



COMITE MARITIME INTERNATIONAL

THE GOTHENBURG DECARBONISATION DISCUSSION PAPERS

NOTE FROM THE CHAIR OF THE INTERNATIONAL WORKING GROUP ON MARITIME DECARBONISATION

When the Comité Maritime International was founded in 1897, the transition from wind to steam was not yet complete. We are now on the cusp of a third energy transition, and decarbonisation is one of the most significant challenges of our era.

The maritime industry has increasingly become aware of the role it's called upon to play, mostly as a result of regulatory initiatives of the International Maritime Organisation and the European Union.

Overwhelmingly, attention is focused on the technical aspects of alternative fuels and energy efficiency, and on the policy ramifications, especially as those inform the regulatory environment.

This International Working Group was set up a year ago on a simple premise: maritime law has been largely absent from the decarbonisation debate, despite its unquestionable importance as a foundation of the entire edifice of maritime trade. And central in any discussion regarding maritime law is the CMI. It has been an honour and a privilege to chair this IWG, which brought together colleagues from several maritime jurisdictions.

The work of the IWG was presented at the CMI Colloquium in Gothenburg in May 2024 and is summarised in three Discussion Papers ("The Gothenburg Decarbonisation Discussion Papers"), which cover three separate, but related, areas:-

1. "*Green Vessels*": reconciling cargo vessels' long life span with the uncertainty around future energy sources not only gives rise to technical dilemmas, but also creates contractual uncertainties. The industry participants discuss ships that may be "ammonia-ready" or "methanol-ready", but both the technical meaning and the legal content of such descriptions are debatable. The Green Vessels Discussion Paper represents the work of the IWG in collaboration with the Lloyd's Register Maritime Decarbonisation Hub to produce a set of proposed definitions for the various broad states of readiness, accompanied by technical notes and an outline of legal issues in selected jurisdictions. Of course, IWG's

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intention is not to go to the depth of notations or other technical standards or to interfere with the work of Classification societies. Similarly, IWG's intention is not to create templates of contracts and clauses. These will be matters for organisations such as the IMO, IACS and BIMCO, whose work the CMI will of course support. The IWG's intention is to contribute to the use of consistent terminology and definitions in relation to "Readiness" and to assist the legal community and those negotiating and drafting contracts by providing the clarity of a framework. It should also be emphasised that this will not be set in stone, and will evolve alongside the technological and regulatory landscapes.

2. "*Green Fuels*": the technical and regulatory challenges of new fuels attract ample attention. Equally important is the fundamental legal question of civil liability, in circumstances where the present regime was designed for hydrocarbons. It took several catastrophic oil pollution incidents for the international community to create compensation structures and a civil liability framework for hydrocarbons as both cargo and fuel. It would be a paradox and, potentially, a tragedy, if the deployment of zero-emission fuels, is not informed by that experience, so that the appropriate civil liability regime is put in place at the appropriate time. The Green Fuels Discussion Paper describes the present civil liability regime, outlines the alternative fuel liability and compensation gap, and proposes a series of possible adaptations.
3. "*Green Contracts*": the decarbonisation journey requires contractual adaptations. Indeed, it seems inevitable that certain age-old notions of maritime law will need to be reconsidered, in view of the imperative of reducing GHG emissions. For example, performing voyages with utmost despatch, or the very principle of seaworthiness, which may need to be expanded to something akin to "greenworthiness". The Green Contracts Discussion Paper outlines some of the issues.

The Gothenburg Decarbonisation Discussion Papers represent the first phase of IWG's work. The second phase will include more detailed analysis, involving – as and where appropriate – associations and organisations that can work with the CMI to address the issues identified.

I am grateful to the members of the IWG for their time and efforts, and to the members of the Steering Committee (Jolien Kruit, Neil Henderson and Charles Debattista) for their support and dedication.

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