Conference between the Audit Committee members at which the financial documents were discussed, he had held a comprehensive telephone discussion with the External Auditor and that, in the light of the result of this discussion, the Committee considered that the audit carried out in respect of the financial year 2021 was adequate in view of the nature of the CMI as a not for profit organisation and the extent of its operations. He referred to the fact that the External Auditor had stated that there were no omissions in the accounts, that the figures for all assets and all expenses were 100 % reliable and that everything was presented accurately.

He mentioned that the External Auditor had made the point that the 2021 financial year (like the 2020 financial year) was different from previous years mainly due to the Covid-19 pandemic having resulted in no CMI event having taken place during the year and that the expenses not affected by the absence of events were in line with those of previous years.

Mr Jacobsson drew attention to the fact that the External Auditor had confirmed that the CMI's funds were placed in investments appropriate to an organisation such as the CMI; the External Auditor had expressed great confidence in the soundness and stability of the CMI's assets and the reliability of their valuation in the Balance Sheet. He emphasised that the External Auditor had expressed the view that everything concerning the CMI's assets was reliable and transparent. He also mentioned that according to the External Auditor the CMI's bookkeeping gave all relevant details and was well prepared, that the account reflected good accounting practice and that the accounts gave a fair view of the CMI's financial position as of 31 December 2021.

Mr Jacobsson drew attention to the fact that the Audit Committee had noted a loan of CDN\$ 10,684 granted to the Canadian Maritime Law Association to cover the amount paid as a security deposit advance to the hotel where the CMI Conference in Canada is to be held; the Conference was first scheduled to take place in 2021 but had at the request of the CMI been postponed until 2023. He mentioned that the Audit Committee had understood that the CMI did not normally grant loans to Maritime Law Associations but, in view of the special circumstances of this case, the Audit Committee had accepted the reasons for the CMI granting this loan.

Mr Jacobsson mentioned that, in the Audit Committee's view, the experience gained from the worldwide crisis caused by the rapid global spread of the Covid-19 virus which had led to closed borders and grounded airlines and had resulted in the repeated postponement of the CMI event originally scheduled to take place in 2020 confirmed the importance of the CMI continuing to hold sufficient reserves to enable it to cover the financial consequences for the organisation resulting from unforeseen events. He referred to the fact that the CMI's accumulated reserves at the end of the 2021 financial year stood at €730,884. He stated that, in the Audit Committee's opinion, the CMI still held a comfortable level of reserves in view of the cost structure and operations of the organisation; the Committee

considered that, in view of the present uncertainties in the world, the CMI should maintain its policy to have a largely break-even result.

In conclusion, Mr Jacobsson stated that the Audit Committee had recommended to the Executive Council that the accounts for the financial year 2021 as presented to the Committee be approved and that Vandelanotte cvba be nominated as External Auditors for the CMI for the financial year 2022.

**Resolved: that the Audit Committee's Report be approved.**

### **(e) Report on the Collection of Outstanding Contributions**

In delivering his report, John O'Connor urged all NMLAs to pay their annual contributions on time and reminded them of the penalties that might be imposed if these remained unpaid. He noted that three NMLAs were severely in arrears with their subscriptions and, as such, liable to expulsion. It had however been decided not to take steps to expel them at this special Assembly which was marking the 125th anniversary of CMI, but if these arrears continued to remain unpaid, warning notices would be sent out 90 days prior to the Montreal Assembly, and in the absence of payment, a vote would be taken on their expulsion.

### **(b) Charitable Trust Report**

In his report to the Assembly, Tom Birch Reynardson provided the following information:

#### **Finances**

The value of the investments on 31 August 2021 was £700,316. As at 31 August 2022 the portfolio was valued at £687,839. This is a fall in value of about 5.5%. During the period, the MSCI PIMFA Income PR Index, by which we compare the Fund, fell by 7.45%. The fund managers blame the situation in Ukraine for the fall in value.

The fund generated an income of about £24,000.

The fees of Smith and Williamson are about £3,500 per annum. Smith and Williamson have recently changed their name to Evelyn Partners, but the same personnel are managing the account.

#### **IMLI**

During the past 2 years CMI Lecturers have provided online lectures as follows:

#### **Academic Year 2020-2021:**

- Dr. Ann Fenech (5<sup>th</sup> November 2020, "General Characteristics of a Maritime Lawyer", "The Role of a Maritime Practitioner in the Shipping Industry"; 10<sup>th</sup> May 2021, "Preparation of Oral Pleadings: Oral Advocacy and Presentation of the Case");
- Dr Rosalie Balkin (25<sup>th</sup> January 2021, "IMO and Global Ocean Governance");
- Dr. Mitja Grbec (25<sup>th</sup> and 26<sup>th</sup> February 2021, "Liability and Compensation Regimes in Case of Oil Pollution I", "Liability and Compensation Regimes in Case

of Oil Pollution II”, “Liability and Compensation Regimes in Case of Oil Pollution III”, “Liability and Compensation Regimes in Case of Oil Pollution IV”).

- Mr. Christopher Davis (1<sup>st</sup> March 2021, “The Role of CMI in Maritime Affairs”);
- Dr. Patrick Griggs (2<sup>nd</sup> and 3<sup>rd</sup> March 2021, “Nairobi International Convention on the Removal of Wrecks”, “Making Maritime Law - Do Conventions Work?” and “The 1980’s – A Decade of Disasters on Land, the Air and at Sea”);
- Mr. Bent Nielsen (18<sup>th</sup> May 2021, “General Average”);
- Mr. David Martin-Clark (16<sup>th</sup> March 2021, “Maritime Arbitration I”, “Maritime Arbitration II”);
- Mr. Robert Veal (22<sup>nd</sup> March 2021, “IMO Regulatory and law of the Sea Issues for Autonomous Ships”);
- Dr. Miriam Goldby (27<sup>th</sup> and 28<sup>th</sup> May 2021, “Marine Insurance Law I”, “Marine Insurance II”, “Maritime Arbitration I”, “Maritime Arbitration II”).

