

CMI NEWS LETTER

Vigilandum est semper; multae insidiae sunt bonis.

COMITE MARITIME INTERNATIONAL

NO. 1-3 - JANUARY / DECEMBER 2015

News from the CMI:

- Istanbul Colloquium: President's Report
- Minutes of the Executive Council meeting held on 7 June 2015 at the Sheraton Atakoy Hotel, Istanbul
- Minutes of the Assembly meeting held on 9 June 2015 at the Sheraton Atakoy Hotel, Istanbul
- Minutes of the II Executive Council meeting held on 9 June 2015 at the Sheraton Atakoy Hotel, Istanbul
- Minutes of deliberations of the CMI Executive Council held by email conference during the week commencing 23 November 2015, chaired by the President from his office in Sydney
- The 42nd CMI International Conference, New York from 3 to 6 May 2016
 - Welcome from the President of the CMI
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News from Intergovernmental and International Organizations:

- **News from IOPC Funds**
- Report of the 19-23 October 2015 Meeting of the IOPC Funds Governing Bodies, by Rosalie Balkin

NEWS FROM THE CMI

ISTANBUL COLLOQUIUM PRESIDENT'S REPORT

The new management team has settled down and achieved a considerable amount. John Hare, in particular, has taken on an enormous workload in finalising the conference and seminar in Hamburg (and the add on in Berlin), as well as organising the Colloquium which we are attending in Istanbul, and making preparations for next year's conference in

New York. The latter is particularly challenging as we seek to combine the annual United States MLA Spring Meeting with the CMI Conference.

The Management Committee

The CMI is grateful to Benoit Goemans for continuing on in the role of Treasurer for the past 12

months. He had wanted to conclude his many years of service with the CMI during the course of the last 12 months and to have that role taken over by the retiring CEO of the Belgium Shipowners' Association, Peter Verstuyft. Unfortunately Peter was unable to commence his retirement during the course of the last 12 months so we asked Benoit to continue in office until the handover could take place. I am happy to say that Peter Verstuyft will be able to take over that role (assuming the Assembly agrees with the Executive Council's recommendation in that regard), within a few weeks of the meeting in Istanbul when his successor Wilfried Lemmens, takes over the role of CEO of the Belgium Shipowners' Association on the 1st September 2015.

I reported to the Assembly in Hamburg, that Anne Verlinde had been working as the Head Office Secretariat Assistant in Antwerp on a part time basis for the CMI since 3 March 2014. I am pleased to advise that at the end of last year we finalised terms of engagement with her to take over the employment directly of Anne as Administrative Assistant in the Antwerp office of the CMI from the agency by whom she had previously been engaged and hired to the CMI. Anne has been working assiduously on our behalf and is now not only conversant with our systems and operations but is also proficient in making changes to our website.

One of the great challenges the CMI faces is keeping the website up to date and in particular keeping details of membership up to date. I am anticipating that those Presidents (or their nominees) who attend the Istanbul Colloquium will receive a written request from Anne to complete and provide to her the details not only of the Executives of their organisations in the format in which they appear in the Year Book but also the details of their memberships so that that information can be updated on the CMI website (in respect of those MLAs that have previously provided such information in the past) and can be placed on the website by those MLAs who have not provided such information in the past. (Where there are concerns relating to privacy the arrangement that we have made with MLAs in that regard is that one person's name be identified as the recipient of all communications from the CMI which are to be sent via the website and that person will disseminate that information to his or her MLA's membership.) Anne will therefore be the repository of all information concerning membership of MLAs which can then be utilised for the purposes of both the website and the Year Book.

A meeting was held by the Management Committee comprising John Hare, the Secretary-General, Lawrence Teh, the Administrator, Benoit Goemans,

the Treasurer and Head Office Director, and Anne Verlinde (with Peter Verstuyft in attendance by invitation) in Antwerp on the 23 and 24 February 2015. The meeting took place in the registered office of the CMI at Ernest Van Dijkkaai on the River Sheldt, in Antwerp.

Many of the matters which were discussed at the Management Committee Meeting are the subject of agenda items and will be discussed more fully in that context, as well as at the Executive Council Meeting which will take place on Sunday, 11 June 2015 in Istanbul.

Before concluding my comments in relation to the Management Committee Meeting, I should express our thanks publicly to the Belgium Maritime Law Association who entertained us, as they had done over the last two years, at a most enjoyable evening function. As he is retiring from both his place of employment and his role as President of the Belgium Maritime Law Association I would particularly like to express my personal thanks to Karel Stes for his support and assistance throughout his term of office and I hope he will continue to be involved with the CMI for many years to come.

Finances

At the last Assembly Meeting the Treasurer foreshadowed a need for subscriptions to be raised soon if the CMI was to balance the books, now that the funds held in reserve had been depleted to a more appropriate level.

As Benoit has pointed out in his Treasurer's report the 2014 income of the CMI was some Euro 83,000 less than in 1998, although when adjusted for inflation it is some Euro 193,000 less than it was in 1998.

The budget set for 2015 in Hamburg envisaged a deficit of about Euro 18,000. The accounts for 2014 show a surplus of Euro 10,230 which will be achieved in circumstances in which the CMI's reserves still stand at Euro 636,626.52. At the time of writing this report the Treasurer's budget for 2016 is awaited. The Executive Council at its meeting on 7 June 2015 will be considering whether we need to recommend to the Assembly that the Treasurer's suggestion last year for an increase in subscriptions at this Assembly needs to be given effect to.

Work Projects of the CMI

As usual at the Assembly Meeting you will be given reports of the activities of the IWGs since Hamburg. There are two particular working groups that I would like to comment upon in this Report. The first is the IWG (on the Review of the Rules of General Average) chaired by Bent Nielsen with Taco Van der Valk and Richard Cornah as his Rapporteurs. Not

only has a great deal of work gone into this project since Hamburg but also a lot will be taking place over the weekend prior to the Istanbul Colloquium and delegates will have had an opportunity to comment and make their views known in the course of the presentations which will be given at Istanbul. As I have said in letters to the Presidents of MLAs, Istanbul offers the last opportunity before the New York Conference for MLAs to have input into the work of this IWG at a CMI Meeting before it is hoped that the work will be finalised in New York. I hope you will have found it useful.

The second topic that I wish to refer to is that of Judicial Sales of Ships which, as you know, concluded its work in finalising a draft Instrument at the Hamburg Conference. There was some delay after the Hamburg Conference while we considered which international body should be approached with a view to seeking to have that work become an International Convention. We eventually decided to approach the IMO Legal Committee and we entered into correspondence with Fred Kenney, the Director, Legal Affairs and External Relations Division, towards the end of last year. As you will see in the detailed report which Henry Li has provided to you a considerable amount of work went in to making a presentation to the IMO Legal Committee at its meeting in April. Henry Li and Jonathan Lux in particular are to be thanked for all the work they did and in giving up their time to attend the IMO Legal Committee Meeting. Andrew Robinson should also be thanked for all the preparatory work that he did. It is now incumbent on each of us to seek to persuade our national governments to support this work. We need at least two official sponsors of the project if we are to proceed. China has indicated to the China MLA that it is prepared to be a sponsor provided another country is a co-sponsor. Can your country be persuaded to be a sponsor? We also need information from you as to any occasions on which a judicial sale of a ship either in your country's jurisdiction or some other country's jurisdiction has not been recognised in another jurisdiction. This is in order to satisfy the delegates at the IMO Legal Committee meetings that there is a "compelling need" for an international convention in this area. I urge you to respond to my letter of 11 May 2015 seeking this information as soon as you possibly can. We need to place this information before the IMO Legal Committee early next year.

New Work Projects

During the course of the last 12 months new International Working Groups have been set up to look at the following topics:

(a) The Cape Town Convention

(b) Practice and Procedures in relation to Arrest of Ships

(c) The Restatement of the General Principles of the Lex Maritima.

Two informal groups have also been set up to look at two distinct topics. Firstly a study to consider the way in which the word "ship" (the vessel, or watercraft and other relevant terms) are defined in different areas of the law in different jurisdictions. (To be known as the "Ship Nomenclature" group).

Another study or research project which has been set up is to look at issues that will arise from the threatened prospect that unmanned ships come to be a feature of the maritime environment.

I am grateful to Ann Fenech (Chair) and David Osborne (Rapporteur), Cape Town Convention; Giorgio Berlingieri (Chair) and Aleka Sheppard (Rapporteur), Practice and Procedure in relation to Arrest of Ships; Eric Van Hooydonk, (Chair), Restatement of the General Principles of Lex Maritima; Frank Nolan (Chair), The "Ship" Defined and, finally, Tom Birch Reynardson and Dieter Schwampe "Unmanned Ships" for agreeing to lead the work on these projects.

In addition the Executive Council will be considering in Istanbul whether there is scope for work to be done by the CMI in the following areas: Cyber Crime in Shipping; Maritime Law and Refugee Migration at Sea; and International Health Regulations and Shipping. If you (or anyone in your Association) have an interest in any of these topics please let me know.

Jurisprudence Database

I have in previous reports discussed this project. Unfortunately no sooner do we seem to make progress then we run into a roadblock. I hope each of you will have taken the opportunity to meet while he is amongst us in Istanbul, Professor Steven Girvin, who is the Professor of Law, Vice Dean (Research) and Director of the Centre for Maritime Law at the National University of Singapore. The CMI has agreed to contribute the sum of Euro 5,000 towards the engagement of a Publication Editor by the Centre for Maritime Law. Mr Jesse Ji Zhihe of China has been appointed a research associate and is expected to start work at the university on 1 June. He is a graduate of Fudan University (Shanghai), where he was the outstanding graduate in 2004. He has been a legal adviser with the China Continental Property & Casualty Insurance Co Ltd from 2005 to 2009. He obtained an LLM degree from the Scandinavian Institute of Maritime Law in 2012 and since then has been an Associate with Wang Jing & Co and has worked in that firm's Guangzhou office and also its Shanghai office. He is the person who will be looking to MLAs for their assistance. As a

result of this development the Executive Council has requested Professor Girvin to chair the Editorial Board which will consist of Giorgio Berlingieri and Taco Van der Valk and be responsible for taking this project forward.

For ease of convenience I reproduce the list of Conventions that we decided some years ago to concentrate on and I would ask you to identify someone in your Association who can put together a list of all cases and identify where they can be located on a convenient website, which have dealt with the provisions of any of these Conventions:

1. The Salvage Convention 1910
2. The Salvage Convention 1989
3. The 1924 Bill of Lading Convention and its 1968 and 1979 Protocols (Hague-Visby Rules)
4. The Hamburg Convention 1978 (Hamburg Rules)
5. The 1926 Convention on Maritime Liens and Mortgages
6. The 1952 Arrest Convention
7. The CLC 1969-1992
8. The Fund Convention 1971-1992
9. The Limitation Convention (LLMC) 1976
10. The 1976 Athens Convention on the Carriage of Passengers and their Luggage by Sea
11. United Nations Convention on the Law of the Sea 1982
12. SUA Convention 1988

IWGs and ISCs

I would like to take this opportunity to thank the Chairs and Rapporteurs and members of all International Working Groups and International Sub-Committees who have done so much work in the course of the last 12 months, as well as all the members of the Executive Council who have given

up their time to carry out the various tasks allotted to them as members of the Executive Council but also to those who have attended meetings and given papers around the world and taken the name of the CMI into many different places. Whilst it is invidious to single out individuals I do, on this occasion, mention John Hare who has not only worked assiduously to prepare this Colloquium and next year's Conference but waved the CMI flag with great success at the USMLA Spring Meeting a few weeks ago. I am very grateful to John Hare for all the work he has done for the CMI over the last 12 months.

Retirement

As has already been mentioned, Benoit Goemans graciously agreed to continue in office as Treasurer for the last 12 months and I am extremely grateful to him for doing so. As I said in my report last year "there are not many lawyers who are sufficiently numerate to take on the role as Treasurer of such a significant organisation". Benoit, with his pie charts and other aids to understanding the status of our accounts, has entertained us and informed us annually at Assembly Meetings and has served on the Executive Council where the same degree of good sense has informed and benefited that body also. We owe him a huge debt of gratitude. I will of course be saying more at the Assembly Meeting along those lines.

We say farewell this year to two members of the Executive Council whose terms have expired, Andrew Taylor and Louis Mbanefo. I would like to take this opportunity of thanking them both for their significant contributions over the last six years and trust that they will continue to be involved with the CMI for many years to come.

STUART HETHERINGTON

**MINUTES OF THE EXECUTIVE COUNCIL MEETING HELD ON 7 JUNE 2015
AT THE SHERATON ATAKOY HOTEL, ISTANBUL, TURKEY**

Participating:

<i>President:</i>	STUART HETHERINGTON
<i>Past President:</i>	KARL-JOHAN GOMBRII
<i>Vice-Presidents:</i>	GIORGIO BERLINGIERI CHRISTOPHER DAVIS
<i>Secretary-General:</i>	JOHN HARE
<i>Administrator:</i>	LAWRENCE TEH
<i>Treasurer/Head Office Director:</i>	BENOIT GOEMANS
<i>Councillors:</i>	ANDREW TAYLOR LOUIS MBANEFO DIHUANG SONG JORGE RADOVICH TOMOTAKA FUJITA ALEXANDER VON ZIEGLER DIETER SCHWAMPE ANN FENECH
<i>By invitation:</i>	ANNE VERLINDE and PETER VERSTUYFT

Item numbers correspond to those on the agenda duly circulated to exco members by the president on 26 may 2015.

1. *Apologies*

No apologies were recorded.

2. *Welcome*

The President welcomed Councillors to the meeting, and extended a particular welcome to Peter Verstuyft, who had been invited to attend in order to meet Executive Councillors and other delegates in anticipation of his election at the Assembly meeting to take over the Treasurer's role from Benoit Goemans.

The Secretary-General presented Dr Bulent Sozer, Chair of the TMLA Organising Committee, to the Council which expressed thanks to Dr Sozer for the efforts of the TMLA and his committee thus far. Dr Sozer welcomed the CMI and the Council to Istanbul and then left the meeting.

