

**NEDERLANDSE VERENIGING VOOR ZEE- EN VERVOERSRECHT (NVZV)
(DUTCH MARITIME AND TRANSPORT LAW ASSOCIATION)**

**REPLY TO THE SECOND CMI QUESTIONNAIRE ON NATIONAL MARITIME LAW ASSOCIATIONS
("NMLA'S") DATED JUNE 14, 2010**

1. *Name of your association?*

Netherlands: Nederlandse vereniging voor zee- en vervoersrecht.

2. *Having regard to the changes in subscriptions approved at the Assembly Meeting in Rotterdam (see e.g. CMI Newsletter No 03/2009), do you think:*

(a) *Your MLA's grouping is reasonable?*

Netherlands: Yes.

(b) *If not, in which grouping do you think your MLA should be situated?*

Netherlands: Not applicable.

(c) *If you have suggested a different grouping for your MLA please advise the number of members that you have, whether they are individual and/or corporate, what subscription you charge your members and what your annual revenue is. Do you obtain revenue from holding seminars in addition to annual subscriptions? (Any such information will of course be treated confidentially).*

Netherlands: Not applicable.

(d) *Do you have any suggestions to make concerning the levels of subscriptions which CMI charges to NMLAs?*

Netherlands: Not at this stage.

3. (a) *Do you have a website?*

Netherlands: Yes.

(b) *What are its coordinates?*

Netherlands: www.nvzv.nl

(c) *Does it have links to universities, national legislation or case law, or courts having a maritime focus?*

Netherlands: No.

(d) *If not, would you be prepared to provide such information for inclusion on an upgraded CMI website?*

Netherlands: We wonder whether that is useful. We have not included such information on our own website as the Dutch members or other visitors to the NVZV website will already know where the information is to be obtained, and

providing and maintaining up to date links for readers across our borders may hardly be worthwhile the effort as the information will hardly be accessible for a non-Dutch reading audience. The maintenance on our own website already seems to be quite a burden. It is our perception that our members do not use the NVZV site as a starting point of their internet queries.

- (e) *On the other hand, would you agree to a link to your website being established on the CMI website?*

Netherlands: Yes (and we already link to the CMI website, of course.)

4. (a) *To your knowledge, do your members consult the CMI website?*

Netherlands: Yes, but probably not very often.

- (b) *For what purpose do they consult the website? Is it to view:*

- (i) *Publications (such as the Yearbook and the Newsletter);*

Netherlands: Yes.

- (ii) *To obtain contact information;*

Netherlands: Next to the Legal 500 and Chamber's Guides the lists of (board) members of the national MLA's on the CMI website are usually a good way of finding good lawyers to instruct or consult in the respective jurisdictions.

- (iii) *To review working progress materials;*

Netherlands: Probably not very often. The materials are relevant for those who are involved in the work in progress. However, they will usually have received the documents via mail from the relevant CMI or national MLA working group. So these materials on the CMI website are mostly relevant for university students that do research on the topic while it is still 'hot'..

- (iv) *To identify links to other organizations and/or;*

Netherlands: Probably only to websites of other national MLA's..

- (v) *For other purposes?*

Netherlands: Status of Conventions. Future events. Case law on Maritime Conventions.

- (c) *Is it your understanding that members find the information on the website helpful?*

Netherlands: Yes.

- (d) *The CMI website is being revised. How could the information on the website be made more helpful? What further information do you think needs to be included?*

Netherlands: We are happy with the content as it is.

5. *What suggestions can you make that would assist the CMI to be more relevant to Young Members and encourage them to be more involved in CMI work?*

Netherlands: The question raises a few preliminary questions. In it self almost worth a questionnaire. Why the CMI wants to be more relevant to Young Members and encourage them to be more involved in CMI work? What is considered "young"? Is a person stating a legal career at 25 or 26 years young or is a newly appointed partner in a Maritime firm of 35 years considered young? Does the CMI itself want to attract young(er) people? Or do the national MLA's have problems in attracting young(er) people and are these national MLA's looking for assistance from the CMI in doing so? The answer to these questions depend on the question what role CMI wishes to play in the maritime legal world. Does it want to be a purely consultative organization? Does it want to be some sort of networking organisation, similar to the IBA, the UIA or the AIJA (which all have maritime or transport law sections). Does it want to be a organization generally promoting lawyers – on behalf of the national MLA's - to take up the maritime side of the profession? Or is there a justified concern that a gap between generations may grow leading to loss of know-how and commitment to the profession? Perhaps it is a bit of everything?

In itself the CMI has no other members than the national MLA's (and titulary members) so there is no issue of old or young Members of the CMI itself. The issue therefore lies on a national MLA level.

The NVZV is actively appointing younger members in their (executive) board and working groups.

Looking at it merely from the side of the consultative process, the national MLA's membership should be such as to be able to generate reports on the prevailing opinions within the particular country on the issues that are of interest to the CMI.

Situations may indeed arise where the members of the national MLA or the members of the executive board of a national MLA belong to an age group that does not represent or no longer represents the age group of the decision makers in the maritime legal community of the relevant country. Whether that is the case, however, is difficult to say, and national culture will of course also be a deciding factor.