#### **Academic Year 2021-2022:**

- Dr. Ann Fenech (3<sup>rd</sup> November 2021, “General Characteristics of a Maritime Lawyer”, “The Role of a Maritime Practitioner in the Shipping Industry”);
- Dr Rosalie Balkin (24<sup>th</sup> January 2022, “IMO and Global Ocean Governance”);
- Dr. Patrick Griggs (8<sup>th</sup> and 9<sup>th</sup> February 2021, “Nairobi International Convention on the Removal of Wrecks”, “Making Maritime Law - Do Conventions Work?” and “The 1980’s – A Decade of Disasters on Land, the Air and at Sea”);
- Mr. Bent Nielsen (23<sup>rd</sup> February 2022, “General Average”);
- Dr. Mitja Grbec (21<sup>st</sup> and 22<sup>nd</sup> April 2022, “Liability and Compensation Regimes in Case of Oil Pollution I”, “Liability and Compensation Regimes in Case of Oil Pollution II”, “Liability and Compensation Regimes in Case of Oil Pollution III”, “Liability and Compensation Regimes in Case of Oil Pollution IV”).

The trustees agreed that the Trust should pay a total of £5,000 to IMLI each year and that any balance left over from the travel expenses will be paid to IMLI to buy books to supplement their library. IMLI will be putting up a suitable plaque in their library to acknowledge the support of the CMI Charitable Trust for IMLI and acknowledge the contribution made by the Trust in the report submitted to its Governing Body and to IMO.

#### **Prizes**

Because of the lack of CMI events in the past few years we have a very considerable backlog of prizes to give to students from IMLI and to winners of the CMI Essay Prize. Accordingly this year we are delighted to have given prizes to the following:

#### **Best Overall Student**

- Alexandr Boiciuc (Malta) CMI Prize for Best overall student 2021/2022
- Abu Lafi (State of Palestine) CMI Prize for Best overall student 2020/2021
- Kimberley Zarb (Malta) CMI Prize for Best overall student 2019/2020

#### **yCMI Essay Competition Prizewinner**

- 2020 Dr Eva Litina (Greece) - “Maritime Arbitration: Dilemmas, Prospects, and Challenges: Lessons from Contracts for the Carriage of Goods by Sea”
- 2019 Helen Nieman (USA) - “Cyber Risks in the Unmanned Vessel Industry and Adapting the Current U.S. and International Legal Framework to New Challenges.”

## Trustees

The current trustees are Andrew Taylor, Benoit Goemans, Ann Fenech, Alexander von Ziegler, Stuart Hetherington and Tom Birch Reynardson. Since our last Assembly Karl Johann Gombrii has retired as trustee, and we are enormously grateful to him for being a trustee over many years.

## 7. Membership

### (a) Titulary Membership Proposals

- (i) James Leslie Bain Allsop AO (Australia and New Zealand)
- (ii) Javier Andrés Cardoso Andrade (Ecuador)
- (iii) Javier Franco (Colombia)
- (iv) Mitja Grbec (Slovenia)
- (v) Boris Jerman (Slovenia)
- (vi) Norman Martinez (Malta)
- (vii) Louis Mbanefo (Nigeria)
- (viii) Eugenio Moreno (Venezuela)
- (ix) Julio Peña Acevedo (Venezuela)
- (x) Dieter Schwampe (Germany)
- (xi) Yelitza Suárez (Venezuela)
- (xii) Ider Valverde (Ecuador)
- (xiii) Patrick Vlacic (Slovenia)
- (xiv) Margita Selan Voglar (Slovenia)
- (xv) Tilo Wallrabenstein (Germany)
- (xvi) Deucalion Rediadis (Greece)
- (xvii) Ioannis Markianos-Daniolos (Greece)
- (xviii) Vassilis Vernicos (Greece)

In introducing this item, the President reminded the Assembly that the procedure for conferring Titulary Membership is addressed in both the Constitution and the Guidelines and that late submissions on this occasion had resulted in the names of four applicants being omitted from the circulated agenda. He asked the Assembly nevertheless to approve the grant of Titulary Membership to all the above-mentioned individuals as they had all been recommended by the Executive Council.

**Resolved: that all the above-mentioned applicants be approved as Titulary Members.**

The Administrator and Secretary-General were requested to inform all the candidates in writing of the decision of the Assembly.

## 8. Future meetings

**(a) Assembly Meeting: Montreal 2023**

At the request of the President, Paul Harquail, the President of the Canadian MLA, briefed the Assembly about arrangements for the Montreal meeting, scheduled to take place 14-16 June 2023. He showed a video of Montreal and noted that a new website had been established, namely, "Montreal 2023".

**(b) Assembly Meeting: Gothenburg 2024**

At the request of the President, Paula Backden informed the Assembly that the Swedish MLA was looking forward to welcoming everyone to Gothenburg in May 2024. The Clarion Post Hotel had already been booked for the event and an excursion had been planned. As 2024 would be the centenary of the Hague Rules, this would most likely be the theme of the event.

**(c) Assembly Meeting: Tokyo 2025**

At the request of the President, Tomotaka Fujita informed the Assembly that the plans made previously (when the Conference had to be cancelled due to COVID-19) were still in place and the sponsorship funds raised were still available. There would be some revision of the programme but the intention of the Japanese MLA was to continue as planned and every one was invited to attend Tokyo 2025.

**(d) Assembly Meeting: Rio de Janeiro 2026**

The President informed the Assembly that EXCO had recommended that Rio host the 2026 event and asked that the Assembly approve this recommendation. He invited Luis Felipe Galante, President of the Brazilian MLA, to say a few words. Luis showed a video and stated that the Brazilian MLA would be honoured if Rio was chosen for 2026, especially as this would coincide with its 65<sup>th</sup> anniversary.

**Resolved: that Rio be approved as the venue for the 2026 Assembly Meeting.**

**9. International Working Groups****(a) Acts of Piracy and Maritime Violence**

In delivering his report, the Chair of the IWG, Andrew Taylor, noted that the Working Group continues to have a watching brief. He was pleased to report that earlier in the month IMB had reported that incidents of piracy and armed robbery in the first nine months of 2022 were the lowest recorded in three decades.

There were 90 recorded incidents:

Eighty-five involved ships being boarded; four were attempted attacks; one was a hijack. Nevertheless, violence towards crew continues: 27 crew were taken hostage and many assaulted.



On the whole this was good news and, in particular, there had been some positive signs of a decline in the Gulf of Guinea which has been a hotspot in recent years. Indeed, there were only 13 incidents in the Gulf of Guinea in the first nine months compared with 27 during the same period in 2021. It seemed that the efforts of the countries in that region to combat piracy were bearing fruit.

Of course, IMB warned against complacency and it was to be hoped that governments would continue to commit resources to combatting the scourge of piracy and violence against ships and crew.