3. *Approval of the Minutes of Virtual Meeting November 2014*

The minutes of the November 2014 virtual meeting of EXCO were tabled, approved and signed.

4. *Matters arising from the Minutes of the Virtual Meeting*

None, not covered in the agenda.

5. *Minutes of the meetings of the Management Committee (22-24 February 2015, at Antwerp)*

Tabled and noted.

The President invited Anne Verlinde to give a short description of her role and how it was working out. She confirmed that she works 13-hour week in aggregate, and is finding that in addition to the administrative tasks her time is well filled in relation to the website which she has been trained by Vanilla Brief to make alterations to.

The President asked about the extent to which Anne Verlinde is able to take over the management of the CMI website. Anne Verlinde confirmed that she can upload information on the website and that she would like to learn to create new pages properly. The Secretary-General attested to Anne's work on the website, also for her work in helping him to create a database for conference attendees, and for her processing of reimbursements for EXCO.

The President asked about the CMI archive and Anne Verlinde explained that it was in four different locations – Benoit Goemans' office, official archive, storage location and library in Belgian Shipowners' Association. Andrew Taylor asked whether the CMI archives are catalogued and Anne Verlinde said that they appeared not to be. The Secretary-General highlighted that it was a large exercise to do so and agreed with Andrew Taylor that it was important to put as much information as possible on the website. The archives are an ongoing item of the Management Committee.

Yearbooks – The President suggested that a template be created for more efficiency in NMLAs updating information and that the secretariat send out the template as a form for NMLAs to confirm the

accuracy of their information in the Yearbook, and to facilitate changes to the information on the web site.

Vice-President Berlingieri confirmed he would be in touch with Ms Verlinde to continue work regarding Yearbook updates.

Dihuang Song mentioned that China MLA is to have an international conference and wondered if the event could be placed on the website. It was pointed out that there is a location on the website's opening page for NMLA events and others to be publicized and contributions of such information are welcomed. The suggestion was approved, the general principle being that the CMI is willing to assist NMLAs in disseminating information about upcoming maritime law related events in their jurisdictions. This is perhaps something that can be followed up through contact between EXCO members and the NMLAs in their charge. All such notifications should be processed through the secretariat.

The President asked if insurance had yet been put in place to cover Anne Verlinde's driving for work purposes. It had not, and the Secretary-General suggested that until it is in place, Anne should use a taxi.

It was suggested that Anne Verlinde's email address be listed on the website. Vice-President Davis enquired about the old email for Pascale Sterckx and was told that the *admini* email had been discontinued.

The President invited Peter Verstuyft to inform EXCO what the timing is for his assumption of the role as Treasurer, assuming the Assembly approves his nomination. Mr Verstuyft said that his successor had been appointed and the changeover would be in September 2015. The CMI Assembly would thus be asked to appoint Peter Verstuyft with effect from 1 September, though The Treasurer undertook to ensure a good overlap, for which EXCO's appreciation was expressed.

6. *Finance and Administration:*

(a) *Treasurer's Report*

Benoit Goemans as Treasurer tabled his report and drew the meeting's attention to the reserves of €30626 and the small annual surplus for 2014 of €10230. The Treasurer reported that the CMI is back to break-even and has not been required to dip into its reserve. The President considered that about €500000 was sufficient reserve. Dieter Schwampe asked if there was a tax problem in holding too much reserve. The Treasurer did not think so and said that as long as the CMI funds stayed in the organisation, there should be no tax implications. He was generally in favour of maintaining a reasonable reserve.

(b) *Accounts*

Accounts were tabled and approved for submission to the Assembly.

(c) *Audit Committee Report*

The report of the Audit Committee was tabled without qualifications of the year's accounts, and was duly noted for submission to the Assembly.

(d) *Budgets for 2015 and 2016*

These budgets (duly amended and tabled) were approved, and in respect of the 2016 budget for submission to the Assembly upon the basis that it had been decided that it would not be necessary to increase NMLA subscriptions as had been contemplated last year. See further comments on adjustment of the 2016 budget figures in the light of a change in the policy relating to the reimbursement of EXCO registration fees in para (h) below.

(e) *Report of collection of outstanding subscriptions*

Vice-President Davis's report was tabled and noted. The President reported that there had been no response to the final demand for subscriptions from Bulgaria and Pakistan, and accordingly EXCO agreed to recommend to the Assembly that Bulgaria and Pakistan be expelled.

Vice-President Davis reported that owing to sanctions, Russia was experiencing difficulty in settling outstanding subscriptions, though Anne Verlinde confirmed that some payments in small amounts had been received. The President had been in correspondence with the Russian MLA, most recently by way of email dated May 2 2015 when it was explained that the main source of revenue is membership fees, sponsors and small private donations. Membership fees had been doubled in the past year but unfortunately the devaluation of the Russian currency has made such payments less valuable. There is to be a seminar later this year in the autumn and the President had offered to seek to arrange for the attendance of an EXCO member if desired by the Russian MLA. It was resolved not to commence expulsion measures against Russia at this stage, but for Chris Davis to follow up recent correspondence and seek further payments to reduce the indebtedness.

The Treasurer mentioned Article 21 of the Constitution which empowers the Assembly to authorise the President to negotiate the amount and payment of arrears with Members in default, subject to approval of any such agreement by EXCO. He proposed that this should be a yearly blanket mandate sought given to the President by the Assembly. EXCO will put this to the Assembly for approval on an on-going basis.

Jorge Radovich provided an update on his efforts in relation to collections of NMLAs principally from South America, under his charge. Venezuela, as is

well known, is suffering economically and has difficulty remitting funds outside the country, but its MLA remains committed to the CMI and will make whatever payments it can as soon as possible. Colombia and Uruguay had also been contacted and there is an expectation that they will pay their arrears soon. Jorge Radovich will contact those MLAs that he was responsible for with a view to ensuring timely payments are made.

Two MLAs had enquired as to the possibility of having a unilateral reduction to their subscriptions, without the CMI conducting a complete review of subscriptions. After wide ranging discussion it was decided that it would not be appropriate to make individual reductions in subscriptions, which in any event can only be made by the Assembly. Following on from the earlier discussion concerning the mandate to be sought from the Assembly for the President to be empowered to negotiate with MLAs under Article 21 it was considered that this was a more appropriate course to take where MLAs encountered financial difficulties. It was also decided that if in the next couple of years there are to be increases in subscriptions proposed to the Assembly it may be considered appropriate at that time to conduct a more general review of the categories and the amounts that each category pays. Dieter Schwampe enquired about the history behind the assessment of subscription fees. The President explained that historically subscriptions had been set having regard to the size of maritime and trade activity in the jurisdiction, taking into account fleet size, strength of maritime bar and other factors indicating the strength of the shipping sector. There had been a general review of subscriptions across the board for all MLAs when the Steering Committee reported in 2009. That had resulted in significant reductions for most MLAs, including the revocation of fees for Titulary members.

Portugal has not paid anything since the formation of a new NMLA (with 15 members), but has offered to make a 50% payment of all its arrears and full payment for the current year's subscription. The President was authorised to approve such a deal and Vice-President Berlingieri undertook to make contact with Portugal's MLA President with whom he had recently spoken. It was pointed out that whilst Portugal is said to have only a limited membership the recent IIDM meeting in Lisbon attracted a very much larger group of local maritime lawyers.

The Dominican Republic had also been in contact concerning its arrears and made an offer to pay 50% of its arrears by way of instalments and pay this year's and future subscriptions in full. The President was authorised to approve such a deal and Vice-President Davis undertook to notify the President of the Dominican Republic's MLA President.

Vice President Berlingieri proposed that a questionnaire be circulated to the NMLAs to learn more about how they are organised and their leadership is renewed. This was noted without decision, it being something that may be considered in the future, especially if increases and/or a review of subscriptions is to be considered. It was pointed out that such a questionnaire was previously sent out to members by the Steering Committee and the President undertook to forward a copy of the synopsis of the responses to Giorgio Berlingieri. The Secretary-General pointed out that we need always to be aware that NMLAs query what value they get from paying subscriptions. The more exposure we can generate about the extensive and often behind the scenes work being done by the CMI to produce a better maritime law regime internationally, the better the perception of that value will be to NMLAs. But this message needs to get down the line to individual members of the NMLAs and thus frequent contact with NMLAs is most desirable. This is being achieved through our website, and our events. Dihaung Song stressed the importance of the participation of the CMI and EXCO in locally organised events.

The Secretary-General suggested that Consultative Members could be encouraged to pay some membership fee. Andrew Taylor cautioned that some of those international organisations supporting the GA sessions pay fees to BMLA so we need to bear that overlap in mind. The Administrator was tasked with looking into the possibility.

There was no support for the suggestion made that Titulary Membership fees be reintroduced.

(f) Approval of nomination of De Mol, Meuldermans and Partners BVBA as auditor of 2016 accounts

Resolution: Approved the appointment of De Mol Meuldermans & Partners BUBA as auditor.

(g) Appointment of Peter Verstuyft

Resolution: Approved, to ask the Assembly to confirm Peter Verstuyft's nomination for appointment as Treasurer with effect from 1 September 2015.

(h) Reimbursement of ExCo expenses and Reimbursement of Chairs/Rapporteurs expenses.

The Secretary-General explained his memorandum, which was tabled. He reported the successful introduction for the Istanbul Colloquium of a social registration fee of €250 (broadly corresponding to the social costs of an event) which was paid by all the speakers who had their remaining 50% registration fee underwritten by the CMI – without any demur. This in the context that it is CMI policy that speakers where possible should not have to pay a registration fee. This policy was endorsed by EXCO. The first

50% of speakers' registration fees was absorbed into the Hamburg and Istanbul Colloquium budgets.

The Secretary-General asked if there is general support for social registration fee being paid not only by speakers but by EXCO as well. He expressed the view that while on CMI business, including attending CMI events, EXCO members should have all their expenses paid not least because the cost would be beyond the means of those from weaker currencies. He expressed his oft-repeated view that the CMI should not be a "rich mans' club" – gender and means issues need to be considered. Accommodation costs should also be considered, it being the present practice that EXCO members have their necessary accommodation for events reimbursed by CMI.

The President recalled a paper of the then President of CMI, Patrick Griggs, dealing with this topic in 2001 and the Resolution at that time by EXCO where it was agreed that EXCO members should pay their own conference fees (except the President and Secretary-General) unless they performed a specific function during the event (such as speaker or perhaps chair of a session).

There was much debate, with views initially supporting EXCO not paying any registration fees, but paying a social registration fee. Ann Fenech suggested that having their registration fees paid is in a small way compensating EXCO members for their work. Karl-Johan Gombrii agreed, and said that it is expected of EXCO members that they attend CMI events. Jorge Radovich agreed with these views and said that this would enable lawyers from smaller firms to accept appointments to serve on EXCO. Vice-President Davis then suggested that it may be tidier, and have much the same outcome, if the CMI were to meet 50% of EXCO's registration fees, with no social registration fee. The Secretary-General was not sure that the outcome would be the same, especially where there is a high registration fee (such as will be likely in the USA for 2016). He pointed out that the decision did not affect him because as Secretary-General, he does not pay registration fees anyway.

The Treasurer wondered whether it could be agreed with NMLAs for future conferences that EXCO and all speaker expenses could be accounted as part of overheads, i.e. before profit is reckoned. The Secretary-General replied that while he would be looking to the Conference budget in New York to meet the full 100% of speakers' registration fee (rather than only 50% as has been done for Hamburg and Istanbul) he thought that the CMI had its own business to do around Conferences, and that part of that business was for EXCO to attend its own meetings and the Conference. He did not think he would be able to load event budgets with EXCO

registration fees. Andrew Taylor thought that we should keep in mind EXCO business on the one hand and Conference business on the other and find a mechanism for reimbursing for EXCO business.

The Secretary-General agreed that this is how events are now structured: with separate budgets for CMI own expenses, conference expenses and host MLA expenses.

The majority of EXCO favoured the "EXCO obligation to attend CMI events" approach, but supported the notion of a part refund of registration fees instead of a social registration fee with a full refund.

Resolution: By unanimous vote that EXCO members attending CMI events would receive 50% reimbursement of their registration fees, and full hotel accommodation costs necessitated by their attendance at such events. Travel costs are also covered, as determined by the guidelines approved by EXCO in 2014.

The Secretary-General confirmed that it would be within the President's powers to look at any deserving case where a departure from this decision is warranted.

Reference was then made to the Treasurer's budgets up to 2016 which could be adjusted in the light of the above resolution. The Secretary-General proposed that for 2016 line 61 be €15,000, then line 71 be nil, then line 72 be €1,000 (the provision for speakers' travel costs being too high). The 2016 budget was adjusted accordingly.

7. *Members and appointments*

(a) *Expulsion: Pakistan and Bulgaria*

Resolution: To recommend to the Assembly that both MLAs be expelled.

(b) *Provisional membership: Captain Ahmed Rubullah, Bangladesh* *Resolution:* To recommend to the Assembly that he be appointed a Provisional member.

(c) *Possible future membership applications:*

(i) Lebanon (Hussein Abou Zeid of Kouatly & Associates) Correspondence between this applicant who was in the process of founding a Lebanese MLA and the President was tabled and noted. In particular it was noted that there had been no response to the President's communication of 13 February 2015 inviting him and his colleagues to attend the Istanbul meeting .

(ii) Iran (Amirhossein Haghghi). Correspondence between this applicant who was a member the Iranian MLA for Provisional membership and the President, (the President's let-

ter explaining that provisional membership was intended for persons who are endeavouring to set up an MLA and not for MLAs who are already in existence), was tabled and noted.

- (iii) Chris Davis queried whether Cuba might be a potential member and Dieter Schwampe referred to correspondence from a resident of the UAE, which will be followed up.

(d) Titulary membership:

Jonathan Lux EXCO nomination to Titulary membership, introduced by Andrew Taylor.

Karel Stes. Nomination by the incoming President of the Belgian MLA, introduced by Benoit Goemans.

Resolution: Both approved unanimously for approval of the Assembly.