(Similarly, it may be that one particular interest group (e.g. shipowners, banks, cargo interests/shippers, insurers, university professors, legal practitioners) may have a prevailing influence in the national MLA although other interest groups are just as much active in the country in question. In this case too, the national MLA does not represent all relevant parts of the maritime legal spectrum of the particular country, which is undesirable.)

Involvement of young people is of course a very necessary investment in the future for the National MLA's and for the CMI. If it is felt that too few young people get involved it is principally the national MLA's that will have to become more relevant to younger members. There are many formalistic ways this could be achieved (e.g. removing requirements of having introductions from existing members to apply for membership), but in effect it simply boils down to a change in mindset. Appointing younger people in the executive or in working groups, getting younger people involved in organising events or in speaking at those events usually does a great deal in attracting younger people to the work of the MLA.

Attention should be given to what younger people might want to get in return for their involvement apart from satisfying their interest in maritime law.. The very young may

simply be satisfied by getting in touch with their own age group or gazing at the maritime legal VIP's. When they get older their actual profession will become most relevant. Young members of special interest groups will want to see their view to be taken into account in decision making. University professors may want to get in touch with professors of other universities to set up conferences or student exchanges. Legal practitioners want to be in touch with other active practitioners to get or to give case referrals, or want to obtain Continuing Legal Education points.

We believe there is a particular risk of the legal practitioners becoming less interested to participate in the work of the national MLA's or the CMI. Generally, there is greater emphasis on financial performance within the law firm. Legal firms are less likely to allow young people time off to participate in national MLA or CMI work unless there is a clear return on investment. Getting to know an 'old' university professor from a far away country is, however interesting, probably not regarded as such a return on investment. But this too is a question of mindset. Doing pro bono work and participating in projects on sustainable development or corporate social responsibility are considered 'hip' by managing partners of law firms. Participating in the work of the national MLA or the CMI unfortunately seem to be less marketable at this point in time.

If there is a task for the CMI it should be to encourage the national MLA's to achieve that change in mindset within their own organization and within the legal profession where necessary.

6. (a) *To your knowledge, do your members read CMI publications such as the Yearbook and the Newsletter?*

Netherlands: It is believed that some members will read the Yearbook, mostly to look up CMI documentation on work in progress when these members are involved in one of those projects themselves, or to do research into the travaux préparatoires of certain conventions. The CMI Newsletter will be briefly looked through to keep an eye on current developments.

- (b) *Which other CMI publications do they read?*

Netherlands: It is not clear to what other publications may otherwise be referred to except for the book publications of travaux préparatoires of maritime conventions. These are consulted by lawyers and judges in court cases.

- (c) *If you think that they do not read the Yearbook or the Newsletter, could you explain the reasons for that?*

Netherlands: Not applicable.

- (d) *Do the Yearbook and the Newsletter contain relevant information to your members' practices or work? If not, what is missing?*

Netherlands: Yes.

- (e) *How could the information contained in such publications be made more accessible to your members?*

Netherlands: We do not have any relevant suggestion to make. All relevant publications are accessible on the CMI website. As soon as our national

associations is informed by the CMI that new publications are available on the CMI website, we inform our members.

7. (a) *Do your members attend CMI Conferences, Colloquia and Symposia?*

Netherlands: Yes

(b) *What makes a good location for such meetings:*

Netherlands: Probably all factors mentioned below will play some role, but it is difficult to assess their relative weight in deciding whether to attend. The ability to take other family members seems to become less important where the participant is younger.

(i) *Price;*

(ii) *Geographical location;*

(iii) *Proximity to clients;*

(iv) *Climate;*

(v) *Ability to take other family members (e.g. in connection with school holidays)?*

(c) *Should CMI attempt to have meetings that coincide with other maritime events?*

Netherlands: Not particularly, at least not where CMI Conferences are concerned. Events that take less than a full week (Colloquia, Symposia) may be combined, but it should not become a rule as such. It is felt that the timing of CMI meetings could be better sometimes. The last few years some meetings have coincided e.g. with (maritime or general) IBA meetings which were scheduled (and publicized) years ahead.

(i) *If so, which events?*

Netherlands: Not applicable.

(d) *How long do you think Conferences should last? Are you happy with the traditional format of five days (with one day of rest in the middle of the week) for Conferences (arranged every 3-5 years), and three days for Colloquia and Symposia (arranged between Conferences)? Do you believe the format should be changed with respect to duration or otherwise?*

Netherlands: We are happy with the traditional format. As noted under 5, it may be that more and younger members are attracted to attend if there also is a better opportunity to meet clients/correspondents.

(e) *What would assist your members to send Young Members to Conferences, Colloquia and Symposia?*

Netherlands: See our reply to question 5. More return on investment. For young legal practitioners it means participating in a network of people which may give

or receive case referrals. The IBA, the UIA and the AIJA do attract younger people.

