Deutscher Verein für Internationales Seerecht

Deutsche Landesgruppe des Comité Maritime International

Burchardstr. 24 • 20095 Hamburg • Tel.: 040-35097-0 • Fax: 040-35097-211 • E-Mail: info@seerecht.de • www.seerecht.de

Mr. Stuart Hetherington
President Comité Maritime International

cc: Mr. John Hare (Secretary General)
Mrs. Anne Verlinde (Administration)

CMI Questionnaire "CMI Arbitration"

Dear Mr. President,

I refer to your letter of 20 February 2015, addressed to the Presidents of all national Maritime Law Associations.

Please find enclosed the response of the German Maritime Law Association to the CMI Questionnaire "CMI Arbitration".

Hamburg, 5 June 2015

Yours sincerely

Secretary German Maritime Law Association
(Tilo Wallrabenstein)

Encl.

Questionnaire CMI Arbitration

Answers of the German Maritime Law Association

1. **Would you encourage the CMI to play a role in Maritime arbitration?**

Maritime arbitration is a dispute resolution concept well established in the industry since long. There exist well-established arbitration centers, with new venues recently having made very successful developments. The German MLA believes that CMI's role in maritime arbitration should not be to try and add just another set of rules of maritime arbitration, let alone create an own forum for maritime arbitration.

But the German MLA supports the Working Group's first suggestion, namely providing a comparative analysis of existing major arbitration rules and practices as well as recognition and enforcement issues in the main arbitration centers with a view that the CMI serves as an information center on all issues of interest concerning Maritime Arbitration through its website.

2. **If the answer to point 1 is affirmative, to which extent would you consider the CMI should engage itself in this field?**

CMI could either directly get in touch with recognized arbitration centers and collect information there, or it could rely on its national MLAs in respective countries to provide such information. The latter way might prevent that some arbitration centers may perhaps not be sufficiently cooperative, if they realize that the result of CMI's work might be that some centers are more favorable than others.

3. **Would you support the three above areas of investigation or only some of them?**

The German MLA supports the idea that CMI prepares and keeps updated a comparative analysis of arbitration rules and practices as well as enforcement issues. It would be particularly welcomed if this would eventually be available on the CMI website.

As regards the question whether CMI should engage in research on the option of arbitration in countries in which the national court system is not technically satisfactory, the German MLA mentions that this may be a sensitive aspect. MLAs of countries concerned would have to be involved, but may not want their respective countries be identified (by CMI and themselves), which have a technically not satisfying court system, the more, if there are also judges members of the respective MLAs. If it is the aim to establish arbitration in such countries (and not to promote arbitration at other places as a solution for such countries), endeavors in this respect would probably have to go into details of the respective national law on arbitration. The German MLA wonders whether this subject might not be too broad and perhaps too far away from CMI's purposes and experiences.

The German MLA is not in favor of CMI developing its own model rules, at least not before a thorough analysis of the existing rules has been made. Many countries follow the UNCITRAL model law, which is sufficiently flexible to accommodate all kinds of arbitration rules. It should not be an aim to develop rules outside the UNCITRAL rules. CMI supports harmonization of the maritime law. The UNCITRAL model law has led to a certain degree of harmonization in the field of arbitration, which is a value in itself.

4. **Formulate any other suggestions for examination by the working group.**

No other suggestions.

5 June 2015