8. Meetings

(a) Istanbul 2015

The Secretary-General reported briefly on the final arrangements for the Istanbul Colloquium for which there were over 230 registrants (final figure, 241 plus 41 Accompanying Persons). He recorded thanks and praise for the efforts of both the PCO, Etix and the Turkish MLA Organising Committee.

(b) New York 2016

The Secretary-General's report was tabled and noted. A CMI 2016 New York Planning Committee meeting is to be held on Monday with those of the US MLA organising Committee including its President and Vice Presidents who are present in Istanbul.

The President reported on an approach made to the CMI through Ricardo Rozas that the IBA Transport Committee join the Conference as co-host. The President reported that from views sought, it was not considered a good idea to co-brand the IBA but that there were advantages to be gained from some limited form of collaboration. The Secretary-General expressed concerns at possible difficulties in organising an even larger event than already planned, especially given how far advanced we already are. It was suggested that in future years when CMI decides on a more limited event, then we can let IBA know and they can have bigger events and we can cross-publicise. Opinions were given by Ann Fenech, Dieter Schwampe and Dihuang Song on possibility of collaboration with IBA. The Secretary-General said that Ricardo Rozas was keen to promote IBA attendance and publicise CMI New York to IBA. The President stressed that the success of New York depends on programme planning and getting up a level of interest that will attract

delegates to attend the CMI conference. The President thought that carriage/Rotterdam Rules to be one of those topics.

The Secretary-General mentioned the open door policy of the US MLA Spring Meetings and expressed pleasure that all members of EXCO had approved this as an aim for the CMI and MLAUS in 2016 – subject to the caveat that there are events for which registration and payment of a fee will be required. The Secretary-General explained that it will be crucial for the joint working sessions be open to all, primarily because the MLAUS members are used to attending all Spring Meetings for free. What will help is for as many as possible of the meetings to be held at the Hilton where there is ample space at no extra charge. A very competitive room rate has been negotiated with the Midtown Hilton.

The President suggested that we look at IWG topics that could be relevant to US MLA Committees, e.g. arbitration, cross-border insolvency, classification societies, fair treatment, acts of piracy, marine insurance, etc. To this end, he and Bob Clyne, the current MLAUS President, have already sent a letter to the chairs of all CMI IWGs and all MLAUS Committees inviting suggestions for collaboration. [13h15 break for lunch. Meeting resumed 14:10]

(c) Assembly 2017

EXCO was unanimous in the view, at this stage, that there should be a small event around an Assembly for 2017. The Secretary-General suggested the possibility of Genoa so that Prof Francesco Berlingieri might attend, and be honoured by the meeting.

A final decision was deferred to New York, because it will depend also on progress made with General Average amendments.

(d) Colloquium and Assembly 2018

(e) Assembly 2019

(f) Conference 2020

No decision was needed for events beyond 2016 at this stage, though the principle was accepted that the CMI return to the format of a main event every 4 years, an intermediate symposium or colloquium every two years, and in the in-between years, a simple Assembly at a venue reasonably accessible. This was so that we do not devalue the CMI events by scheduling them too often, especially in the light of difficult economic circumstances.

9. International Working Groups

(a) Recognition of Foreign Judicial Sale of Ships

The President commended the work done by Henry Li and Jonathan Lux at the IMO Legal Committee meeting in April but emphasised the matters referred to in his letter reporting to MLAs dated 11 May 2015

to the effect that two sponsors are needed (i.e. one country to support China) and the provision of examples where Judicial Sales had not gone smoothly, in the sense that they had not been recognised in another jurisdiction. These are needed in order to reach the threshold test of the IMO's "compelling need". Follow up will be crucial to the eventual success of the instrument. The President also referred to the fact that there are to be discussions between UNCTAD and IMO as to how they can best co-operate in relation to this project and he will be meeting with Dorota Lost-Sieminska at the IMO immediately after the Istanbul meeting.

(b) Review of the Rules on General Average

EXCO noted that the ISC the day before had produced indications, of progress and optimism that agreement can be reached on the two major issues of salvage and port of refuge expenses. If this agreement can be reached, amendments in New York would be attainable. The IWG is suggesting also that there be guidelines produced which can be updated more easily, and which can provide illustrative examples of GA adjustments in contentious matters.

(c) Cross-border Insolvency

Vice-President Chris Davis reported that the subject remains relevant. He referred to his report which was tabled and noted which outlines possible ways forward. The President suggested that there seemed to be a variety of approaches which could be taken and something should be prepared for discussion and possible resolution in New York such as the drafting of a proposed legislative amendment along the lines of EU Regulation 5.1, a carve out as per South Africa's s.10, or a limit to Article 21 relief. The final alternative seemed to be to allow the Courts to sort out the mess.

(d) Polar Shipping

The Report of Aldo Chircop was tabled and noted. He is unable to be in Istanbul as his wife is undergoing medical treatment. We wish him well and congratulate him and the IWG on the excellent work that has been done to date, especially in relation to the Polar Code. The IWG has conducted its work via emails, telephone conferences and occasional meetings. It has devolved into the following sub groups: Conventions; Load Lines; Civil liability, Polarworthiness; and Collision avoidance regulations. The Secretary-General reported that under the temporary leadership of Nigel Frawley, the IWG was to devote two full days to meetings in Istanbul. The IWG is in contact with its counterparts at the US MLA and it is anticipated that a valuable working session can be developed for the New York Conference.

(e) Marine Insurance

Dieter Schwampe tabled the IWG report which was noted. It referred to discussions that had taken place between Fred Kenney at the IMO and chair Jo Grasso as a result of which the IWG had determined to proceed with preparing draft Guidelines to assist Governments in satisfying themselves that any statutory insurance cover provided is in line with minimum requirements under the relevant conventions and in relation to time limits for direct action claims against insurers. The IWG will also be considering the recent EU Directive on Mutual Recognition (relating to Classification Societies) with a view to analysing the effects of the Directive on the marine insurance industry and whether there was any work product which the IWG could produce to assist industry. EXCO commented that marine Insurance was a good topic for the New York Conference.

(f) Offshore Activities

The report of Patrick Griggs was tabled and noted. Jorge Radovich spoke to the report, and confirmed that the IWG would be meeting later in the day to prepare for tomorrow's seminar. He suggested that a convention on liabilities is under consideration as a possible way forward.

(g) Rotterdam Rules

Tomotaka Fujita tabled the IWG report. He reported that he and Alex von Ziegler had taken part in an UNCITRAL workshop in December to prepare a ratification kit for countries contemplating ratification. The President reported on correspondence he had had with the Polish MLA who had suggested that a topic for consideration by the CMI should be jurisdiction clauses in carriage documents and their different interpretations in various jurisdictions. The President queried whether this might be an informative topic for consideration in New York by way of panel presentations, perhaps chaired by Michael Sturley. It was noted that Michael Sturley was attending Istanbul and would be presenting an update on the progress of the Rotterdam Rules through the USA system.

Resolution: It was agreed that Miriam Goldby be invited to join the IWG and approval given to Tomotaka Fujita to provide the IWG ratification kit to UNCITRAL.

(h) Fair Treatment of Seafarers

The report of Olivia Murray was tabled and noted that a CMI co-sponsored paper had been submitted to LEG 102 in April 2015, which reported on the survey that had been conducted into the Fair Treatment Guidelines. The Committee determined to keep this subject on the work programme.

(i) Acts of Piracy - Maritime Violence:

Andrew Taylor tabled his report which was noted and spoke to it- confirming that while pirate activity

around the coast of Somalia was lessening both Nigeria and South East Asia had seen increases in such activity. The Secretary-General reported that Frank Wiswall had resigned from the IWG.

(j) Cape Town Convention (Since renamed Ship Finance Security Practices)

Ann Fenech tabled her report, and spoke to it-identifying how she has gone about the task of interviewing the proposed members of the IWG and what they brought to the study of this topic. Ann also informed the meeting that work had already started on the formulation of a questionnaire to send to MLAs and those members of the group who were in Istanbul would be meeting over the next couple of days. The Secretary-General remarked that the formation of the IWG was a textbook example of how this should be done. The Secretary-General will write to Sir Roy Goode to inform him of the establishment of this IWG.

Resolution: Approval was unanimous for the formalisation of the IWG and of the membership as proposed: Ann Fenech (Chair); David Osborne (Rapporteur); Andrew Tetley; Sheng Chen; Professor Souichirou Kozuka; Camilla Mendes Vianna Cardoso; Allen Black; Stefan Rindfleisch.

(k) Practice and Procedure in relation to Arrest of Ships
Vice-President Berlingieri tabled his report, and the questionnaire that has been sent out to NMLAs. It was decided that the group remain small at this stage, pending the replies to the questionnaire.

Resolution: The IWG was agreed in November, but the composition was discussed further, and Sir Bernard Eder was proposed as an additional member which was accepted. The Secretary-General is to write to him to invite him to join, copy to Giorgio Berlingieri.

(l) Restatement of General Principles of Lex Maritima.

The Secretary-General tabled the report of Eric van Hooydonk, which identified the task of the IWG to develop “an elementary – that is concise and flexible – description of the typical concepts of the rules of maritime law that may be regarded as internationally accepted and common to most if not all legal systems and traditions”. His report also identified the proposed members of the IWG. As no CVs of those proposed were available, it was agreed to hold over approval of the new members until the second EXCO meeting, once Prof van Hooydonk had submitted CVs.

10. New IWG: Unmanned Ships

The President noted that this topic is gathering considerable interest. A typically erudite paper

(“The law of unmanned merchant shipping-an exploration”) had been written on the topic by Eric van Hooydonk which had been published in the *Journal of International Maritime Law* ((2014) 20 JIML) and correspondence had been received from Robert Veal, a Senior Research Fellow at the Institute of Maritime Law at Southampton University wishing to utilise the CMI for the purposes of sending a Questionnaire to MLAs. The Secretary-General undertook to liaise with Prof Schwampe to identify possible US members so that the topic can be covered in New York in 2016. Prof Schwampe undertook to draft a letter to send to Robert Veal in relation to an upcoming event dealing with unmanned ships at Southampton University in October, and Mr Birch Reynardson was to be asked to suggest someone from London to attend the Southampton event. The Secretary-General mentioned that this is another ideal topic in which to involve younger members, and suggested he approach Steven Gosling to ascertain if he is interested in joining the group. He was driving the young projects at the Nautical Institute though he has now moved on. (Subsequent to both EXCO meetings in Istanbul the President ascertained that Henrik Ringbom is very involved in work related to this topic and would be delighted to join the IWG).

Resolution: The establishment of a new IWG was approved, with Tom Birch Reynardson as Chair. Dieter Schwampe volunteered to join, and Eric van Hooydonk was proposed as a further member and approved. The new IWG should liaise with Robert Veal in relation to the Questionnaire which can be forwarded to MLAs provided a suitably worded letter accompanies it making clear that it is not a CMI Questionnaire and it is a matter for each MLA as to whether it wishes to participate by responding to it. Dieter Schwampe is to prepare a suitable letter for the Chair of the IWG or the President to send.

11. Standing Committees:

(a) CMI Charitable Trust

The President reported that the Trust is to meet in Istanbul and Patrick Griggs would present a report for the Assembly. The Secretary-General expressed his wish to revive the Essay Prize which had foundered many years ago and the Charitable Trust will be asked to fund it. Further discussion to be deferred until Taco van Der Valk is elected to EXCO.

(b) CMI Archives

This topic was dealt with under item 5 above

(c) CMI Young Members

Sebastian Lootgeiter’s request for funding (for the event of Young Lawyers in Northern Europe) was

discussed but it was considered more appropriate that it be redirected to NMLAs. The President reiterated that consideration be given to appointing young lawyers as rapporteurs of IWGs where appropriate. The topic of Unmanned Ships being one for consideration in that regard.

(d) Constitution Committee

The Secretary-General tabled a short report covering meetings in Antwerp in February, and undertook to carry on the review of the constitution in good time to recommend amendments for New York. The President had identified to the Committee three Articles (12, 15 and 18) that he thought worthy for reform consideration—Article 15 in order to give greater express authority to the Treasurer to perform administrative tasks; Article 18 to consider the manner of appointments to the Nominating Committee; and Article 18 to empower EXCO to pay Honorariums to the Treasurer, Administrator and Secretary-General. Patrice Rembauville has confirmed he would like to stay on the committee and Frank Wiswall has stepped down. His resignation was noted, with thanks for his enormous contributions to the constitution of the CMI over many decades.

(e) General Average interest rates

The committee's proposal for a rate of 2.5% was tabled for submission to the Assembly, with a view to EXCO also being empowered to vary that rate if so recommended by the Committee towards the end of the year if there is a change in circumstances.

(f) Nominating Committee

The committee's report was tabled and noted. The Administrator confirmed that there had been no additional nominations, beyond those referred to in the report.

(g) Planning Committee

The Secretary-General tabled a short report, indicating that it was unlikely that a meeting of the committee would be convened in Istanbul. He asked that the planning reports of New York and Istanbul, and the proposed new IWGs be read as evidence of the considerable planning that had been done during the past year, though regrettably mostly outside the committee. Clearly the planning and preparation for the New York Conference and the merger of US MLA Committees and IWGs will throw up new challenges which can be considered and debated after that Conference.

(h) Jurisprudence database on Maritime Conventions

The President suggested that the CMI should encourage NMLAs to supply jurisprudence to Stephen Girvin and his newly appointed researcher for the project, Jesse Zhihe. All those who read these minutes are asked please to submit any appropriate

court decision dealing with the interpretation or application of the selected Maritime Conventions (see the President's Annual Report to the Assembly for the list) to Prof Stephen Girvin (sdgirvin@nus.edu.sg.)

(i) Implementing and Promoting Ratification of Maritime Conventions

The emailed report from Deucalion Rediadis tabled and noted. In particular it identified that the 15 replies to the Questionnaire showed that those Conventions with wide acceptances are those where ICS/CMI have members. (These include Marpol, FAL, PAL 2002, and LLMC 1996). Others (such as RR, HNS, WRC, Recycling, SID and Arrest 1999) are in jurisdictions where both CMI/ICS have members and those where they do not. Some of the reasons identified for non-ratification for particular conventions are: RR – dependent on trading partners; HNS – burdensome procedures and dependent on neighbouring States; WRC – no common reasons apparent; Recycling – ratification by States with recycling capacity is relevant, hence no urgency for other States; SID – burdensome procedures, data protection issues, no added value; Arrest 1999 – preference for 1952 Convention; EU States defer to EU Regulations on Jurisdiction in civil and commercial matters.