- (f) *What type of events, meetings, etc. would attract your members' participation?*

Netherlands: Events which are organized by younger people or in which younger people may participate. Compare again the IBA, the UIA and the AIJA. They do not do more than organize conferences on current topics, a conference dinner and or some other social event.

Another example can be found in the current activity of the MLA's of the United Kingdom, the Netherlands, Belgium, Germany and France. By rotation each year a conference (friday afternoon and saturday morning) for young members is organised by one of the MLA's involved. The current format is to have young representatives of each country discuss two cases (one contractual (i.e. bill of lading, charter party) case and one non-contractual (i.e. collision, salvage) case on the basis of their respective national legal systems.

- (g) *Is there anything more that CMI should be doing to assist your members earn Continuing Legal Education (CLE) points that some countries' Bar Associations and Law Societies require their members to achieve annually?*

Netherlands: No. The Dutch Bar requires a certificate of participation. This is already provided for by the CMI.

8. *Bearing in mind the CMI's objective, which is to contribute by all appropriate means and activities to the unification of maritime law in all its aspects, and that CMI has at all times to adapt to changing circumstances, what subjects do you recommend to be on our future work agenda and what changes, if any, in our working methods are desirable?*

Netherlands: we have no relevant suggestions to make at this stage.

9. *Having regard to the replies to the first questionnaire, there is clearly the need for more internet activity. Would you be prepared to provide the email addresses of all your members to the CMI so that a database of all individuals falling under the CMI umbrella can be established in an upgraded CMI website, and used for notices and other mailings?*

Netherlands: Dutch privacy and anti-spam legislation forbids us to disclose the e-mail addresses of our members without their prior permission. We are, of course, willing to pass on relevant messages to our membership. It should be borne in mind that we are not a purely maritime law association. We cover transport law in general and some members have indicated that they are not interested in maritime information.

10. *Would you be prepared to submit a regular newsletter to CMI for inclusion in an upgraded CMI website, of your activity and of legislation, case law or developments of a maritime nature in your jurisdiction?*

Netherlands: However, welcome it may be, we believe this to be a rather ambitious if not over ambitious plan. We wonder if we can find the manpower to guarantee a steady stream of relevant updates.

11. *Would you be agreeable to receiving CMI Newsletters exclusively by email rather than hard copies? Would you prefer both? How many hard copies would you like? Kindly*

ask these questions of your titular members as well.

Netherlands: We would rather receive CMI Newsletters exclusively by e-mail (perhaps preferably an e-mail with a hyperlink to the newsletter on the CMI website rather than an e-mail with the newsletter as separate pdf attachment). We have four members (out of a total membership of approximately 300 that have requested us to receive information only by regular mail. However in order to keep our paper archives complete one paper issue would be welcomed.

12. *At present, you receive two free hard copies of the CMI Yearbook. Would you like more? If so, would you be prepared to pay approximately 25 Euros each, depending on the number of pages?*

Netherlands: If the CMI Yearbooks are properly available as pdf files on the CMI website, we see no need for hard copies of the CMI Yearbook. In order to keep our paper archives complete one paper issue would be welcomed.

13. *Your attention is drawn to the list of International Working Groups and International Sub-Committees in the Yearbook, see Yearbook 2009, Athens II, pp 45-46. Does your MLA have similar working parties? If so, please list them. Would you be interested in designating one of your members to act as liaison with the similar CMI International Working Group or International Sub-Committee?*

Netherlands: We have several committees, some of which may be a bit dormant, depending on the circumstances. The committees and some of their most recent activities are:

- General Average (dormant after YAR 2004)
- Limitation of Liability (questionnaires Charterer's Right to Limit and Procedural Rules)
- Documentary Committee (guarantee form limitation of liability)
- Salvage (questionnaire Revision Salvage Convention 1989)
- Private International Law (Hague Choice of Court Convention 2005; Revision of EC Regulation 44/2001 and Rome I Regulation)
- Judicial Sale of Ships (questionnaire on Judicial Sale of Ships)
- CMI/UNCITRAL Rotterdam Rules (dormant after signing ceremony 2009)
- Places of Refuge (dormant after CMI Conference Athens)
- Marine Insurance (questionnaire on Implementation in National Law of Mandatory Insurance Provisions in International Conventions)

Our usual practice is to designate one of our Committee members to Committee Secretary and to have him/her liaise with or take a position in the corresponding body within the CMI (if applicable). Prof. Frank Smeele is secretary to our Judicial Sale of Ships Committee but also member of the CMI working group on that subject. Similarly our former President Prof. Gertjan van der Ziel headed our Rotterdam Rules Committee while being a member of the CMI working group on that same subject. We perhaps still need to establish a similar liaison with respect to Limitation of Liability and Salvage.

14. *Do you have a contact person responsible for liaising with your relevant government departments and, if so, would you be interested in coordinating this dialogue with the CMI?*

Netherlands: Seats on our Executive Board have always been reserved for representatives of the our Ministry of Justice and our Ministry of Transport, Public

Works and Watermanagement. Please specify what dialogue you want to be coordinated with or by the CMI.