**(b) Classification Societies**

**No report**

**(c) Cybercrime**

**No report**

**(d) Fair Treatment of Seafarers (including Pandemic Response and Migration at Sea)**

In delivering her report, Valeria Eboli, the Chair of the IWG's Sub-Committee on Maritime Law and Refugee Migration at Sea noted that the Sub-Committee had for some time been working on some questionnaires. They had been sent out to all the NMLAs but to date only 12 responses had been received. She urged those NMLAs which had not yet responded to return their completed questionnaires as soon as possible. An initial working document based on the first questionnaires received had been prepared and presented in the framework of the SC meeting during the Antwerp conference. The Sub-Committee looked forward to receiving more replies which would enable it to prepare a comprehensive working paper on the subject.

**(e) Liability for Wrongful Arrest of Ships**

The report to the Assembly was delivered by George Theocharidis, on behalf of the Chair of the IWG, Aleka Sheppard. In doing so he noted that this was possibly the final report of the IWG as the responses to the second questionnaire sent out by the IWG, on which the report was based, were not sufficient to provide a clear picture of the way ahead. Nonetheless, during the debate at the meeting of the IWG on 19<sup>th</sup> October 2022, there was a great interest, coming from the civil law jurisdictions, and from ICS - including Judge Sarah Derrington - to continue the project. There were various suggestions to the IWG to follow a different path to achieve more responses to their questionnaire because the answers to their last one had been limited due to the pandemic. An interesting suggestion was to obtain the views from the wider industry. The way to do this needed to be considered, in view of the present CMI rules. Aleka therefore requested that this be considered by EXCO for guidance before the IWG took any further steps.

**(f) MASS**

In delivering his report, the Chair of the MASS IWG, Tom Birch Reynardson, advised the Assembly that the “first run” of the review of the IMO Legal Committee and Maritime Safety Committee conventions as well as the CMI Conventions had been completed and the next phase was to peer review the research done so far.

The IWG would then produce a report which should be available in draft form at the Montreal Conference.

Meanwhile the IWG was working with IMO and in particular had been invited to submit a paper to the joint Legal Committee/MSC /FAL Joint Working Group for its meeting in March of next year. A sub-committee had already been formed and work on this would start next week.

He expressed his gratitude to the Working Group which had a large number of members, many of whom had been very active since the formation of the IWG.

#### **(g) Offshore Activities**

In the absence of Jorge Radovich, the Chair of the IWG on Offshore Activities, Aurelio Fernandez-Concheso informed the Assembly that the meeting of the IWG had taken place on 19 October 2022 at the Belgian Shipowners Association and had been chaired virtually by Jorge. The Group had prepared a draft convention and its goal was to present it to the CMI Conference in Montreal (June 2022).

The main point for further discussion was whether or not liability for offshore oil pollution should include environmental damages, that is, whether States would have the right to claim from liable parties damages over and above actual direct physical damages—there were two schools of thought in that respect. According to the majority, environmental damages should be included but some in the Group were of the view that such inclusion would be very difficult to prove. The Group would continue to work on these issues with the aim of presenting a final draft in Montreal.

#### **(h) Polar Shipping**

Aldo Chircop, the Chair of the Polar Shipping IWG, reported that, over the course of the year, the IWG continued to work through subgroups, namely on Passenger’s Rights in Arctic Shipping led by Lars Rosenberg Overby and Esther Mallach, and Antarctic Shipping led by David Baker. Both subgroups had significantly advanced their work. A third subgroup on COLREGs in polar navigation did not progress. At the meeting at Fransen Luyter, three working papers had been discussed.

The first paper concerned Passengers’ rights in Arctic shipping led by Lars Rosenberg Overby and had been completed. The comparative paper examined the legal regimes applicable in the five Central Arctic Ocean states and concluded that those regimes and the Athens Convention as applicable, appear to provide sufficient protection of passengers’ rights.

The second working paper concerned passengers' rights in Antarctic shipping and was led by Esther Mallach. The paper was in an advanced draft stage and would be finalized after the addition of an annex indicating the flags of cruise ships in Antarctic waters. The paper underscored the important role of flag States, given that Antarctic cruise shipping does not occur in zones of recognized national jurisdiction. Accordingly, to understand the protection of passengers' rights it was necessary to look at the flag State's law and the law applicable to the standard form and accompanying terms, including choice of law and forum, issued by the carrier.

The third working paper led by David Baker with co-principal authors Stacey Fraser and Young CMIer Emily Ferguson, focused on liability and compensation for ship-sourced pollution damage in Antarctic waters. The provisional findings indicated there was significant uncertainty in the applicable law for several reasons: the Liability Annex to the Protocol on Environmental Protection of the Antarctic Treaty, while based on the LLMC 1976, was not in force; the limits of liability in the Annex had not developed *pari passu* with the revised limits of the LLMC; Antarctic waters were not within recognized national jurisdictions and were subject to the regime of the high seas in the law of the sea; and accordingly, the IMO civil liability conventions did not apply. The subgroup was now considering recommendations. The current draft of this working paper was open for further comments and feedback by IWG members by 31 December.

As the IWG had completed the first and was nearing completion of the second and third working papers, it had started to discuss potential new topics and would continue to deliberate through email. At this time, two ideas being explored concern the implications of the implementation of the UNDRIP for the regulation and good practices for Arctic shipping, and the matter of coastal State responsibility for the provision and maintenance of navigation aids in Arctic waters.

The IWG also contributed a panel on polar shipping at the Conference during which working papers were presented by Lars Rosenberg Overby, Esther Mallach and Phillip Buhler.

He concluded by expressing the IWG's gratitude to Vincent Fransen for enabling the IWG to convene its meeting at the splendid and beautiful premises of Fransen Luyten, and for the warm hospitality offered to participants.

#### **(i) Recognition of Foreign Judicial Sale of Ships**

Ann Fenech as co-chair of the IWG on judicial sales presented a report on the work of this subcommittee since the last Assembly held virtually in September 2021.

She reported extensively on the intense work undertaken by the IWG culminating in the 55<sup>th</sup> Commission meeting at UNCITRAL on 30 June 2022 which had approved the draft Convention and had recommended that the United Nations General Assembly (UNGA) adopt the Convention. The IWG members were now waiting for the Convention to be formally adopted by the UNGA during its current 77<sup>th</sup> session.