Louis Mbanefo said that on the one hand there was no point in making conventions if no one ratifies, on the other hand the act of promoting ratification is sensitive because it is a sovereign matter. Response to the questionnaire was poor. The President suggested that CMI should be more pro-active in promoting ratification. It was suggested that perhaps CMI could offer to participate in events in countries to raise awareness and interest in ratification. Dihuang Song suggested that a precipitating event might be used as the occasion to ask the government to consider ratification, citing as an example the Yangtze ferry disaster and the ratification of the Athens convention and protocols.

Deucalion Rediadis's report also suggested that the work of the committee be split into two streams: ratification and monitoring implementation. This would be discussed further at later meetings of EXCO. Peter Laurijssen of the Belgium MLA had volunteered to assist and Deucalion has indicated a need to have someone from a common law jurisdiction to assist.

(j) Publications and website

The need for a template for NMLA Executive information was again referred to as necessary to maintain the accuracy of information on the data base and in the Yearbook.

Vice-President Berlingieri and Anne Verlinde reported on the finalisation and transmission of the Yearbook, as well as plans for the next issues. The

Vice President was congratulated on a fine effort in producing the Yearbook.

The President reported that work on the publication of the Conventions Handbook still proceeds. Patrick Griggs has recently enquired of Frank Wiswall whether it was still feasible to be considering a printed version or whether a disc or memory stick may be more useful.

Resolution: A quotation from Vanilla Brief to upgrade the website was considered. It was decided that there were insufficient funds budgeted to authorise this work at this stage and Anne and Peter will investigate returning the management of the web site to Belgium if an appropriate person or organisation can be identified.

12. *Ad hoc Committees:*

(a) *Arbitration*

This topic was deferred until Luc Grellet joined EXCO.

(b) *Ship Nomenclature*

Frank Nolan's report was tabled and noted. The project was identified as studying "the meaning and uses of the terms "ship", "vessel", "watercraft", or other relevant terms for marine property subject to international agreement and national laws".

The Secretary-General reported on the work to date of Frank Nolan in constituting the IWG. This IWG will be producing a Questionnaire and will be encouraged to set up this topic for the New York Conference.

Resolution: The composition of the IWG proposed by Frank Nolan of Edmund Sweetman, (Rapporteur), Jens Mathiasen, Lawrence Teh; and Ricardo Rozas was approved, with the addition of Dr Bulent Sozer who had indicated a willingness to serve, this being a topic on which he has written.

(c) *Future of CMI*

The Secretary-General reported on discussions held with Liz Burrell in New York and confirmed that she was attending Istanbul, and was serving on the organising committee of CMI 2016 New York. Liz Burrell has indicated that she will have a report ready for New York.

(d) *Classification Societies*

The Secretary-General proposed that the IWG be reconstituted, and this was agreed. Karl-Johan Gombrii confirmed he is happy to chair, with Alex von Ziegler, the Secretary-General and Tomotaka Fujita. Consideration was given to enlarging the group to include representatives from industry. After debate, it was decided that the way forward should be cautious, and that industry should first be consulted as to whether or not they would support a renewed CMI initiative. Once that has been

ascertained the IWG may recommend additional members. It was noted that this is a topic which would be suited to the New York Conference.

Resolution: This Committee will comprise Karl Gombrii (chair), John Hare, Tomotaka Fujita and Alexander von Ziegler.

(e) *Potential new studies:*

(i) *Cybercrime in Shipping*

The Secretary-General tabled his report, but a final decision was held over to EXCO #2 to see if Taco van der Valk would be interested in chairing.

(ii) *Maritime Law and Refugee Migration at Sea*

The Secretary-General tabled his report and sought authority to establish an ad hoc committee to look into the maritime law ramifications of the issue, and whether or not the CMI could become usefully involved. He stressed that this was a tragedy unfolding daily on the seas in ships, and that international maritime regulation and law was simply ignored. He reported that Fred Kenney of the IMO had expressed interest in the CMI becoming involved. The President referred to the history of dealing with a similar problem in Australia and in particular the legal issues that came to the forefront in relation to the "Tampa" incident where "refugees" were taken on board the cargo ship off the coast of Indonesia and sought to discharge them in Australia. The Secretary-General asked if there were yet any standard BIMCO clauses, to which Andrew Taylor replied that there were none yet. Ann Fenech suggested all EXCO members feed information or comments to the Secretary-General so that the initiative may be further evaluated.

Resolution: an initial "Committee", comprising the Secretary-General, with a mandate to report on further steps that may be appropriate was established.

(iii) *International Health Regulations and Shipping:*

The President's Memorandum recounting the request he had received from Fred Kenney to liaise with interested parties the resultant telephone meeting with representatives of the International Cruise Industry and the ICS concerning the problems faced by the industry and the recent Ebola crisis was noted. The President undertook to report further developments once the paper prepared by the ICS had been received.

13. *EU Rapporteur*

Vincent Power had provided a full report for EXCO, a summary of which he is to present to the Assembly. In his report he discusses inter alia the "MSC Orchestra" case and the conflict between IMO (Marpol) and EU law on sulphur content, as well as competition law as applied in the EU to liner conference arrangements and migration law issues. Dr Power has confirmed that the

CMI may post this report on its website. Anne Verlinde is to attend to the posting.

14. *Singapore regional office.*

Held over to EXCO #2.

15. *IOPC Funds: April 2015 meeting.*

The report of Rosalie Balkin was noted, with thanks.

16. *Correspondence The following correspondence was tabled and noted:*

- (a) International Anti-Corruption Court (Ukraine)
- (b) Email Taco Van der Valk: reporting on developments in the Netherlands Antilles
- (c) Email from Dan Gunasekera (Sri Lanka) (reporting that he was making progress towards the formation of an MLA and would welcome a visit from an Executive Councillor. (Lawrence Teh is to be encouraged to include a visit to Sri Lanka in the future).
- (d) Email from Swedish MLA commending a recent visit to the Swedish MLA by Dieter Schwampe at its annual meeting as showing the benefits from interaction between MLAs.
- (e) Email from Dieter Schwampe reporting on an initiative between Baltic MLAs (Denmark, Finland, Germany, Norway, Poland, Russia, Sweden and potentially Estonia) to copy the model of regional co-operation between northern European MLAs (France, Germany, Netherlands and UK).
- (f) Email exchange Francesco Berlingieri: 22/25 May 2015 concerning the inclusion of the Travaux Préparatoires of the Arrest Conventions in the next edition of his work on "Arrest of Ships."

17. *Future meetings:*

- (a) Virtual meeting November 2015, on dates to be agreed.
- (b) UNCITRAL WGIV: Attendance of Vincent de Orchis and Luccio Pinta
Noted. The Secretary-General reported having arranged accreditation.
- (c) CMLA and Dalian Maritime University 14-16 October 2015.

The President and The Secretary-General both reported having received invitations to attend, but both were not able to accept, largely owing to cost implications, and now because of a clash with New York planning meetings.

The Administrator suggested, using Dihuang Song's earlier reference to the CMLA and Dalian Maritime University event, that there might be value in considering saying to NMLAs that if an NMLA intends to hold an international event, it may consider inviting the CMI to send a representative to participate in the conference, thereby getting value for their subscriptions. CMI will, in return, not only put the event on the CMI website but also circulate the event to all other NMLAs. In this way, CMI could show NMLAs that holding events was a good way of being active, generating revenue and paying subscriptions.

18. *Any other business.*

There being no other business, the meeting ended at 16h30.

The President closed by thanking Benoit Goemans, Andrew Taylor and Louis Mbanefo, all of whom were attending their last EXCO meeting, for their sterling work for the CMI over many years.

STUART HETHERINGTON
President

JOHN HARE
Secretary-General

**MINUTES OF THE ASSEMBLY MEETING HELD ON 9 JUNE 2015
AT THE SHERATON ATAKOY HOTEL, ISTANBUL, TURKEY***

Welcome:

President Stuart Hetherington welcomed all delegates present.

Participating:

<i>President:</i>	STUART HETHERINGTON
<i>Past President:</i>	KARL-JOHAN GOMBRII
<i>Vice-Presidents:</i>	GIORGIO BERLINGIERI
<i>Vice-President:</i>	CHRISTOPHER DAVIS
<i>Secretary-General:</i>	JOHN HARE
<i>Administrator:</i>	LAWRENCE TEH
<i>Treasurer/Head Office Director:</i>	BENOIT GOEMANS
<i>Councillors:</i>	ANN FENECH
	TOMOTAKA FUJITA
	LOUIS MBANEFO
	JORGE RADOVICH
	ANDREW TAYLOR
	DIHUANG SONG
	DIETER SCHWAMPE
	ALEXANDER VON ZIEGLER

Member Associations: Member associations were duly represented by delegates listed in the Attendance Register attached to these minutes.

PARAGRAPH NUMBERS BELOW CORRESPOND WITH THOSE OF THE PUBLISHED AGENDA. AN AUDIOVISUAL RECORDING OF THE FULL ASSEMBLY IS AVAILABLE IN THE VIDEOLIBRARY ON THE CMI WEBSITE AT WWW.COMITEMARITIME.ORG/VIDEOLIBRARY

1. Report of the Credentials Committee

Chris Davis 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, (about each of whom he said a few words) and asked all to stand in a moment of silent tribute.

- (a) Bill Tetley QC (Canada);
- (b) Hisashi Tanikawa (Japan);
- (c) Jose Luis Goni (Spain);
- (d) Charles Goldie (UK);
- (e) Akihiko Yamamichi (Japan);
- (f) Eugenio Cornejo Fuller (Chile);
- (g) Jean Albert Hulliger (Switzerland);
- (h) David Robles (Panama);
- (i) Carlos Matheus Gonzalez (Venezuela);

- (j) Geoffrey Hudson (UK);
- (k) William Dorsey III (USA);
- (l) Zhu Zengjie (China)

Justice Johanne Gautier paid tribute to the late Prof Bill Tetley as Honorary Vice-President of the CMI, recording his enormous contribution to maritime law and to the CMI.

3. Approval of the Minutes of the Assembly held in Dublin on 1 October 2013 (see attachment)

The Secretary-General tabled the minutes of the meeting of the Assembly held in Hamburg on 17 June 2014 adoption of which was proposed by Andrew Taylor and seconded by Bob Clyne and which were duly adopted, and signed by the President and Secretary-General.

4. Matters arising from Minutes of the Assembly held in Hamburg on 17 June 2014

There were no matters arising other than those to be dealt with in this Agenda.

* Provisional, for approval by the New York Assembly.

5. *Report of the President*

The President tabled and delivered his attached Report which was duly adopted.

In his verbal summary the President acknowledged the huge burden of work taken on by John Hare as Secretary-General. He expressed the CMI's gratitude to Benoit Goemans for staying on as Treasurer to await availability of Peter Verstuyft should the Assembly approve Mr Verstuyft's appointment. He acknowledged and thanked Anne Verlinde for her efficient administration in Antwerp including taking over much of the maintenance of the CMI website. The President again asked for any changes to the Executives of NMLAs to be notified to Ms Verlinde. The President recorded his thanks to the Belgium MLA and in particular its retiring President Karel Stes for his assistance and support of the CMI during his Presidency. Mention was also made of the accounts for 2014 showing a modest surplus. Turning to the work projects of the CMI he referred to the considerable amount of work done by the Judicial Sale IWG, including a presentation in London to the IMO Legal Committee, and thanks were expressed to Henry Li and Jonathan Lux for their efforts. Gratitude was similarly expressed to Bent Neilsen and to Taco van der Valk and their IWG for their work on General Average. On the building of the CMI database on the jurisprudence of conventions, the President asked for NMLA co-operation in submitting material to Prof Stephen Girvin at the National University of Singapore to assist in the building of the database in respect of the Conventions listed in the Report. Prof Girvin's email address is sdgirvin@nus.edu.sg.

The President also expressed thanks to all the Chairs and Rapporteurs of the International Working Groups but also, in particular, to John Hare for all the work done in preparation of the Istanbul Colloquium and next year's conference in New York.

6. *Finances*

(a) *The Treasurer's report for accounts year ended 31 December 2014*

The Treasurer tabled and presented his report of the accounts of the CMI for 2014, with comparative budgets for 2015/6.

(b) *The Treasurer's accounts*

The CMI annual accounts were then tabled and introduced by the Treasurer. Income for 2014 was €25 991 against expenditure of €215 762 giving a surplus of €10 229 for the year (cf the €1 883 deficit for 2013). The Treasurer reported further that 2014 reserves closed at €30 626.

Adoption of the Treasurer's report and accounts was

proposed by The Netherlands, seconded by Turkey, and approved by show of hands.

(c) *The Auditors' Report for 2014*

The Report of the Auditors approving the 2014 accounts without reservation was adopted with no dissent, by show of hands.

(d) *Budget update for 2015 and Budget for 2016*

The Treasurer pointed out to the Assembly that the Constitution requires the Treasurer to prepare budgets for the current year (2015) and a budget projection for the next year (2016). As Assemblies are often conducted in the middle of the CMI financial year, it is appropriate in mid-year to review the estimated budget for the current year against the actual figures of the first half of that budget year.

The Treasurer tabled and presented an updated 2015 budget reflecting a projected deficit of € 210, and a projected budget deficit for 2016 (without increase of subscriptions) of € 800. These projections would be affected by the financial result of the Istanbul Colloquium which, upon the good number of attendees, is expected to generate a reasonable surplus. They are considerably lower than the deficit projections submitted to the Assembly in Hamburg (-€18453 for 2016), and accordingly the Executive Council had considered at its meeting on 7 June that it is appropriate that no increase in NMLA levies need be considered at this stage.

The amended budget figures as tabled at the Assembly were noted and approved, without increase in subscriptions. The President reiterated his thanks to the Treasurer for his considerable efforts in relation to the accounts and the budget.

