

## **CMI Newsletter**

**Stuart Hetherington**  
**12 October 2007**

The Executive Council last met on 10 May 2007 in Dubrovnik, at the time of the Symposium organised jointly between the CMI and the Croatian MLA.

In relation to work in progress, the following reports were given to the **Executive Council**.

### **Transport Law - UNCITRAL Draft Instrument on the Carriage of Goods.**

Francesco Berlingieri advised that the significant dates in relation to further work on this topic are as follows:

1. October 2007 – Working Group meeting in Vienna; final draft to all UN member states
2. June/July, 2008 – UNCITRAL Commission to approve
3. July 19-12, 2008 – UNCITRAL Congress to approve
4. November, 2008 – Formal adoption by UN General Assembly
5. Thereafter, open for ratification
6. Signing Ceremony of the Convention, combined with a Congress – probably September 2009.

### **Criminal acts committed on foreign flagships**

This committee's title is now to be referred to as the Maritime Criminal Act Committee. Draft Guidelines have been prepared, which cover the topic not only of piracy, but also the topic raised as a result of a Japanese initiative concerning criminal acts committed on foreign flagships.

### **Wreck Removal**

Shortly after the time the Executive Council Meeting was taking place in Dubrovnik, the diplomatic conference on the Wreck Removal Convention was taking place in Kenya (the Convention was finalised at that conference).

### **Fair Treatment of Seafarers in the event of a marine accident**

The Fair Treatment Guidelines which had been drafted by the IMO and the ILO, with CMI's assistance, had been approved by the IMO on 27 April 2006 and the ILO on 12 June 2006, and came into effect on 26 June 2006. It is clear that they need to be publicised in the international arena.

Other topics such as **Places of Refuge** and **Procedural Rules in Limitation Conventions** were discussed at length during the symposium and will be referred to below.

Other discussion which took place at the Executive Council Meeting included the wide range of possible future topics for CMI to work on, including:

1. Non-Technical Measures to Promote Quality Shipping
2. Classification Societies
3. Judicial Sale of Ships
4. Ship Construction and Environmental Problems Associated Therewith, and
5. Compulsory Pilotage

All were flagged as possible future topics. In addition, considerable discussion took place concerning "Young Members". Notices in relation to an essay competition were to be sent out after the Meeting and part of the program for the Athens conference in 2008 is to be devoted to issues that might be of interest to young members.

Apart from the Athens conference, discussion took place as to the possibility of a colloquium taking place in Chile in 2010 and the next CMI conference thereafter being in China in 2012.

This was the last meeting attended by John Hare from South Africa who had contributed so much to the Executive Council over the last few years, and in particular, to the topic of marine insurance.

At the **Assembly Meeting**, reference was made to the fact that the Pacific International Marine Law Association had agreed to be a Consultative Member to the CMI. This is an organisation which the MLAANZ could usefully assist in many ways. It brings together maritime lawyers from many different countries within the Pacific region, including Fiji, PNG, Vanuatu and Samoa.

At the Assembly Meeting, Mans Jacobsson, who had recently retired as director of the IOPC Funds, was elected to fill the vacancy on the Executive Council left by the retirement of John Hare.

The Assembly approved the draft Guidelines which the International Working Group had completed on the topic of Maritime Criminal Acts, and having been approved, they were to be sent to the IMO with a covering letter from CMI recommending that they be put on the work agenda of the IMO Legal Committee at an early point in time.

On the topic of Implementation and Interpretation of International Conventions, Francesco Berlingiero informed the Assembly that he would be publishing a summary of judgments on the website and reminded delegates that although Conventions may be adopted, they may not be adopted in a uniform way, and that this needs to be reviewed and recommendations made for improvement.

On the topic of Procedural Rules and Limitation Conventions, Gregory Timaginis, who chairs this working group with Francesco Berlingieri, reported to the Assembly that 20 replies to questionnaires had been received from MLAs.

On the topic of General Average, the President of CMI reported that he had asked BIMCO to reconsider its decision, in which it had advised its members not to adopt the York/Antwerp Rules 2004 in their charter parties. (Unfortunately since the meetings in Dubrovnik, BIMCO had considered the matter and advised the President that they had not reversed their decision).

The topic of Places of Refuge was reported on at the Assembly by the writer. A questionnaire had been responded to by many National Associations, identifying which of the liability conventions, such as CLC, Fund, Bunkers and H&S had been acceded to by their countries and what their intentions were in relation to them if they had not. I also reported that a meeting of the International Subcommittee on Places of Refuge was to be held in London on 22 May 2007, to discuss the draft instrument, which the International Working Group had prepared for discussion at the Cape Town Colloquium in 2006.

### **Athens Conference 2008**

The Assembly was informed that the registration and opening reception for the CMI conference in Athens would be held on Sunday, 12 October 2008, with the substantive program being held on October 13, 14, 16 and 17 2008. An all-day excursion for delegates and accompanying persons would be organised for Wednesday, 15 October 2008. The conference website is [www.cmi2008athens.gr](http://www.cmi2008athens.gr).

### **Places of Refuge: International Subcommittee Meeting London May 2007**

This meeting was well attended by both MLA members from a number of jurisdictions and representatives from key stakeholders in this debate, including the International Salvage Union, the International Chamber of Shipping, the International Group of P&I Clubs, the IMO, IOPC Fund and ITOPF. As a result of the meeting, a number of useful suggestions have been made as to the manner in which the Draft Instrument which the International Working Group had prepared could be amended. Further work has been, and is being done, by the International Working Group on that document and early in the new year it will be posted on the CMI website and forwarded to national MLAs to enable their delegations to consider the document prior to the Athens conference, where it will be debated and, hopefully, finalised and approved in the Plenary session of the conference.

Giorgio Berlingieri has recently joined the writer, Richard Shaw (rapporteur) and Eric Van Hooydonk on the International Working Group.

### **CMI/Croatian and MLA Joint Symposium**

This was an extremely well attended 2-day symposium, at which Patrick Griggs identified the principal issues which were likely to challenge delegates at the Wreck Removal Convention, which was due to take place in Kenya the following week. A paper was also read on behalf of Stuart Beare (who was unable to attend at the last minute), reporting on the UNCITRAL Draft Convention and its outstanding issues. Gregory Timaginis explained the work which the International Working Group on Rules of Procedure and Limitation Conventions were seeking to prepare in anticipation of the Athens conference.

In a session devoted to Places of Refuge, I provided an update to that topic and Chris Davis gave a paper on "The Changing Seascape of Salvage Law" and Archie Bishop gave a paper on "Places of Refuge – Environmental Salvage". The latter topic is one which has been given considerable press coverage as it seeks to raise a new method of awarding salvors (I have a copy of his paper if anyone would like to see it).

The Executive Council will be holding an electronic meeting in November (as it has done for the last two years), and will also be meeting in person in May in New York at the time of the US. MLA. Spring Meeting.

Dated: 12 October 2007