She referred to the several communications sent out to member NMLAs, Titulary Members and Consultative Members during the year including:

1. 1<sup>st</sup> October 2021, letter to all NMLAs attaching a copy of the 4<sup>th</sup> Revision of the Beijing Draft and a copy of the CMI Notes in preparation for the 39<sup>th</sup> Session of Working Group V1 at UNCITRAL scheduled for the 18<sup>th</sup> to the 20<sup>th</sup> October 2021.
2. 6<sup>th</sup> January 2022, letter to all NMLAs attaching a copy of the 5<sup>th</sup> Revision of the Beijing Draft and a copy of the CMI Notes in preparation for the 40<sup>th</sup> Session of Working Group V1 at UNCITRAL scheduled for the 7<sup>th</sup> to the 11<sup>th</sup> February 2022.
3. 3<sup>rd</sup> May 2022, letter to all NMLAs attaching a copy of the Draft Convention that had been finalised by the Working Group at the 40<sup>th</sup> Session for presentation to the Commission for its approval at the 55<sup>th</sup> Session of the Commission scheduled to be held between the 27<sup>th</sup> June and 15<sup>th</sup> July 2022, with a copy of the CMI meeting notes in preparation for that important session.
4. 10<sup>th</sup> September 2022, letter with an update of the successes obtained at the 55<sup>th</sup> session of the Commission including with information on the Judicial Sales content of the Antwerp Conference.

She gave a brief history of the journey related to judicial sales starting with the great efforts of Henry Li and the first IWG on judicial sales and the second IWG that took the project through. She reminded everyone that none of this would have been possible had it not been for the hard work of several persons including NMLAs, state delegations, consultative bodies of the CMI who participated in the sessions such as BIMCO, ICS, IAJ, IBA, ITF, Law Asia and others and the expert chairing of Working Group V1 by Prof. Beata Czerwenka, the guidance and suggestions of Jose Angelo Faria Principal Legal Officer and Head Legislative Branch – UNCITRAL, and the invaluable contributions and drafting of Alex Kunzelmann. She thanked in particular Fred Kenney, IMO Director of Legal Affairs and External Relations, and Angele Sears Debono, Legal and Policy Officer in the Civil Justice unit at the EU Commission, for their very important participation and contributions.

Finally she thanked all the members of the first CMI IWG, being Henry Li as Chair, Jonathan Lux, Andrew Robinson, Frank Smeele, William Sharpe, Lawrence Teh, Frank Nolan, Louis Mbanefo, Benoit Goemans, Klaus Ramming and Aurelio Fernandez-Concheso, and the second CMI IWG group who took the project to UNCITRAL and through UNICTRAL, made up of herself and Henry Li as co-Chairs, Alex von Zeigler, Stewart Hetherington, Tomotaka Fujita, Frank Nolan, Peter Laurijssen, Jan Erik Poetschke, Eduardo Albors, Benoit Goemans, Paula Backden, Beiping Chu, Luc Grellet and Andrew Robinson.

The above-mentioned individuals were then called to join her on the stage where they were each presented with a token of appreciation by the President. The Assembly gave them a standing ovation.

#### **(j) Restatement of the *Lex Maritima***

In his report to the Assembly, the Chair of the IWG on the Restatement of the *Lex Maritima*, Eric van Hooydonk, explained the importance of the *Lex Maritima* project. Central to the discussion at the meeting of the IWG on Wednesday 19 October was a document covering the general principles of the *Lex Maritima* which was not yet in a state fit for publication, but should be viewed as a “work in progress” and as such confidential.

Nonetheless, the presentation was a milestone as for the first time since the beginning of the work in 2014 that there was a complete (but still) rough draft of 25 Principles, and this was the first occasion that the document had been shared with non-members of the IWG.

The document was divided into 7 parts with 25 principles with the following index:

- Part 1 – Objective and definitions
  - Principle 1 – Objective
  - Principle 2 – Definitions
  - Principle 3 – Scope
- Part 2 – Sources of maritime law
  - Principle 4 – Status of Principles
  - Principle 5 – Application of Principles
  - Principle 6 – Interpretation of maritime law
  - Principle 7 – Maritime custom
- Part 3 – Ships
  - Principle 8 – Governing law
  - Principle 9 – Ownership and management
- Part 4 – Maritime responsibilities
  - Principle 10 – The rules of the road
  - Principle 11 – The ship owner and the ship operator
  - Principle 12 – The ship master
  - Principle 13 – The pilot
- Part 5 – Maritime contracts
  - Principle 14 – Freedom of maritime contract
  - Principle 15 – Maritime transport contract
  - Principle 16 – Bareboat charter party
  - Principle 17 – Time charter party
  - Principle 18 – Voyage charter party
- Part 6 – Maritime incidents
  - Principle 19 – Collisions
  - Principle 20 – Salvage
  - Principle 21 – General average
  - Principle 22 – Wreck removal
- Part 7 – Maritime securities and time bars
  - Principle 23 – Preferential rights
  - Principle 24 – Immobilization
  - Principle 25 – Time bars

Prof. Van Hooydonk explained how the idea of ascertaining scientific legal methodology came about and stressed the importance of the universality of the identified principles.

He noted that the general principles of *Lex Maritima* are recognized as a supplement or source of law and many conventions refer to principle of international maritime law but the literature trying to define such principles was scarce.

The uses of the principles are legal practice, education, interpretation, uniformity, setting forth key notions and inspiration for legislation. Overall, they support harmonization that

is the core aim of the CMI. It was also underlined that the principles do not intend to derogate from or be in opposition to positive laws but rather to extract the core ideas universally shared by the marine and shipping community, even if not incorporated in the conventions, laws and regulations, as modern *Lex Mercatoria* is recognized as a practical source of law.

The Principles, once established and officially approved by the CMI, would need to remain alive and be updated from time to time

**(k) Revision of 1910 Collision Convention and Related Instruments**

John O'Connor, the chair of the IWG on the revision of the Collision Convention, reported that the IWG had been created over the last year by CMI at the suggestion of the Italian MLA to consider the review of the 1910 Collision Convention and of the 1952 collision jurisdiction conventions.

The IWG had held its first face-to-face meeting at the Antwerp CMI event earlier in the week and, as with all other IWGs, the Collision Convention IWG meeting had been an open meeting with delegates to CMI Antwerp being invited to join. There were about 40 – 50 persons in attendance and the debate was lively.