(e) *Report of the Chair of the Audit Committee*

Måns Jacobsson tabled and presented the report of the Audit Committee, recording first the appreciation of the Committee for the considerable efforts of Benoit Goemans during his time as Treasurer.

He explained that the Audit Committee examines the audit conducted by the CMI's appointed auditors and conducts between its members, in depth discussion of the auditor's report. Owing to geographic separation, these discussions are done by telephone.

The Report of the Audit Committee was proposed by the United States and seconded by Canada, and duly approved, with thanks expressed to Mr Jacobsson and his committee.

(f) *Approval of the Nomination of Der Mol Meuldermans & Partners BVBA as auditors for the 2015 accounts*

Proposed by The Netherlands, seconded by Turkey and carried by show of hands.

(g) *Report on collection of outstanding subscriptions*
Vice-President Chris Davis reported on the collection of current NMLA subscriptions. €20 502 was outstanding at 5 June 2015, representing about 10% of total billings for the year. Mr Davis acknowledged with thanks the assistance of Anne Verlinde in collecting outstanding accounts. Regarding prior years, the news was also encouraging in that the amount due has been reduced to €17 847, largely as a result of negotiating settlements, notably with Jorge Radovich's assistance with Latin American collections.

Vice-President Davis asked that the Assembly confirm his and the President's authority to continue to negotiate settlements. The President called for a proposer and seconder. Canada proposed and Malta seconded, and authority was thus confirmed.

(b) *CMI Charitable Trust*

Patrick Griggs tabled the report of the CMI Charitable Trust for noting by the Assembly.

Mr Griggs notified the Assembly that the Trust had €909 000 in investment holdings, an increase over the €81 000 of the previous year. The Trust's holdings have for the past year produced a return of 5,15%.

Mr Griggs confirmed that the Charitable Trust had again funded the IMLI Prize for the best student, which had been awarded to Ms Vanessa Stewart, who had attended the Istanbul conference, and presented her paper as part of her prize. Ms Stewart was congratulated for her award.

Mr Griggs undertook to prepare a circular for NMLAs giving a review of the activities of the Trust.

7. *Members:*

(a) *Expulsion of MLAs*

The President confirmed that there had been no response from the NMLAs of either Pakistan or Bulgaria, and that all reasonable and necessary steps had been taken to attempt to obtain settlement from them. He reminded the Assembly that a resolution had been taken in Hamburg to commence expulsion proceedings against Pakistan and Bulgaria. In the circumstances he considered it appropriate that both Associations regrettably now be expelled.

The proposal to expel Pakistan was proposed by the UK, and seconded by Sweden. The expulsion of Bulgaria was proposed by Switzerland and seconded by Romania.

(b) *New Provisional Member*

An application for Provisional membership for Capt Ahmed Ruhullah of Bangladesh had been considered by the Executive Council at its meeting on 7 June 2015 and recommended that it be accepted by the Assembly. It was proposed by the USA and seconded by Nigeria and approved by acclamation.

(c) *Titulary Members/Nominations (see attachments)*

The President reported the receipt of nominations for Titulary Membership which had been considered and recommended for approval to the Assembly by the Executive Council.

The following distinguished persons were elected by acclamation as Titulary Members:

- (i) Jonathan Lux (UK) – Proposed by the CMI EXCO for his considerable work and efforts in relation to the work of the IWG on Judicial Sales over a number of years
- (ii) Karel Stes (Belgium) – Proposed by Frank Stevens for his significant contributions to the Belgium MLA and his support of the work being done by the CMI.

8. *Meetings – CMI 2016 New York*

US MLA President Bob Clyne (and Chair of their CMI2016NewYork Planning Committee) and Vincent Foley gave a report on the plans for the combined CMI/US MLA event set for 3 – 6 May 2016.

They are working closely with the CMI President and Secretary-General in the planning of the Conference. The Midtown Hilton Hotel will be the Conference venue, and a roomblock of 250 rooms has been reserved. Professional Conference Organisers have been appointed, and the design of a conference website is under way.

Bob Clyne extended an invitation to all present to come to New York.

9. *Work in Progress*

The President invited reports from the Chairs of CMI International Working Groups and Standing Committees. Reports were duly tabled and presented in accordance with the Agenda.

Copies of the reports may be obtained from the CMI office at admin-antwerp@comitemaritime.org and will be placed on the website.

(a) *Acts of Piracy and Maritime Violence*

Andrew Taylor tabled and presented a piracy update, reporting that there had been no reported Somali piracy attacks in the first quarter of 2015, although there has been an increase in attacks on small coastal tankers in SE Asia. Piracy remains a problem in the Gulf of Guinea.

He mentioned that in Denmark and France there had been compensation orders in favour of pirates for alleged human rights violations. He noted that the UK Piracy Ransom Task Force had published its report, and he concluded that though there has been a decrease in the number of incidents of piracy internationally, the industry should remain vigilant.

(b) *Fair Treatment of Seafarers*

Vice-President Berlingieri presented Olivia Murray's

May 2015 report on the Fair Treatment of Seafarers, including continuing cooperation with Seafarers' Rights International. The CMI has now sent out a questionnaire to update and better assess the approach of NMLA countries, and replies will be analysed by the IWG and reported to EXCO.

The IWG so-sponsored a paper with SRI and the ITF on Fair Treatment in April 2015, for submission to the IMO Legal Committee 102. The paper was unanimously adopted.

(c) Recognition of Foreign Judicial Sales of Ships

Chair Prof Henry Li tabled the IWG Report, on activities during the year post-adoption of the instrument's text in Hamburg. This included uploading all documentation relating to Judicial Sales to the CMI website, attending and making a presentation at LegCom 102 of the IMO (which included a lunchtime presentation chaired by Patrick Griggs explaining the import of the instrument), and pointing to further actions to promote the adoption of the instrument.

The President commended Prof Li and his team for their continuing work, and this acclaim was echoed by all present. The President confirmed that the CMI had yet to find the two promoting countries necessary in order for the text to be placed formally on the agenda of a future LegCom meeting. He confirmed that we have also been asked to confirm to the IMO that there is indeed a 'compelling need' for a convention dealing with judicial sales, and referred to a letter of enquiry he had addressed in this regard to all NMLAs. He asked that all NMLAs please respond as soon as possible. He encouraged all NMLAs to lobby for the promotion of the text, and John O'Connor, for Canada, indicated that Canada may be prepared to co-promote.

(d) Marine Insurance

Jo Grasso, Chair, tabled the report of the Marine Insurance IWG, which was presented by Marc Huybrechts. He reported that following approval by EXCO that the focus of the IWG be limited to four areas of research, this had been the continuing approach of the IWG over the past year. These were

- That minimum insurance certification be required by governments;
- That the IMO extend the Bunker Convention financial security requirements to other convention security requirements.
- That the IWG put out a questionnaire to NMLAs on practices and procedures in the case of termination of insurance cover.

The IWG had decided to prepare Guidelines relating to minimum insurance certification for discussion with the IMO and the industry.

(e) Cross-border Insolvency

Vice-President Chris Davis tabled and presented the

report of the Cross Border Insolvency. The IWG has continued its evaluation of the replies received on the May 2012 Questionnaire. It is looking at possibilities of including this topic as an item on the programme for the New York Conference.

(f) Polar Shipping

Nigel Frawley presented the Report of Polar Shipping IWG Chair, Aldo Chircop. He reported that Profs Goto (Japan) and Y-K Park (S Korea) had joined the IWG with the approval of EXCO. The IWG is closely involved with the development of the Polar Code, and with a review of private maritime law conventions that apply in Polar regions. Particular attention is being given to polar pollution issues. The Group has a sub-committee dealing with civil liability in Polar regions.

The IWG is working closely with the MLA US parallel committee chaired by Philip Buhler with a view to putting on a joint presentation at the New York Conference.

Members of the group continue to present papers on polar issues at international conferences, flying the CMI flag.

The Secretary-General commended the Polar Shipping IWG on the enormous amount of time and effort put in by its members, and on the fact that they had agreed to meet for both days of the Istanbul Colloquium.

(g) Review of the Rules on General Average [Attachment 12]

Taco van der Valk presented the report of the IWG on General Average, and on the significant progress made during the Istanbul deliberations. He tabled the working papers filed for Istanbul and reported that it would appear that broad agreement had been reached on two significant areas of reform: Port of refuge expenses, and salvage. He expressed confidence that reforms could be agreed with wide industry acceptance in time for the New York Conference.

The President thanked the IWG for all the effort they had devoted to the project over the past year.

(h) Rotterdam Rules

Tomotaka Fujita as Chair, tabled and presented the report of the IWG on the Rotterdam Rules.

Prof Fujita reported that members of the group have been working closely with UNCITRAL, especially in relation to UNCITRAL's preparation of an accession kit for the Rules. The report of the IWG makes reference also to the UNCITRAL Working Group IV on Electronic Commerce on which the CMI has again been represented by observers Alexander von Ziegler in Zurich and Messrs Foley and Nolan in New York.

The IWG will continue to monitor accession to the Rules, and promote education on the import of the

Rules wherever possible. As such it has at this stage no product to produce within a particular time.

(i) Offshore Activities

Patrick Griggs, Chair, tabled and presented the report of the IWG on Offshore Activities.

He reported that at the IMO LegCom 102, Jorge Radovich presented a paper dealing with initiatives and desirability of establishing international agreement on liability issues arising from Offshore Activities.

The Danish and Indonesian governments also presented a paper on model bilateral or multilateral agreements for liability and compensation.

These initiatives will be progressed, with input from the IWG where appropriate.

Mr Griggs and his IWG colleagues convened a full seminar dealing with Offshore responsibilities and liabilities which took place at Istanbul. The future work of the IWG will be guided by what emerged from that seminar.

The President thanked Mr Griggs and his team for a most interesting seminar and commended all for the amount of work clearly put into its preparation.

(j) Cape Town Convention (Since re-named Ship Financing & Security Practices)

Anne Fenech presented her report of the inaugural meetings of this new IWG, whose members had been approved at the first Istanbul EXCO meeting. She gave a brief outline to the members and their likely contributions to the work of the group.

The Secretary-General placed on record that Dr Fenech had produced a text-book example of how to set up an IWG, and commended her for the enthusiasm of the IWG to date.

(k) Arrest of Ships

Vice-President Berlingieri submitted the report of the Arrest of Ships IWG, and confirmed that the group had prepared a questionnaire on the subject which has been sent out to NMLAs. Once replies were received, the IWG would begin an analysis and recommend a way forward.

Sir Bernard Eder had been invited to join the IWG and had readily accepted.

(l) Restatement of Lex Maritima

Eric van Hooydonk tabled his report on the work of this IWG. Prof van Hooydonk's report to EXCO and the Assembly gave a summary of the proposed scope of work, and its methodology. Both were duly approved by EXCO, and noted by the Assembly.

The final composition of the group as proposed by Prof van Hooydonk was to be held over until the post Assembly EXCO second Istanbul meeting.

(m) Legal Issues arising from the use of Unmanned Ships

The Secretary-General reported that Tom Birch Reynardson had proposed that the CMI become

involved in researching the maritime law implications of unmanned craft – the drones of the sea – and that EXCO had approved the project and the appointment of a new IWG under the chair of Mr Birch Reynardson. It is envisaged that this is a topic where the CMI would be well advised to use the services of CMI, and that it would be a suitable topic for New York 2016.

The Secretary-General will progress the matter with Mr Birch Reynardson with a view to expanding the IWG.

10. Standing Committees

(a) CMI Charitable Trust

(This has been dealt with above, and is not a Standing Committee of the CMI, but in fact an independent committee of Trustees.)

(b) Young CMI

Chair Taco van der Valk reported on activities relating to Young CMI over the year. He has had approaches from young lawyers all over the world to become involved with CMI work. There have been meetings in Europe for the last ten years, and efforts are continually being made to liaise with those young maritime lawyers groups, such as the initiative in Hamburg last year.

There is considerable support by younger lawyers for the Istanbul colloquium.

The IWG continues to promote the CMI via LinkedIn.

(c) Constitution Committee

The Secretary-General presented the report of Jean-Francois Peters, Chair of the Constitution Committee. The committee, without Patrice Rembauville-Nicolle, met in Antwerp in February and discussed issues that need to be addressed. It was decided that the committee should first undertake a clean-up of the current texts (without amendments of substance) and also check consistency between the English and French texts.

It should then move forward to address any substantial amendments.

The Secretary-General confirmed that he had been asked by some NMLAs to look at the nomination and election procedures as reported in the minutes of the Hamburg Assembly, and that this would be undertaken as part of the general review of the constitution.

He pointed out that any amendments of the constitution require 60 days' notice to NMLAs and a 2/3 majority vote of the Assembly. The Committee would try to process any amendments well in time for the New York Assembly, and in the process would seek both the approval of EXCO and in the input of member associations as required by the present constitution.

The Secretary-General then asked the Assembly to approve a mandate to be given to Jean-Francois Peters to enable him to satisfy all formalities required of the CMI by the Belgian authorities, such as but not limited to filing amendments with the Banque Carrefour des Entreprises and publicise such with Moniteur Belge.

The Assembly approved that the Secretary-General issue such authority to Mr Peters.

(d) General Average Interest rates

Taco van der Valk, on behalf of Bent Nielsen, Chair of this Standing Committee explained that the York Antwerp Rules require the Assembly to fix the GA interest rate for the ensuing year. He tabled the Committee's report which recommends a rate of 2.5% for the period 1 January 2016 – 31 December 2016. This proposal was proposed by Canada, seconded by The Netherlands, and carried by a show of hands, together with the proviso that EXCO be authorised to vary the rate should there be a change of circumstances over the next few months warranting a recommendation from the Committee that a variation of the rate be made.

