



COMITE MARITIME INTERNATIONAL
REPORT TO THE SOUTH AFRICAN MLA
JUNE 2003

Colleagues

This update is intended for members of the MLA. It expands the report handed out at the Caledon AGM.

I am happy to report that I have again taken up my CMI tasks, and that I attended the December 2002 Council meeting in Antwerp and the meeting this month in Bordeaux. We chose Antwerp as this was the first meeting after the reorganisation of the secretariat - Pascale Stercx, the secretary, has moved *sak en pak* into the same building as the Treasurer, Benoit Goemans. Wim Fransen, our new Administrator (a largely figurative role) is just around the corner. I think that our meeting at the CMI offices gave a great boost to those who work behind the scenes. And I think it fair to say that the administration of the CMI has really pulled up its socks. Benoit Goemans (the son of our previous treasurer) is a great find. Enthusiastic and meticulous.

1. Office bearers of the CMI Council

I am sad to say that I did not win the day on the issue of time terms. You may recall that I challenged the 2 x 4 year terms which CMI office bearers may serve. What I did achieve was a resolution that no Exco member should be recommended for a second 4 year term without his/her having reported fully to the Nominations Committee upon what he/she has done during the first term, and what commitment he/she is able to make for a possible second term. The starting point is that the second term will no longer be automatic.

I would have been happier with a reduction of the office to 2 x 3 year terms, still with the performance assessment for the second term, but for the moment it did not carry. One reason is that the constitution has taken 3 long years to get through the Belgian legal system to the stage where the King is poised to sign it into effect - this is the last approved and updated constitution which constitutes the CMI as an association not for gain - which is essential for our tax status in the EU. I will raise amendments again before I leave!

I think the main reason of principle was the general belief that the CMI is not a professional governing body, but rather an international watchdog with deep and complex tentacles, and that it takes 3 or 4 years to start to make a meaningful contribution.

Alexander von Ziegler has resigned as Secretary General, to take effect when we appoint his successor. This is a complex, time consuming task, requiring the incumbent to network extensively in UN and similar circles. Alex has been excellent. Prof Marko Pavlov was appointed Secretary General at the Bordeaux Assembly this month. He is a young Slovenian, with excellent academic, practical, and especially international connections.

Patrick Griggs will be stepping down as President at the Vancouver Conference next May, 2004. It seems that his likely successor will be Jean Serge Rohart - the French attorney. He has been on EXCO, though his second term ended in May last year. He attended our December and recent meetings as observer.

Our Venezuelan councillor, Luis Cove Aria, 's term ended this month in Bordeaux. He was replaced by a Chilean professor and practitioner, Jose Guzman. I was re-elected to a second term.

2. CMI Conferences

The Vancouver Conference

The next full conference will be in Vancouver from 31 May to 4 June 2004. The programme will include sessions on

- the UNCITRAL/CMI draft convention on Transport Law. It is hoped that this will be at a crucial stage by the time of the conference
- Places of refuge - one of the issues currently being worked on by the CMI in conjunction with the IMO
- Revision of the Fund and CLC conventions - in the light of European demands for a more rigorous regime following the Erika and the Prestige
- Marine insurance reform - the CMI working group hopes to be at a stage by then when we can put forward at least model insurance terms, and maybe a model law, covering certain issues of marine insurance such as disclosure, good faith, alteration of risks, and warranties.
- Criminal acts on foreign flagged ships - this being a new topic under investigation by the CMI, again at the request of the IMO.

The Bordeaux Colloquium 10 – 13 June

The programme here includes a full day's workshop on elaw in shipping, and a half day session on transport law. The Bordeaux papers will be on the CMI site soon <www.comitemaritime.org>. Suffice to say that it was a successful gathering of about 340 delegated. I was the sole representative from SA - though our Nigerian colleagues put up a delegation of 14 strong! They tell me that South Africa should watch its position as leaders of the continent, because they are on their way back. They are certainly very active and participative.

I have arranged, as CMI Africa portfolio holder, to call in at Lagos on my way to London in November.

Cape Town Colloquium February 2006

The switch to Vancouver for the 2004 conference (over Greece) was done because of Greece's apparent lack of full preparedness for the Olympics. It was thought that they would not be ready for the CMI so soon after the Olympics. It seems likely that Greece will therefore make a strong bid (as a European nation – bearing in mind absence of the Conference from Europe for 12 years now) for the 2007 CMI conference. The CMI is in the habit of having a symposium in between conferences. These have recently been very well attended. I was given the authority from the SA MLA at the Caledon AGM to make a formal offer to the CMI Council that SA host a colloquium in 2006.

The conferences invariably make a profit which is split between the CMI and the host MLA. The only catch is that the host MLA is obliged to guarantee expenses should there be a costs shortfall. All the local arrangements are done by the MLA, so it is something which we would have to hand over to conference organisers. I think it's a great pity that we did not get the 2004 conference, for which Cape Town's convention centre would have already been a year old. There has been mention of Durban, but the feeling seems to be that as this is the first in SA, Cape Town would attract more international visitors.

I am pleased to report that there is a provisional approval for a Cape Town Colloquium in February 2006. James MacKenzie has made a provisional booking at the Cape Town Convention Centre. I need now to brief the MLA Exco fully, and to put together a costed formal proposal in time for our next CMI Council meeting, set for London on 18 November.

3. Working topics

I will not now report on the various topics which the Council is working on. You can find updates on the CMI site, and I will try to put together a report in the next month or two after the June/July holidays. My own pet projects remain the website (driven by Francesco Berlingieri); documentation (we are looking at scanning in our considerable archives to make them more accessible); marine insurance (which Malcolm Clark from Oxford has been tending to in my absence for the last year but which I am to drive again towards conclusion and presentation of a report and recommendations in Vancouver); and the Young CMI project, which was launched at Bordeaux (on which see below).

Perhaps I can mention though that we are continuing work on transport law, marine insurance, piracy, classification societies, places of refuge for damaged vessels, arrest, limitation, general average, passenger liability, and now criminal offences committed on merchant vessels. This against the broader issues of ship and crew safety and environmental concerns.

4. The CMI Young Persons project

I am happy to report that the Assembly approved the launch of a CMI Young Persons Project, designed to draw younger maritime lawyers into the work and processes of the CMI. As a kick-off we have launched a CMI Young Persons Essay Prize - authors under 35 are invited to submit articles on maritime law topics (we will make a selection of relevant topics for each cycle coinciding with the full CMI Conferences every 3 – 4 years). The winner will be brought to the next conference as the guest of the CMI, all expenses paid, and will be given the opportunity to present a paper based on his/her article at the conference.

Though time is tight, we hope to have our first prizewinner at Vancouver.

We have formed a committee to look into further ways of reaching out to our younger lawyers. The committee should have on it a majority of members under 40. A Chilian, a Mexican and an Italian have been invited to join the first committee.

5. Foreign MLA's

As mentioned above, I am happy to report a revival of the Nigerian MLA. There are signs of movement from Sri Lanka, India and Pakistan. I report to the African and Asian MLA's, and always ask them before Council meetings if they have issues to raise. Most are sadly moribund. India's MLA is reviving under a new name - a phoenix hopefully.

Kenya is progressing well with its Admiralty reform. They should apply for 'newcomer' status this year.

Don't forget the uctshiplaw.com and comitemaritime.org sites! On the UCT site we have a pretty up to date database of court decisions. Use the search facility on the contents page.

A handwritten signature in black ink, consisting of the letters 'Jm' in a cursive, stylized font.

John Hare