The 1910 Collision Convention was the CMI's first convention and one of its most successful, as it has been ratified or otherwise brought into force in most of the major sea-trading nations. In 1910, the marine world was still struggling with the division of liability in collision cases. At the time, unless one vessel in the collision was found to be completely free of fault, there was an automatic equal split of liability between colliding vessels, regardless of the actual portion of liability on either vessel.

The chair reminded the Assembly of a case decided by the House of Lords, *The Pennsylvania* (1870), 3 Mar. L.C. 477 and which also later made it to the United States Supreme Court, *The Pennsylvania* (1874), Asp. M.L.C. 378. In that case the facts were extreme. A sailing barque was unable to move in dense fog due to the lack of wind but was ringing its fog bell. The steamship *Pennsylvania* was proceeding through the fog at a dangerous rate of speed. Although the bell could have been heard by the steamship had a lookout been paying attention, the rules of the road at the time obliged vessels to have a foghorn and thus, although insignificant on the facts, the barque was in breach of the collision rules. The steamship ran down the barque.

The House of Lords regarded the breach as insignificant on the facts and found for the barque. But the American Supreme Court accepted that any breach of the collision rules was presumed to be contributory, and thus divided liability 50-50 between the two, notwithstanding the steamship's much greater fault.

The 1910 Convention abolished presumptions of fault and set the division of liability between colliding vessels at the proportionate liability of each colliding ship. That rule may seem obvious today, but the United States never adopted the 1910 Convention and only brought fault-based proportionate liability into force through case law in 1975. Further, the insurance community in 1910 was concerned that having to litigate to determine proportionate liability would be costly whereas the 50-50 rule avoided many legal challenges as, regardless of portion, the colliding ships would be equally liable.

The IWG had revisited the concept of change regarding some of the aspects of the proposed review of the 1910 Convention. The concept of fault-based, as opposed to strict, liability would likely be retained, but the possibility of mandatory liability insurance and direct action by victims against liability insurers caused concern to the insurance community, where pay-to-be-paid insurance clauses prevented direct action at present. Much of the IWG meeting had been dedicated to these most thorny issues.

The chair reminded the Assembly that there were many more issues to be revisited in the convention than mandatory insurance and direct action. The entire concept of fault-based liability would most likely remain, but what about jurisdiction, the possibility of channeling liability to the ship owners and the concept of third-party claims for damages or injury by victims who were not on any of the colliding vessels? There was much to do for the new IWG, and the chair and rapporteur were preparing a questionnaire for MLAs to take account of the present situation in member states. It was hoped that the questionnaire would allow the IWG to advance in its work before the next Assembly in Montreal, where a further report would be made.

**(l) Security Interests over Shipping Containers**

No report.

**(m) Ship Nomenclature**

Frank X. Nolan III informed the Assembly that the Working Group on Ship Nomenclature had met in the morning of 19 October, 2022 under his chairmanship, and was attended by its Secretary Rapporteur, Edmund Sweetman and several other members.

The first order of business was to agree that the Working Group's name should be revised to incorporate "Vessel" and to delete the word "Ship" as the preferred term. "Vessel" is broader in scope and more accurately reflects the watercraft types included in responses to date.

The Working Group reviewed its progress to date and its receipt of 17 responses to its First Questionnaire. It was the sense of the Working Group that the rate of progress and the content of the received responses make it clear that any attempt to harmonize usages and terminology in terms of ships or vessels would be at odds with a number of the IMO Conventions in place and would also not fit in with existing domestic laws which vary from State to State.

Instead the Working Group was considering the production of a comparative analysis of the definitions used in existing conventions and State legal systems to serve as a living tool to help practitioners understand the limitations of relying on definitions and usages borrowed from conventions in other contexts.

The Working Group was also considering producing proposed drafting standards as "best practices" for reference by convention drafters and State legislators and regulators to help avoid definitional incongruities and unintended confusion in other contexts.

Finally, the Working Group had agreed that it should coordinate with the ongoing case collection and archival project based in Singapore to track decisional law which either expands or contracts the application of the terms “ship” or “vessel.”

The Working Group had concluded by resolving to draft a time line for commencement and completion of its agreed goals and a more specific outline of those goals. In this connection, the Working Group anticipated creating a timeline to document the evolution of the definitions of “ship” and “vessel” over past decades, especially with reference to the various conventions.

**(n) Unified Interpretation on the Test for Breaking the Owner’s Right to Limit Liability under the IMO Liability and Compensation Conventions**

In delivering the report of the IWG, the co-Chair, Dieter Schwampe, confirmed that the work of the IWG had been completed in the sense that the Member States of the 1976 and 1996 LLMC and the 1992 CLC had adopted several resolutions in the course of the 32nd Assembly of the IMO on Unified Interpretations for the test of breaking the shipowner’s right to limit Liability. This work had been started by the IGP&I and the ICS first at the IOPC Funds and was later continued at the Legal Committee of the IMO, which had approved the draft wording for such Unified Interpretations.

In a nutshell, the Unified Interpretations state that limitation under the LLMC is virtually unbreakable; that the text for the subjective element of recklessness requires a level of fault higher than gross negligence; that only the owner’s conduct may be looked at, but not the conduct of its servants, in particular not of the ship’s crew; and that loss of the right to limit liability goes hand in hand with loss of the owner’s insurance cover.

With the Unified Interpretations having been resolved, in its meeting on 18 October 2022, the Executive Council of CMI had disbanded the IWG and decided that its current members should now become a Sub-Committee of the Standing Committee on Implementation and Promotion of Maritime Conventions.

The Committee had held a meeting on 19 October 2022, which was open to everyone attending the Conference and which was attended by 18 participants. In this meeting it transpired that the existence and content of the Unified Interpretations was to a certain extent not common knowledge, so the discussion focused on the way ahead. The Executive Committee had already decided that the Sub-Committee should engage in suitable ways to spread the news on the Unified Interpretation and make sure that they are known at least in the jurisdictions of the respective Member States. The aim was not only to reach out to lawyers, but also to government officials and in particular judges.

The Committee had organized a session in the conference, which was also well attended by almost 60 participants. The session was chaired by Kiran Khosla of the ICS, and David Baker of the IGP&I, Dieter Schwampe and Sabine Rittmeister explained the background, genesis and content of genesis of the Unified Interpretations and gave an overview of replies to a Questionnaire sent out by the IWG.