(e) Planning Committee

The Secretary-General, as Chair of the Planning Committee, submitted his report. He stressed that though there had been no formal meeting of the committee during the past year, he has been engaged in micro planning for the Istanbul and lately for the New York events. This has been somewhat at the expense of macro planning, though planning had identified new topics all now covered by CMI research initiatives, including:

- Shipping Implications of the Cape Town Convention
- Ship Nomenclature
- Cybercrime in Shipping
- Maritime Law and Unmanned Craft
- Maritime Law and Refugee Migration at Sea

All but the last (which is an Ad hoc Committee) were now covered by IWGs. All are potential topics for CMI2016NewYork and all could attract the participation of CMI members.

A further report will be submitted to the New York Assembly.

(f) Jurisprudence on Maritime Conventions

Steven Girvin gave a report from the floor, and confirmed the appointment of a full-time research associate, starting on 1st July 2015. The immediate task is to look at existing information on the CMI database. He wants first to familiarise himself with the way information is stored, presented and accessible and is looking at designing a template to make contributions easier. Prof Girvin suggests that the website be designed to hyperlink summaries to full judgments.

(g) Implementation and Promotion of Maritime Conventions

Deucalion Rediadis as Rapporteur of this Committee reported that the CMI still awaits responses to the questionnaire sent out during 2013.

Mr Rediadis confirmed that the Committee would continue to monitor the implementation but that there was apparently little interest or urgency in the maritime community to implement international instruments.

The President appealed to all NMLAs to respond to this questionnaire.

(h) Publications: Yearbook and Newsletter; LinkedIn, website and Handbook on Maritime Conventions

Vice-President Giorgio Berlingieri reported that the 2014/3 Newsletter covering the last quarter of 2014 is now on the CMI website. The 2014 Handbook is in print, with copies being available on order from the CMI Antwerp office (admin-antwerp@comitemaritime.org).

There has been some progress on the CMI Handbook on Maritime Conventions, and the Secretary-General will follow up this project with Frank Wiswall, who is the custodian of the Handbook. Prof Wiswall has recently submitted a further proposed table of contents for the new volume.

The Secretary-General reported that the papers of the Hamburg conference, sans Assembly are now available on the CMI website, and that a favourable response had been received for this new initiative. The Istanbul proceedings, including the Assembly, would be recorded and made available on the site.

Gregory Timogenis raised the issue of circulation of yearbooks and a past decision not to circulate hard copies of yearbooks to NMLAs. He suggested that that decision was motivated by CMI finances at that time and that hardcopy yearbooks should now be available to NMLAs in exchange for payment. The Secretary-General replied that 3 copies of the Yearbooks were currently mailed to NMLAs but that further copies could be ordered (while stocks last) from the Secretariat, at a cost to the subscriber.

11. Ad Hoc/New Committees

(a) Arbitration

Luc Grellet as Chair of this IWG tabled a report and referred to the Questionnaire prepared by the IWG which the President had circulated to NMLAs in February 2015. The gist of the questionnaire is to seek the opinion of NMLAs as to whether or not the CMI should continue to be involved in matters of maritime arbitration, and if so, whether it should prepare model rules.

The group will report to EXCO once more replies are received, and again the President appealed to all NMLAs to respond to the questionnaire.

(b) Ship Nomenclature

Frank Nolan, the Chair of this new IWG presented his report, and indicated the identity of the IWG members, most of whom had held a meeting in Istanbul on 8th June 2015. He explained that the purpose is to survey what definitions of ships exist in laws around the world and the unintended consequences that can arise from differences in definition. Dr Bulent Sozer had volunteered to join the IWG.

The IWG hopes to be able to make a presentation at the New York Conference.

(c) The Future of the CMI

Liz Burrell made a verbal report to the Assembly. She confirmed that there had been telephone contact between the members of her group, and that she the group had identified issues to be dealt with, such as frequency of CMI meetings and the website. She hopes to be in a position to report to the New York Assembly.

(d) Potential new studies

See Planning Committee report in para 10(e) above.

12. EU Rapporteur

Vincent Power as the CMI EU Rapporteur presented a summary of a comprehensive report which he has prepared for the CMI.

He has agreed that the full report be posted on the CMI website, and that he will provide the CMI with periodic updates.

The Secretary-General thanked Dr Power for his considerable input and for allowing the CMI to put the fruits of his research onto the CMI site.

13. CMI Regional Office in Singapore

The Administrator reported that the registration of the representative office of the CMI in Singapore had been renewed for a further year to April 2016, at which time its 3 year period (allowed under Singapore law) will lapse. It is then usual to upgrade to Branch Status. An attempt will be made to persuade the Singaporean authorities as to the uniqueness of CMI so as to have the 3 year term extended. A number of events had taken place over the past year involving the Administrator both in Singapore and the Region, especially in conjunction with UNCITRAL.

14. Elections

The President invited Mme Justice Johanne Gautier as Chair of the Nominating Committee to present

her report. That report recorded the process of calling for nominations, and seeking the input of NMLAs as required by the Constitution. Having considered that input, the Committee recommended the election of officers as follows:

- (i)* Stuart Hetherington as President for a second term
- (ii)* Giorgio Berlingieri as Vice-President for a second term
- (iii)* Tomotaka Fujita as Executive Councillor for a second term
- (iv)* Luc Grellet as Executive Councillor
- (v)* Taco van der Valk as Executive Councillor.

The President informed the Assembly that in accordance with the Constitution, Mr Peter Verstuyft had been nominated as Treasurer to succeed Mr Goemans with effect from 1 September 2016.

The President confirmed that there had been no other nominations received for any of the above offices, and therefore in accordance with Rule 4 of the Rules of Procedure declared all nominees would be duly elected to office by acclamation.

The Assembly noted the elections by acclamation.

15. Any other business

Closing remarks

The President thanked the Turkish Maritime Law Association and in particular its organising committee chaired by Dr Bulent Sozer and Samin Uman, for hosting an enjoyable and successful Colloquium; he also thanked all presenters of papers, Etix and their team of Professional Conference Organisers, the audio visual teams and others who had contributed to the stunning success of Istanbul 2015, especially the sponsors, Turkish Shipowners Association.

The President noted the retirement from the Executive Council of Messrs Andrew Taylor and Louis Mbanefo, and thanked them for their contributions to the work and fellowship of the CMI. He then asked out-going Treasurer Benoit Goemans to come up to the podium to receive the thanks of the CMI for his long and loyal service to the CMI, and presented him with a clock as a gesture of thanks – which were heartily endorsed by the acclaim of all present.

There being no other business the meeting closed at 18h00.

STUART HETHERINGTON
President

JOHN HARE
Secretary-General

**MINUTES OF THE SECOND EXECUTIVE COUNCIL MEETING HELD ON 9 JUNE 2015
AT THE SHERATON ATAKOY HOTEL, ISTANBUL, TURKEY**

Participating:

<i>President:</i>	STUART HETHERINGTON
<i>Past President:</i>	KARL-JOHAN GOMBRII
<i>Vice-Presidents:</i>	GIORGIO BERLINGIERI CHRISTOPHER DAVIS
<i>Secretary-General:</i>	JOHN HARE
<i>Administrator:</i>	LAWRENCE TEH
<i>Treasurer/Head Office Director:</i>	*
<i>Councillors:</i>	DIHUANG SONG JORGE RADOVICH TOMOTAKA FUJITA ALEXANDER VON ZIEGLER DIETER SCHWAMPE ANN FENECH TACO VAN DER VALK LUC GRELLET

* Benoit Goemans who is in transition to retirement until Peter Verstuyft takes over on 1 September was excused from attendance

1. *Apologies*

No apologies were recorded.

2. *Welcome*

The President welcomed all present, especially Luc Grellet and Taco van der Valk, as newly elected members of EXCO, and congratulated Peter Verstuyft (in absentia) and Tomotaka Fujita on their re-election.

3. *Restatement of the Lex Maritima Resolution*

The composition of the IWG as proposed by Eric van Hooydonk was approved: Eric Van Hooydonk (Chair), John Hare, Alexander von Ziegler, Jesus Casas Robla, Aybek Ahmedov,, Frank Smeele, Andreas Maurer, Massimiliano Rimaboschi, Filippo Lorenzon, Michael Sturley, Tomotaka Fujita, Gustavo Pares, Miso Mudric.

4. *CMI Young Members*

The revival of the prize was discussed and it was agreed to try to award it in time for the winner to present his or her paper at CMI2016NewYork. The President advised that the CMI Charitable Trust had approved funding the prize. The Secretary-General will seek to identify the criteria for the prize in time for the E-meeting.

5. *Yearbooks*

The Administrator enquired about the possibility of proper search facilities across documentation on the CMI site, and the Secretary-General undertook to look into a search feature again. The existing Vanilla Brief quote to programme a search engine was considered too expensive when there are proprietary search engines available. The Administrator stressed that where possible documents be scanned in a searchable pdf format, allowing word searches. As decided in the 7 June EXCO meeting consideration is to be given to identifying a new manager for the website.

Resolution: It was agreed that three copies be sent to each NMLA and that additional copies may be sent upon payment of postage.

6. *Arbitration*

Luc Grellet reported that work continues in getting responses from NMLAs, which will in turn lead to a report to EXCO. The President indicated that the New York Convention might be topical for IWG to study and present to the New York Conference. He proposed that M Grellet liaise with US MLA representative on arbitration and work on a programme session. The President reminded EXCO of the IBA approach re New York, and suggested that this could be a topic in which the IBA might like to be

involved. The study could involve the Singapore perspective and SMA.

7. *Cybercrime*

Resolution: The IWG was duly approved, and Taco van der Valk appointed as Chair. Sebastien Lootgieter and Robert Hoepel were proposed by the Secretary-General, he confirming that he had spoken with both and that they were willing to serve. It was agreed that they be appointed, with Mr Hoepel as Rapporteur, and that the Secretary-General liaise with Mr van der Valk to make contact with the MLAUS cybercrime committee with whom the Secretary-General had held discussions in New York in March with a view to inviting an MLAUS member onto the IWG.

8. *Singapore Regional Office*

The Administrator was asked to make enquiries about extending the representative office status for a further three years, and to report to the November EXCO meeting.

9. *Offshore Activities IWG*

Proposals from Patrick Griggs for the way forward for this IWG were tabled and approved as follows:

1. That the IWG continue to work with the IMO Intersessional Correspondence Group to improve the so-called "Zero Draft" of Guidance notes which are designed to assist states in negotiating bilateral or regional agreements on issues of pollution from offshore activities.
2. That the IWG draft a short instrument for potential international agreement which would, in the context of offshore activities, require states issuing licences for offshore drilling to treat all damage caused by the licensee as if it had been suffered within the territory of the state issuing the licence. This would mean that the efforts of the licensing state to establish the financial

credentials of the licensee will also benefit potential claimants (but without the state issuing the licence itself being itself at risk). The instrument will also need to deal with the issue of jurisdiction and proper law.

3. That some thought may also be given to the drafting of a standard clause to this effect for use in trade treaties.

EXCO Resolved that Prof Henning Jessen be appointed as a new member of the IWG.

10. *Anne Verlinde*

(Ms Verlinde having recused herself) The President, the Treasurer and the Secretary-General all endorsed the quality of Anne Verlinde's work. She has been offered part time employment at the Royal Belgian Shipowners' office, and the CMI has no objection to her taking this on. However it was agreed that Ms Verlinde's weekly working hours for the CMI be increased from 13 hours to 16, giving her two full days a week for the CMI.

11. *Cape Town Convention IWG*

Resolution: That this IWG be renamed: Ship Financing Security Practices.

12. *Promotion and Implementation of Conventions*

Resolution: That Peter Laurijssen to be added to the IWG.

13. *Website*

The Secretary-General asked all EXCO members to spend time on the CMI site and report broken links or inaccuracies to Anne Verlinde.

There being no further business, the meeting adjourned at 18h30.

STUART HETHERINGTON
President

JOHN HARE
Secretary-General

**MINUTES OF DELIBERATIONS OF THE CMI EXECUTIVE COUNCIL HELD BY EMAIL
CONFERENCE DURING THE WEEK COMMENCING 23 NOVEMBER 2015, CHAIRED BY
THE PRESIDENT FROM HIS OFFICE IN SYDNEY***

Participating:

<i>President:</i>	STUART HETHERINGTON
<i>Past President:</i>	KARL-JOHAN GOMBRII
<i>Vice-Presidents:</i>	GIORGIO BERLINGIERI CHRISTOPHER DAVIS
<i>Secretary-General:</i>	JOHN HARE
<i>Administrator:</i>	LAWRENCE TEH
<i>Treasurer/Head Office Director:</i>	PETER VERSTUYFT
<i>Councillors:</i>	ANN FENECH TOMOTAKA FUJITA JORGE RADOVICH DIHUANG SONG DIETER SCHWAMPE ALEXANDER VON ZIEGLER LUC GRELLET TACO VAN DER VALK

Paragraph numbers of these minutes correspond to the Agenda which was sent to all EXCO members, with supporting annexures, during the week prior to 23 November 2015. The President, in preparation for this eMeeting, explained the procedures to be adopted. In essence, EXCO members were enjoined to peruse the documentation and submit first round comments to him and to the Secretary-General by close of business Tuesday 24th November 2015. The responses were then collated and circulated to EXCO members the following day, for further second round comments the day after. Upon close of these second round comments, the President submitted a Final Round Document, with conclusions. It is upon these documents, and particularly the latter, that these minutes are prepared.

1. Opening remarks by the President

The President welcomed EXCO members to this virtual eMeeting, repeating the sorrow he had previously expressed to Luc Grellet and all our friends in Paris over the recent terrible terrorist events of the previous week. He also thanked all those who had submitted reports for the benefit of the meeting and noted that John Hare would, by coincidence, be in Sydney during the course of the meeting while travelling on a private visit to New Zealand.

A particular welcome was given to Peter Verstuyft

who has formally taken over the role of Treasurer and Head Office Director since the meeting in Istanbul in June. The President particularly thanked Ann Verlinde, Peter Verstuyft and John Hare for their detailed reports which were tabled at the meeting and to the Secretary General for his reports of 1st July and 28th October 2015 reporting on his activities, including his meeting in New York to discuss the New York Conference.

Conclusion:

President's Opening Remarks noted with thanks, and sympathies were conveyed to the French people through Luc Grellet on the terrible terrorist atrocities of recent days in Paris.