As a next step, the Sub-Committee would reorganize itself with its members and then decide, always in consultation with the ICS and IGP&I, which were both represented in the Sub-Committee, appropriate ways in which to achieve the intended results.



## 10. Standing Committees

### (a) Carriage of Goods by Sea (including Rotterdam Rules)

The Chair of the SC on Carriage of Goods by Sea, Tomotaka Fujita, reported that there had been very little progress in the adoption of the Rotterdam Rules. He noted further that the Standing Committee was currently interested in the national legislation for electronic bills of lading and had circulated a questionnaire on this issue in August 2022. To date only twelve national MLAs had sent their replies and the Chair asked other MLAs to submit their replies as soon as possible. It was suggested that Standing Committee might consider what CMI should do next once it received a sufficient number of replies.

### (b) CMI Young Lawyers

Robert Hoepel, Chair of the Young CMI Standing Committee, advised the Assembly that, due to the COVID-19 pandemic, Young CMI was unfortunately not in a position to be as active as it hoped it could be. Since the last CMI Conference in Mexico, the Young CMI Standing Committee had organized two one day seminars together with the Association of Average Adjusters (AAA).

The first seminar had been held on 29 April 2021 during which the topics of collision claims and off spec bunkers were discussed. In particular the case of the *Evergiven* was addressed, both from a legal and an average adjusters perspective. Given the travel restrictions in place at the time, the seminar took place entirely online.

The second joint seminar with the AAA took place in Rotterdam on 29 August 2022. It was held under the heading '*War risks, the marine perspective*'.

For the CMI Conference in Antwerp, the Young CMI had prepared for two panel sessions. One session addressed the topical issue of international sanctions and was conducted by way of a round table discussion led by Lorenzo Fabro of Italy. The second session dealt with the topic of 'Ship arrest' and touched upon a variety of interesting recent developments relating to ship arrest and the Conventions in particular. On both panels there were young speakers from various jurisdictions.

He encouraged young maritime lawyers who express an interest in CMI and the Young CMI to become active in their local associations, and to become members of the CMI LinkedIn Group.

Current members of the Standing Committee are:

Lorenzo FABRO [Italy]  
 Javier FRANCO-ZARATE [Colombia]  
 Miso MUDRIC [Croatia]  
 Massimiliano MUSI [Italy]  
 Evangeline QUEK [Hong Kong/China]  
 Violeta RADOVICH [Argentina]  
 Harold SONDERGAARD [Denmark]  
 Yiannis TIMAGENIS [Greece]  
 Taco VAN DER VALK [Netherlands] *EXCO rep*  
 Robert HOEPEL [Netherlands] *Chair*

**(c) Constitution Committee**

The report of the Constitution Committee was delivered by the acting Chair, John O'Connor, who stated that several changes were required to the CMI Constitution in order to bring it in line with the new requirements of Belgian law. The draft amendments, in the form of tracked changes to the existing Constitution, had previously been circulated to all MLAs.

The CMI Constitution, technically called the Articles of Association in English, required change from time to time to meet the requirements of new laws and to meet the needs of the Assembly and of the Executive Council. MLAs should expect to be asked to review and approve such changes from time to time.

Many of the present changes were technical in nature, providing for example for electronic means of meeting, which had become acceptable under Belgian law since the COVID pandemic, but one change stood out as more substantive. It was the change of the end of CMI's accounting or fiscal year from December 31 to April 30 each year.

The change of year end was due to the requirement of Belgian law that annual meetings approving the previous year's accounting take place within 180 days of the end of each fiscal year. As many CMI Assembly meetings take place in the third or fourth quarter each year, the change would allow the Assembly to hold meetings in person, without having to hold an earlier correspondence or electronic meeting simply to approve the previous year's accounts.

The change in year-end also meant that the year 2022 would in fact continue until 30 April 2023, making it a 16-month accounting year. This would be reflected in the accounts for the year and would be for one year only, each subsequent accounting year being for the 12 months ending on April 30 each year.

The CMI Constitution is filed in the Dutch language to meet the requirements of Belgian law, but the acting Chair reminded delegates that the working languages of CMI are French and English and versions of the Constitution in those languages had been made available to all MLAs. The chair thanked the French MLA for its assistance in preparing the French language version of the Constitution.

**(d) Database of Judicial Decisions on International Conventions**

Lawrence Teh reported, on behalf of Chairman Stephen Girvin, that in February 2017, CMI had entered into an agreement with the National University of Singapore (NUS-

CML) to collaborate on a project where NUS-CML would design and develop an online database, named "Judicial Decisions on Maritime Conventions", consisting of case law relating to all CMI conventions and related maritime conventions and where CMI would support the development of the database financially and by working with NMLAs to supply case information. The term of the agreement was 5 years after which it was agreed that CMI and NUS-CML would review their relationship.

The project has been a success and NUS-CML will shortly hold celebrations over what was to be the 2,000th case submission to the database. CMI and NUS-CML also reviewed their relationship and it was decided and agreed that CMI and NUS-CML would extend the agreement for another five years with CMI's financial contribution set at €10,000 for the first two years and then subject to a 5% increase year-on-year, i.e. €10,500, €11,025 and €11,576 for the third, fourth and fifth years. The only point in the relationship that could be improved was more NMLAs appointing representatives to submit case submissions.

**(e) General Average (including Guidelines to the York Antwerp Rules, and Security Wordings)**

In his report to the Assembly, Jorn Groninger, the Chair of the SC on General Average, made reference to the report presented to the online Assembly in September 2021 which mainly dealt with the General Average Guidelines and draft G/A security forms, a topic which had already reported on.

However, the 2021 report also contained the SC's recommendations regarding a new form for the interest provisions (Rule XXI) in the York-Antwerp Rules 2004 and 2016. It might be remembered that a review at least of the latter was necessary because the text referred to ICE LIBOR, an interest rate index that was soon to be discontinued. And the 2004 version provided for a rate that required annual research and determination by a special (small) SC – a lot of effort for a set of rules almost unused in practice which made redrafting at least practical.

In principle the SC maintained the proposals made in 2021, but the wording had been slightly refined. It was now suggested to replace Rule XXI, para 2 of the YAR 2016 and 2004 with the following sentence:

“The rate for calculating interest accruing during each calendar year shall be 2 per cent per annum added to the USD Prime Rate, as published in the Wall Street Journal for the first banking day of that calendar year”.

Mainly the following reasons have guided the SC to this proposal:

One of the great advantages of LIBOR was that it was established for a variety of currencies. To their knowledge no other such index has emerged. For the sake of simplicity it was therefore recommended to turn to one index set up for a single leading currency. As the majority of G/A adjustments was drawn up in US Dollars the SC deemed it sensible to look at a USD index.

The USD Prime Rate was a well-established market index that had been in use for decades; it was an accepted reference in the United States but also in other markets. Its historic development had been similar to LIBOR in most currencies, although the Prime

Rate had usually been about two per cent per annum higher than the LIBOR; this was the reason why the SC recommends an uplift of only two per cent on the Prime Rate compared to four per cent add-up on LIBOR as in the current Rule XXI of the YAR 2016.

Referring to the USD Prime Rate would further market uniformity. The Association of Average Adjusters of the US & Canada had a longstanding Rule of Practice providing (where G/A is under national law) for interest at USD Prime plus 2%, and the Nordic Marine Insurance Plan, which had a far reach also outside Scandinavia, was currently altered to refer to the USD Prime Rate as well.

The USD Prime Rate was not necessarily a uniform instrument. The Wall Street Journal was recommended as the most common and respected source in the market. The SC had been advised that even without such express determination this was what the normal user would turn to, but it was mentioned for the sake of clarity. It should be noted once again that the above proposal was discussed and agreed with the SC on G/A Interest Rates.

**(f) General Average Interest Rates (including approval of YAR 2004 Interest rate for 2023)**

The report was delivered by Taco van der Valk who advised the Assembly that, prior to the Antwerp Assembly Meeting, the Standing Committee had issued a report containing a recommendation to the Assembly to fix the interest rate under Article XXI of the York-Antwerp Rules 2004 ('YAR 2004') for the year 2023 at 5.5%. That recommendation had been made under the proviso that the Assembly would not have approved a proposal for the revision of Article XXI of the YAR 2004. However, during the Antwerp conference it was discussed that a revision of Article XXI of the YAR 2004 agreed upon at the Antwerp Assembly might not be able to affect general average incidents (where the YAR 2004 applied) of a prior date. The Standing Committee therefore recommended that, although Article XXI of the YAR 2004 had indeed been revised, the interest rate under Article XXI for the year 2023 should be fixed at 5.5% for pending cases.

**Resolved: That the interest rate under Article XXI of the YAR 2004 for pending cases should be fixed at 5.5%.**

**(g) Implementation and Promotion of Maritime Conventions**

Deucalion Rediadis, Chair of the SC on Implementation and Promotion of Maritime Conventions, reported on developments since the Assembly meeting held in Mexico City on 2 October 2019. He noted that the Committee did not meet during the Covid-19 pandemic and that EXCO's meetings of October and November 2019 saw the appointment of José Maria Alcántara of Spain and Vincent Foley of the United States of America as members of the Committee.

He welcomed EXCO's decision at its most recent meeting that, following the adoption by the IMO Assembly, at its 32<sup>nd</sup> session, of Resolutions A.1163(32), A.1164(32), A.1165(32), the members of the IWG on the Unified Interpretation on the test for breaking the owner's right to limit liability under the IMO conventions should join the SC and

henceforth work as part of it with a view to promoting these resolutions and their application by the courts.

He noted that, at its most recent meeting, the SC had discussed how to organize its future work. As regards promoting ratification of conventions, the SC had added to its list of prioritised instruments the Convention on the International Effects of Judicial Sales of Ships, due to be adopted by the UN General Assembly in December 2022. It proposed to recirculate to national MLAs its original questionnaire seeking to identify the reasons behind the delay of states in ratifying the conventions prioritised by CMI and the ICS, so as to receive their updated views and reconvene with ICS and the IMO on the further steps of its existing blueprint.

As regards studying the implementation of conventions, he had discussed with EXCO the suggestion that, for each of the conventions of interest to the SC, one member of the SC should act as a liaison with the respective working group or standing committee within CMI, and work with them in monitoring the implementation of the convention concerned. This would make it easier to study the implementation of these conventions (and to identify the relevant problems with a view to CMI proposing amendments to the instrument or guidelines for its interpretation or training packages for IMO's programme and so on). The role of the SC, apart from contributing one of its members to each such group, would be to provide guidance on methodology, periodically summarize and consider the outcome of such monitoring, and liaise with IMO as regards potential amendments, guidelines or training packages etc. In addition, the SC would be responsible on an on-going basis for raising, internally with EXCO and externally with IMO and ICS, any issues and proposals relating to promoting ratification of conventions or their effective implementation. A separate matter would be to liaise with the people working on the database of judicial decisions, so that there is no duplication of work and that judgments and other information flow to/from the database and the respective IWG/ISC.

As regards assisting IMO with its technical cooperation programmes on the legal side (in the context of the Organization's declared task of "effective implementation" of its instruments post-entry into force internationally), the IMO Director of Legal Affairs had been reminded of the SC's continued availability to assist the IMO. The SC had also written to remind IMO of its 'standing' list of areas for potential cooperation between the Organization, CMI and ICS in the field of promoting and implementing conventions.

He reminded the Assembly that IMO has created an E-Roster of experts to support delivery of the activities of its Integrated Technical Cooperation Programme. Experts from the CMI member associations were invited (indeed encouraged) to express their interest by registering through the IMO website. Although remuneration falls short of market rates for legal services, travel and accommodation were covered.

**(h) Marine Insurance**

Joe Grasso, Chair of the SC on Marine Insurance advised the Assembly that the SC had continued its project on Rights of Direct Action against Insurers. It had now received 17

responses from NMLA's, with an additional 3 responses in process or awaiting NMLA approval.

The SC hoped to receive additional responses but would now be compiling the responses into a database which they hoped would provide a useful resource for maritime lawyers and their clients.

The SC had been discussing its next project and had settled on the insurance implications of autonomous shipping (MASS). In that regard, it would continue to liaise with the IWG on MASS and would soon be determining the scope of its new project. This might include review of existing policy forms to address where revisions might be needed to address the advent of MASS.

**(i) Planning Committee**

Rosalie Balkin, the Chair of the Planning Committee, noted that the SC had been struggling to fulfil its mandate, namely, to decide which issues CMI should tackle looking forward, due in part to its role being taken over to a large extent by EXCO, which routinely discusses all plans for future work by the IWGs and SCs. EXCO had decided to maintain the SC but to freeze its work for the time being.