2. Minutes of Executive Council Meetings in Istanbul on Sunday 7 June 2015 and Tuesday 9 June 2015 at the Sheraton Atakoy Hotel, Istanbul

Resolved:

That the draft Minutes of Executive Council Meeting held in Istanbul on 7 and 9 June 2015 at the Sheraton Atakoy Hotel be approved, corrected as follows:

- (i) By correcting the names of the Liability for Wrongful Arrest (IWG) and Gustavo Omana Perez.
- (ii) Paragraph 9(j) by replacing the words "to it – identifying" with "about".

* Provisional, for the approval by EXCO at New York.

3. *Financial and administration reports*

Conclusion

1. All reports were noted with thanks, especially the detailed reports received from John Hare which enable Executive Councillors to keep abreast of current developments.
2. Peter Verstuyft was welcomed by all to his new role as Treasurer and Head Office Director.
3. The move of the CMI head office secretariat to the Belgium Shipowners' Office had been accomplished successfully and John Hare's assistance was greatly appreciated.
4. The CMI's financial position continues to be in line with expectations, justifying the decision in Istanbul not to raise subscriptions.
5. Priority is to be given to identifying a new website manager and to develop the archive of CMI publications.

4. *Istanbul Conference financial results: report of John Hare dated 16 November 2015*

The report of John Hare was noted with thanks. The financial result of the Istanbul Colloquium was very satisfactory, especially considering that the "surplus" of €12,000 is now, as accurately as it can be, expressed after taking into account CMI's own expenses in organising such an event.

5. *Collection of financial contributions: report of Chris Davis*

Conclusion

With Anne's assistance in following up MLAs they are paying their subscriptions in a more timely fashion. However, there are still some problems. MLAs in South and Central America and Portugal for example. The most serious defaulter is Russia. The meeting decided that the Russian MLA should be advised that unless payment of arrears is received, or a satisfactory proposal for payment of arrears is made early in 2016 the Executive Council will have to consider recommending to the Assembly in New York that the expulsion process will have to be commenced. Chris Davis's report was noted with thanks.

6. *Membership*

Conclusion

Correspondence has been entered into with a number of putative MLAs and their development is to be encouraged, although the correspondence concerning a Baltic regional MLA needs to be considered in the light of the fact that there is already a provisional member in Latvia and Russia has its own MLA. The creation of new MLAs in Africa, the Emirates and Cyprus are particularly to be encouraged. An application for provisional membership in Cuba might be forthcoming.

7. *Executive Council elections at Assembly meeting in New York*

Conclusion

Song Dihuang's retirement from EXCO in New York was noted with sadness. The eligibility for re-election of Chris Davis, Lawrence Teh, Alexander Von Ziegler and Dieter Schwampe was also noted.

8. *Conference in New York: report of Secretary-General dated 28 October 2015; President's letter to MLAS dated 5 November 2015*

Conclusion

The President's letter to Presidents of MLAs dated 5 November 2015 attaching a preliminary notice concerning the joint CMI Conference with the MLAUS's 2016 Spring Meeting as well as John Kimball's letter concerning sponsorship were noted. The Report of the Secretary-General dated 28 October 2015 and the developing work programme of the New York Conference were noted with interest and thanks were recorded to John Hare and the President for all their hard work. The liaison between the Chairs of IWGs and MLAUS Committee chairs, particularly since the Bermuda resort meeting of the MLAUS, has assisted. Sponsorship will be the key to making what is recognised as being an expensive location for this event a sound financial conference as well as being a highly successful event. Sponsorship from outside the US should be encouraged.

9. *International Working Groups*

(a) *Judicial Sales*

The President's letter to Henry Li reporting on his discussions concerning this topic with Fred Kenney, Dorota Lost-Siemenska and Jan de Boer at the IMO in October were noted, as was the correspondence between the President and President elect of the South Korean MLA. The President's letter to Henry Li identified what needs to be done by the IWG in advance of the next IMO Legal Committee Meeting taking place from 7 to 9 June 2016, namely the submission of a report by 1 April 2016 which needs to have at least two State sponsors. China has already agreed to sponsor this work and it is hoped that South Korea will also support it. Other countries have also been approached and their response is awaited. The paper also needs to demonstrate the "compelling need" for this draft instrument to be made into an International Convention. The IWG is working on this paper.

(b) *Review of the Rules on General Average*

The President's letter to MLAs dated 30 October 2015, which attached the report of the meeting of the ISC held in Istanbul between 6 and 7 June 2015, (extended) draft for CMI Guidelines on General

Average, and a copy of the judgment of the English Commercial Court in the matter of *The Longchamp* and the fact that an ISC meeting is to take place in London on 7 and 8 December 2015 were noted with thanks to Bent Nielsen, Taco van der Valk and Richard Cornah for all their work. The meeting noted the importance in ensuring that MLAs support whatever compromise is reached by the industry and especially the key stakeholders. It was also noted that it is important that MLAs have all the relevant documents available well before the New York conference so that they are aware of the text and the outstanding issues to be discussed in New York in time to give them their full consideration.

(c) *Cross-Border Insolvency: Report of Chris Davis*
The report of Chris Davis was noted with thanks. It identified three principal legal settings for cross-border marine insolvencies: EC Regulation 1346/2000 of the EU; the UNCITRAL Model Law on Cross-Border Insolvency; and the uncertainty which arises where either neither of those regimes applies or where one regime applies but other jurisdictions are not subject to either regime. The IWG is looking at alternative solutions: a protocol to the UNCITRAL Model Law, specifically addressing in rem actions, or developing a set of best practices based on the comparative analysis of the replies to the questionnaire received to date and, perhaps, encouraging countries that have a substantial maritime sector and have yet to adopt a cross-border insolvency legal regime to do so in an effort to promote harmonisation of the law of this area. Reference was also made to the new EC Regulation No. 2015/848. Chris Davis' report also noted liaison with the US MLA Committee on Bankruptcy and Insolvency and the preparation of a joint presentation or panel discussion in New York.

Resolution:

It was agreed that Olaf Hartenstein (Germany) be admitted to the IWG.

(d) *Polar Shipping*

The report of Aldo Chircop was noted with thanks. It has identified the IWG's subgroups as:

- Conventions;
- Load lines;
- Civil liability;
- Polarworthiness; and
- Collision avoidance regulations

and noted that liaison with the MLA US's subcommittees, including International Organisations, Conventions and Standards; Offshore Industry; Regulation of Vessel Operations, Safety, Security and Navigation, and Fisheries had resulted in a full day programme for the New York conference being developed.

(e) *Marine Insurance*

The report of Joe Grasso was noted with thanks. It reported that the IWG had continued to work on draft guidelines for governments relating to mandatory insurance coverage under certain international maritime Conventions and it is hoped to finalise that in the near future and to have that process completed in time for the New York Conference. It also reported that there had been liaison with the MLA US Committee on Marine Insurance in preparation for the New York Conference where the draft guidelines and also a panel discussion on developments in marine insurance law are likely to be debated.

(f) *Offshore Activities*

Resolution:

It was agreed that Aurelio Fernandez-Concheso (Venezuela) be added to the IWG.

(g) *Rotterdam Rules*

The report of Tomotaka Fujita was noted with thanks. This reported that there is to be a two hour session on Carriage of Goods by Sea at the New York Conference, based on the suggestion made by the Polish MLA that CMI could carry out a comparative analysis of how different countries deal with jurisdiction and arbitration clauses in sea carriage documents. There has been liaison with the Chair of the MLAUS Carriage of Goods Committee and Michael Sturley, since the Bermuda Resort meeting. The report also referred to the Second Expert Group Meeting in August 2015 convened by UNCITRAL in order to draft an "Accession Kit of the Rotterdam Rules". The meeting noted that Michael Sturley remains optimistic of US ratification of the Rotterdam Rules but that the State Department is still dealing with some US ports over ratification.

(b) *Fair Treatment of Seafarers*

The Opening Remarks of the President suggested that consideration be given to merging the two new topics of Pandemic Response and Migration at Sea (which the IMO has referred to CMI) with this IWG. Reference is made to (p)(iii) and (iv) below.

(i) *Acts of Piracy and Maritime Violence*

The report of Andrew Taylor was noted with thanks. This report identified an overall reduction in the number of serious piracy attacks this year but there is an emerging new geography of piracy, particularly Southeast Asia and West Africa. A troubling figure he identified was that 266 crew members have been taken hostage, 13 injured, 10 kidnapped and one killed in the first nine months of 2015.

(j) *Ship Finance, Security Practices*

Ann Fenech's report and its attached article by John Bradley in "Marine Money" were noted with thanks

and interest. Her report noted that a draft Questionnaire is being prepared and that contact has been made with the MLAUS Committee. An agenda for a joint meeting has been prepared.

(k) Ship Nomenclature

Resolution:

It was agreed that Massimiliano Musi (Italy) be added to the IWG.

(l) Restatement of the General Principles of Lex Maritima

The Opening Remarks of the President advised that Eric Van Hooydonk, the originator and Chair of this project, had not been able to develop this work since Istanbul. Some concerns were raised as to the lack of a defined goal and a plan following the working methods of the CMI. The President gratefully accepted Alexander Von Ziegler's offer to assist in the formulation of the work plan.

(m) Liability for Wrongful Arrest

The report of Giorgio Berlingieri was noted with thanks. That report advised that an extension of time had been given to MLAs to respond to the questionnaire by the end of the year and that liaison had taken place with the chair of the MLAUS Practice and Procedure Committee for a joint session in New York. Giorgio Berlingieri also foreshadowed the further expansion of the ISC once more responses to the questionnaire had been received, including seeking a member from the Spanish MLA to join the IWG (as that country is a State party to the 1999 Arrest Convention), although one member of ExCo considered that Spain's ratification may be contrary to European law. Song Dihuang also suggested that a Chinese lawyer be invited to join the IWG.

(n) Unmanned Ships

The report of Tom Birch-Reynardson was noted with thanks. It reported that there had been two meetings of the IWG and consideration was being given to making a report at the New York Conference which would contain a legal overview of the way in which unmanned ships will need to have a legal regime within which to operate in respect of National Law, Territorial Law and International Law, a technical overview of the present situation in relation to technological developments, a legal session on how SOLAS Chapter V and COLREGS will be applicable, and consideration of the Liability Conventions. Tom Birch-Reynardson also foreshadowed the need to enlarge the IWG with representatives from the Far East and the United States.

Resolution:

It was agreed that Henrik Ringbom (Finland) be added to the IWG.

(o) Cyber crime

It was noted from the Opening Remarks by the President that this topic has excited considerable attention in the MLAUS to the extent that a new MLAUS Committee has been formed under the chairmanship of Joe Walsh and that one of the other Committees which is very concerned about cybercrime is the Terminal Operations Committee, chaired by Nash Bilisoly. Song Dihuang suggested that it may be appropriate to involve a Chinese lawyer at an appropriate time.

Resolution:

It was agreed that Elias Bestani (Argentina) be added to the IWG.

(p) Ad hoc Committees

(i) Arbitration

Luc Grellet's report was noted with thanks. This reported that in response to the questionnaire a number of MLAs considered that CMI should not play a role in maritime arbitration while some considered that it should play a role, including to provide information on arbitration through its website and offer its knowhow in maritime disputes to arbitration centres. The report also noted that consideration is being given with the MLAUS to a joint session to study enforcement procedures of arbitration awards under the new Convention. The meeting encouraged the setting up of a panel discussion on recognition and enforcement in the context of the New York Convention. Lawrence Teh expressed interest in becoming involved with this Committee, and was duly appointed to it

(ii) Liability of Classification Societies

Karl Gombrii noted that this Ad hoc Committee has in fact been reconstituted as an IWG in Istanbul and reported that its focus will be on the desirability and possible format and content of rules or recommendations regarding Limitation of Liability. He foreshadowed extending the size of the IWG in order to include representatives from ICS and IACS. Luc Grellet expressed interest in joining this IWG in view of his experience of acting for classification societies.

(iii) Pandemic Response

The questionnaire and comments made in his Opening Remarks by the President on this topic, Fair Treatment of Seafarers and Refugee Migration at Sea were noted and discussed.

Resolution:

There was general agreement that, for both this topic and Migration at Sea, it would be sensible to ask Olivia Murray if she would take responsibility for these topics under the general umbrella of Fair Treatment of Seafarers, as being public law issues which had been instigated by the IMO and was of considerable interest to the ICS.

(iv) Refugee Migration at Sea

The comments made on this topic in the Secretary General's Report of 28 October were noted with thanks. There was general agreement that this Committee should be brought within the Fair Treatment of Seafarers umbrella, if Olivia Murray is willing for that to happen, subject to John Hare's reservation that it not be subsumed completely and retain its separate identity. The best solution would appear to be to have a separate subcommittee of the Fair Treatment of Seafarers IWG dealing with each of *Pandemic Response and Migration at Sea* which John Hare will drive.

10. *Standing Committees*

(a) *Jurisprudence on Maritime Conventions:*

In the absence of any report from Stephen Girvin, there have been no developments in relation to this Committee. Giorgio Berlingieri noted that the Italian MLA has an IWG which collects jurisprudence on certain conventions and queried whether the template used by *Il Diritto Marittimo* might be suitable for the Standing Committee. Taco van der Valk suggested that he and Giorgio Berlingieri discuss the way forward for this Committee with Stephen Girvin which suggestion was readily accepted by the President.

(b) *Implementing and Promoting the Ratification of Maritime Conventions*

The report of Deucalion Rediadis was noted with thanks. This reported on the 15 replies to the questionnaire and identified two distinct groups of Conventions: those with wide acceptance and those with few accessions. In relation to the former jurisdictions would need to be targeted where CMI and ICS may not be represented. This may require visits to "educate" governments by way of presentations in seminars or conferences and may have to be organised via the IMO. Teams would have to be set up of perhaps two or three individuals. As to the latter, these conventions would need to be promoted in jurisdictions where CMI / ICS is present but also in jurisdictions where there is no representative.

The report also noted that there seems to be a varying degree of influence of an MLA or ICS member in the different countries from whom responses have been received to questionnaires.