**(j) Publications and Website, Yearbook, Newsletter, LinkedIn**

Taco van der Valk advised the Assembly that since the virtual Assembly of 30 September 2021 CMI had issued 3 Newsletters, under the leadership of Rosalie Balkin and Evelien Peeters.

The Yearbooks of 2019 and 2020 had been published as pdf-files on the CMI website. An amalgamated paper Yearbook 2019-2020 had been made available at the Antwerp Conference. To those CMI members who were unable to pick up a copy in Antwerp and who had indicated they would like to receive a paper copy, a copy would be sent by regular mail.

The Yearbook 2021 was in the process of being compiled and would be published as a pdf-file on the CMI website in the near future.

The CMI LinkedIn Group had roughly 2200 members. Taco van der Valk urged CMI ExCo and Chairs and Rapporteurs of CMI International Working Groups, International Subcommittees or Standing Committees to use the CMI LinkedIn Group more to communicate with the CMI membership and with others interested in maritime law topics.

While progress had been made, unfortunately a revised edition of the CMI Handbook (a collection of texts of Maritime Law Conventions) was not yet ready for print.

**11. Singapore Regional Office**

Lawrence Teh referred the Assembly to the report that he wrote recounting its registration in 2013, its yearly renewal by the Singapore authorities, its low-cost model and the activities initiated, undertaken or contributed to over the years. These included liaison, support and encouragement to Asian MLAs, the admission of a new Malaysian MLA to the CMI in 2017, and work on the Tokyo conference, now slated for year 2025.

In keeping with the wider aspirations underpinning the founding of the Singapore regional office, there were now efforts to support the registration of an MLA in the United Arab Emirates and also to look towards encouraging new MLAs in Asia, the Middle East and Africa.

## 12. CMI Young Persons' Essay Prize Winner

At the request of the President, John Hare presented his report. He notified the Assembly that the winner of the 2022 yCMI Essay Competition was Rosalie Van Dael (New Zealand). The title of her essay was "Relief in Cross Border Insolvencies and Maritime Law". The runners-up were Deng Yichen (China) who wrote on "The Key Issues of Effect of Judicial Sale of Ships in Beijing" and Galo Martin Marquez Ruiz (Mexico) who wrote on "Quantum of Damages in Maritime Investment Claims".

As part of her prize, the winner had been invited to attend Montreal 2023 to present a precis of her essay. Her essay and those of the two runners-up would be published on the CMI web.

It had been decided that no particular topic would be prescribed for the 2023 competition; instead participants would be invited, as they had been for 2022, to write on a maritime law subject of their choice. Essays were due in by 30 March 2023 and the winner would be announced in Montreal.

John thanked the three judges Professors Miso Mudric (Zagreb), Frank Smeele (Erasmus) and John Kimball (NYU Law) for their time and efforts.

## 13. Update on Future of CMI Task Force Report

In delivering this update, the President noted that the Task Force Report had been considered by EXCO at all its meetings since 2018. The report was very comprehensive and contained many recommendations, a number of which have already been implemented by EXCO. In examining the many issues raised in the report, EXCO was of the view that rather than go back to the Task Force with more questions, EXCO should decide which issues to take forward and how this should be done, as the ball was, so to speak, in EXCO's court.

To this end the President had asked Dieter Schwampe to look into the inner workings of CMI and Paula Backden to look into ways to improve interaction between EXCO and the NMLAs.

EXCO was currently looking into a number of questions raised in the Report, including whether the current limits for the terms of office of EXCO members (two x three year

terms) were satisfactory or whether a new system (for example, one four year term with no renewal) should be introduced. Once EXCO had finalized its recommendations, they would be put to the Assembly for a vote.

Another issue currently under consideration was whether the position of Secretary-General, which is currently filled on a part-time basis, should be converted into a full-time position.

The President encouraged delegates to email their ideas to Dieter Schwampe/Paula Backden/the Secretary-General/President/Head Office Manager.

#### 14. Elections

##### **(a) Report of the Nominating Committee**

Andrew Taylor, The Chair of the Nominating Committee presented his report. He noted with satisfaction that more than 30 NMLAs had responded to his invitation to nominate officers for the six vacant positions. His report which he took as read, contained the following recommendations:

##### **(b) Elections of:**

###### **(i) President**

Ann Fenech (Malta) unopposed.

###### **(ii) One Vice-President**

John O'Connor (Canada) as Vice-President.

###### **(iii) One Current Executive Councillor (re-election)**

Eduardo Albors (Spain) unanimously as Executive Councillor.

###### **(iv) One Executive Councillor**

Funke Agbor (Nigeria) as Executive Councillor.

###### **(v) Treasurer**

Frank Stevens (Belgium) unopposed.

###### **(vi) Administrator (reappointment)**

Lawrence Teh unopposed.

###### **(vii) One Member of Nominating Committee**

Tomotaka Fujita as a Member of the Nominating Committee.

**Resolved: that the report of Nominating Committee be approved and the elections and re-appointment of the afore-mentioned officers be approved.**



**(c) Power of Attorney and Special Mandate to Mr Peter Marcon to Fulfil all Legally Required Formalities and to Sign all Necessary Documents Recording these Appointments and Decisions Taken by the Assembly**

**Resolved: that a Power of Attorney and Special Mandate be given to Mr Peter Marcon to Fulfil all Legally Required Formalities and to Sign all Necessary Documents Recording these Appointments and Decisions Taken by the Assembly**

**15. Any Other Business**

The Secretary-General, on behalf of the Assembly, presented the President with a gift to thank him for his years of dedicated service to CMI and wished him well on his retirement. The Assembly gave him a standing ovation.

The Assembly also acclaimed the incoming President, Ann Fenech, who thanked MLAANZ for nominating her as President and the Maltese NMLA for seconding the nomination. She expressed her strong belief in the work of the CMI in the unification of international maritime law and pledged to do her best to make CMI an even more efficient and effective organisation. To this end, she expressed her intention to reach out to all NMLAs and to encourage them to make even greater efforts.

The Secretary-General invited John Hare, Vincent Fransen (the Chair of the Belgian NMLA), members of the Belgian Host Committee, Paul Harquail (the President of the Canadian NMLA) and Marc de Man to come up on to the stage to participate in the flag handover ceremony.

The meeting closed at 5.30pm.

Signed:

**President  
November 2022**



**Secretary-General  
November 2022**



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