In relation to the 11 Conventions, the report identified the main reasons for non-ratification as follows:

Rotterdam Rules: Ratification will depend on accession by each State's major trading partners.

HNS: Burdensome procedures and accession will depend on neighbouring States.

Wreck Removal Convention: There is no common reason apparent.

Recycling Convention: Ratification by States with recycling capacity is relevant, hence no urgency for other States to ratify it themselves.

Seafarers Identity Documents Convention (SID): Burdensome procedures; data protection issues and no added value are the principal reasons.

Arrest Convention 1999: There is a preference for the 1952 Convention and EU member States defer to EU Regulations on jurisdiction in civil and commercial matters.

The other five conventions are widely accepted in the 15 jurisdictions from which substantive replies have been received.

As the report noted, both the promotion of ratification and monitoring the implementation of conventions are at the core of CMI's *raison d'être* and, as such, should be permanently on the CMI Agenda. Those two activities are of course distinct and the Committee's work, it is suggested, should be divided accordingly, necessitating a second Rapporteur and some more members. Peter Laurijssen had been added to the IWG in Istanbul. It is also suggested that a further member from a common law background, and possibly from academia, be appointed to this Committee.

The meeting agreed that this is a most important aspect of the work of CMI and the present committee should be encouraged to continue its work and recommend new members.

(c) *Young CMI*

The report of Taco van der Valk was noted with thanks. There was considerable discussion (to be continued in New York) as to whether the Chair of the group should continue to be a member of the Executive Council. It was concluded that the Chair should be either: "A member of Executive Council and its leaders should be members of the Committee or its Chair should be appointed by the Executive Council and the duly appointed Chair should report to a designated member of the Executive Council". Taco van der Valk is to discuss these alternatives and prepare a further report for the ExCo meeting in New York.

Resolution:

There was unanimous approval for the suggestion that the age limit for this group be limited to 40.

(d) *Constitution Committee*

John Hare's comments that the work is underway on a report to ExCo on changes to the Constitution were noted.

(e) *General Average Interest Rates*

It was noted that the Committee had advised that there was no recommendation to increase the interest rate for 2016 from that which had been decided in Istanbul. It was therefore resolved not to make any change to the interest rate.

(f) Planning Committee

The comments made in his Opening Remarks by the President were noted to the effect that the Committee was taking second place to the organisation of the Hamburg, Istanbul and New York meetings but will need to be revived after the New York Conference, as were John Hare's comments that he will ensure a full report is prepared for New York.

11. Imo Legal Committee

The President's memorandum dated 17 June 2015 reporting on his recent visit to the IMO Legal Committee which dealt with the topics of: Judicial Sales, Migration - Refugee issues, Marine Insurance, Offshore Activities, Ratification and Implementation of Conventions and Technical Co-operation Activities was noted. Alexander Von Ziegler queried whether the CMI Charitable Trust should be involved in the latter. The President has asked the Malta MLA to consider how IMLI can be used to further CMI's contacts with African countries.

12. Publications

The report of Giorgio Berlingieri was noted with thanks. This report noted the contents for the first News Letter to be published next year and Yearbook 2015.

It was suggested during the meeting (and readily agreed to by Anne Verlinde) that she could post general messages on CMI's LinkedIn Group. Song Dihuang referred to social apps such as "WhatsApp" and "Wechat".

13. CMI Regional Office in Singapore: report of Lawrence Teh

The report, and further comments of Lawrence Teh, were noted with thanks. He is to be commended on all his efforts to galvanise MLAs and encourage the formation of MLAs in the countries in the region that he has visited, including Thailand, India, South Korea, China and Indonesia, with a forthcoming visit to Dubai. It was agreed that Lawrence Teh should seek an extension for the existence of the representative office in Singapore.

14. EU representation

There being no further report from Vincent Power since Istanbul, there have been no further developments to report. The Power EU Report has been made available on the CMI website. The Secretary-General will approach Dr Power for an update well in time for New York.

15. CMI – The future

The comments made by the President in his Opening Remarks were noted with some support for

a suggestion of holding an MLA Presidents' meeting during the New York Conference. The President is to discuss this further with the President of the MLAUS but if such a meeting does not take place, ExCo will have to further consider this matter at its meeting in New York.

16. Reports to NMLAs by Executive Councillors

The Opening Remarks of the President encouraging regular contact by ExCo with MLAs was noted, as were the Guidelines for monitoring MLAs and John Hare's pro forma letter were noted.

17. Correspondence

(a) Email from Jorge Radovich

The correspondence from Jorge Radovich dated 4 September 2015 concerning the non-ratification of the Bunkers Convention and comments from the representative of Brazil at the IMO concerning Transboundary Pollution were noted. Giorgio Berlingieri commented on Italy's ratification of the Bunker Convention and Jorge Radovich on Argentine's position in relation to the Nairobi Wreck Removal Convention and the Salvage Convention 1989.

(b) The report of Rosalie Balkin on the IOPC Funds Meeting

The report of Rosalie Balkin on the IOPC Funds Governing Bodies meeting held between 19 and 23 October 2015 was noted with thanks.

18. Future CMI meetings

Resolution:

The Executive Council will recommend holding the 2017 Assembly in Genoa, subject to the Italian MLA confirming that suitable arrangements can be made.

19. CMI business cards

Resolution:

With one reservation it was agreed that the Executive Councillors be authorised to have business cards prepared identifying their role as an Officer or Executive Councillor of the CMI. It is suggested that they liaise with the Secretary-General as to the format of such cards before arranging for them to be printed. John Hare proposed that cards be printed at the expense of the CMI for the President, Secretary-General, Treasurer and Anne Verlinde, but that other EXCO members should bear the costs of CMI cards should they wish to order same.

20. General business

There being no general business the meeting concluded.

STUART HETHERINGTON
President

JOHN HARE
Secretary-General

THE 42ND CMI INTERNATIONAL CONFERENCE, NEW YORK FROM 3 TO 6 MAY 2016

WELCOME FROM THE PRESIDENT OF THE CMI

The CMI returns to New York for the first time in 50 years. The last time a CMI Conference was held in that city was in 1965.

The Conference will commence on the evening of Tuesday 3 May with an opening being addressed by the President of the CMI and the President of the host MLA, the Maritime Law Association of the United States (MLAUS) and a guest keynote speaker, followed by a Broadway review by way of entertainment prior to a cocktail reception. There will be a function at the Rockefeller Centre on the following evening, Wednesday 4 May and a Gala Dinner on Friday 6 May at the Hilton Hotel where about 1,200 delegates and their partners are expected to attend.

The MLAUS celebrated its Centenary in 1999. It is therefore one of the oldest MLAs. The Conference will take place during the same week that the MLAUS usually holds its Spring Meeting in New York. Accordingly there will be a number of joint sessions organised by International Working Groups (IWGs) of the CMI and Committees of the MLAUS during the two days of business meetings on 4 and 5 May. All those joint meetings will be taking place in the Hilton Hotel (Midtown), which is the Conference venue. Because of the large number of topics which will be addressed at the meeting there will be contemporaneous meetings taking place throughout

the two days in at least two and probably three venues within the Hotel Conference facilities.

On Thursday 5 May, after the business sessions, there will be an opportunity for delegates to attend New York University for the Nicholas Healy Memorial Lecture. It is fitting that this lecture will take place during the joint CMI Conference and MLAUS Spring meeting as Nicholas Healy, the former Senior Partner of the then New York shipping firm of Healy & Baillie, was the President of the MLAUS when it hosted the 1965 CMI Conference in New York.

The Conference and joint MLAUS meetings will conclude on Friday 6 May with the CMI Plenary and Assembly meetings and the MLAUS General Meeting. The principal topic at the 1965 Conference was the revision of the Maritime Liens and Mortgages Convention of 1926. In New York 2016 it will be the Revision of the York Antwerp Rules. Other sessions will hear a presentation by Captain Nick Sloane, the Salvage Master of the "Costa Concordia" on the wreck removal operation carried out on that vessel, as well as sessions dealing with Cross-Border Insolvency, Offshore Activities - Transboundary Oil Pollution, Unmanned Ships, Cyber Crime, Polar Shipping, Ship Finance Security Practices, Wrongful Arrest, and Arbitration. I look forward to seeing you in New York.

STUART HETHERINGTON

CONFERENCE SUMMARY FROM THE SECRETARY GENERAL OF THE CMI

The Comité Maritime International is to hold its 42nd International Conference in New York from 3rd to 6th May 2016. The conference will be hosted by the Maritime Law Association of the United States and will be held at the Midtown Hilton Hotel. This will be only the second international conference that the CMI has held on United States soil – the last was the 27th Conference in 1965, presided over by Albert Lilar and debating changes to the Convention on Maritime Liens and Mortgages. Since then there have been two further annual Assemblies in the USA: the 1987 Assembly was combined with a Colloquium in New Orleans, and we met again in New York in 1999 to coincide with the centenary celebrations of the MLAUS.

The main item on the 2016 conference agenda will be the review of the York-Antwerp Rules relating to general average – of which the CMI is custodian – a process with which the CMI has been engaged with the participation of all industry stakeholders for some years. This initiative, it is hoped, will address the anomalies which arose from the Sydney and Vancouver amendments to the York Antwerp Rules. The purpose of convening a full CMI convention is to put us in a position to be able to adopt amendments to the current text of the York-Antwerp Rules. This can only be done in a full CMI Assembly, following debate and a plenary.

And it is a prerequisite that there be broad-based industry acceptance of any proposals that are to be put before the Assembly.

The CMI will also be doing its usual business of its own working group and EXCO meetings, most of them before the start of the conference.

But, in what will be a first for the CMI, running parallel with the general average deliberations will be an exciting joint programme of the respective committees of the MLAUS and the International Working Groups of the CMI. These open meetings will allow the CMI and the MLAUS to combine the knowledge of their members in what we are sure will be a stimulating debate on many current topics. It is the first time that the CMI has attempted such a close cooperation at committee level with any MLA, and we will surely learn much from each other. It has been a treat working with the organising committee of the MLAUS, and indeed having our CMI chairs plan their joint sessions with their MLAUS counterparts.

You can access the full week's provisional schedule by clicking on "Programme" on <http://www.cmi2016newyork.org/>. We hope to see you in fabulous New York City in May 2016.

Sincerely,

JOHN HARE

NEWS FROM INTERGOVERNMENTAL AND INTERNATIONAL ORGANIZATIONS

NEWS FROM IOPC FUND

REPORT OF THE 19-23 OCTOBER 2015 MEETING OF THE IOPC FUNDS GOVERNING BODIES

This report mentions only the highlights of the meeting, which was attended by Rosalie Balkin on behalf of the CMI. A full report of this meeting, including source references to relevant documents, can be found at Document IOPC/OCT 15/11/ WP.1&1/1/.

Paragraph 2 contains the Director's report, providing details of the Organization's activities over the past year and setting out background on the key issues of the week's agenda. The former included the landmark decision taken by the 1971 Fund Assembly at its October 2014 session to dissolve the 1971 Fund as at 31 December 2014. As of that date only the 1992 Fund and the 2003 Supplementary Fund regimes now exist. Among the main items for discussion were the:

- funding of interim payments;
- definition of a "ship";
- outstanding oil reports and contributions;
- relocation of the Funds' premises, and
- Review of Observer Status.

Funding of interim payments (paragraph 4.7)

This has been an on-going issue since October 2009, involving discussions between the Funds' Director and the International Group of P&I Associations (the International Group) with a view to arriving at a mutually acceptable solution—this aim to date still illusive. The current MoU between the Funds and the International Group provides for cooperation on claims-handling procedures and costs of joint experts in respect of incidents involving an International Group Club and the 1992 Fund and Supplementary Fund. The objective is to expand the MoU to allow interim payments to be made in the future. This will only be possible if agreement can be reached on two legally complex issues, namely, reconciling the jurisdiction clauses in the MoU with the immunities afforded the Funds by the Headquarters Agreements with the UK Government; and agreement on the concept of "established claim" within the MoU, especially whether a final judgment of a competent court in proceedings against the owner/ insurer where the Fund has been notified of them, in accordance with article 7(6) of the 1992 Fund Convention, could be regarded as an "established claim".

Definition of a "ship" (paragraph 4/3)

This has also been a long-standing item on the Funds' agenda. At this meeting the 1992 Administrative Council decided to accept the recommendations of the Working Group regarding an illustrative list of vessels

falling clearly within the definition of a "ship" under article I(1) of the 1992 Fund Convention, as well as an indicative list of vessels excluded from that list (see para 4.3.23 for details). It was also agreed to adopt the concept of the "maritime transport chain", as an interpretative tool, to address those situations on a case-by-case basis, where it was not clear whether the vessel fell within the definition of a "ship". The Secretariat was requested to produce a guidance document for consideration by the 1992 Fund Assembly at the 2016 Spring session.

Outstanding oil reports and contributions (paragraphs 5.1, 5.2 and 6.1)

The meeting considered the information regarding the problems experienced by the Funds' Secretariat in relation to the submission of oil reports and collection of contributions (Document IOPC/OCT 15/6/1). Report submission delays of one year were generally attributable to changes in personnel within the responsible authority, while longer delays were the result of inadequate domestic legislation, difficulties in establishing contact with competent authorities and political situations such as unrest and civil war. Problems in the contributions system were largely attributable to failures in domestic legislation and oil reporting systems. Even though these did not at present have a financial impact on the operations of the Funds (the level of outstanding contributions being some 0.47% of the total contributions levied), fulfillment by member States of their treaty obligations was a matter of important principle. The Audit Body is currently reviewing this issue and is expected to submit proposals in Spring 2016.

Relocation of the Funds' premises (paragraph 7.4)

An in-principle agreement has been reached between the IOPC Funds, IMO and the UK Government to relocate the premises of the Funds' to the IMO Headquarters building. The move is expected to take place in June 2016.

Review of Observer Status (paragraph 8.2)

The Governing Bodies undertook their three-yearly review of the observer status of international non-governmental organizations (NGOs) (see Document IOPC/OCT 15/8/2). That of CMI was confirmed without debate.

ROSALIE BALKIN

CMI Observer Delegate to the IOPC Funds