

## FIFTEEN YEARS PRESIDENCY OF THE CMI

When Mr. Lilar, who had been President of the CMI for thirty years, decided to retire and asked me if I would be willing to take his place, I confess that I was more than surprised and even more worried because I knew that it was not an easy task to replace a man like Lilar with his profound knowledge of the CMI and so great a diplomatic experience. When I told him so, he reassured me and said that he would give me his advice and support. With that reassurance, I accepted. Unfortunately, he could not keep his promise because he died just a few days before the CMI Assembly when the election of the new President was supposed to take place.

Everything went on as programmed, but I had to start my new job without his support. Fortunately, I had been working with the CMI for almost 26 years and I had very many friends within the organization.

The first problem to solve was that of deciding how to organize the work of the CMI now that the President was domiciled in Italy, the Secretary-General Executive in Sweden and the Secretary-General Administrative in Belgium, where the seat of the CMI had always been since its foundation. Since I had the intention to follow all the CMI work personally, it was necessary for me to create an office in Genoa, but, at the same time, I thought one should oppose any centrifugal pressure resulting from the fact that, after almost 80 years, the CMI had a President who was not Belgian. The CMI was established in Belgium and its seat should remain in Belgium. This is why, save exceptional cases, I always made it a point to hold all Assemblies in Brussels.

My first experience as President of the CMI was at the Seminar on allocation of risks in maritime law, held in Aix-en-Provence in September 1976. I had the luck of having Lord Diplock as Co-chairman and all went smoothly. But the first real test was at the CMI Conference of Rio de Janeiro, one year later. Two draft conventions, on Civil Jurisdiction, Choice of Law and Recognition and Enforcement of Judgments in Collision Cases and on Off-shore Mobile Craft respectively and a set of definitions relating to charter-parties were on the Agenda of the Conference. The time available for the final discussion by the Plenary Session after the committee meetings was very short and it was impossible to prolong the meeting since that evening there was the official dinner, according to a long-standing CMI tradition. The problem was to allow a debate that could give to all, and particularly to those whose views would ultimately not be upheld, a reasonable opportunity to express their views and, at the same time, to avoid falling behind schedule. One way of doing this was to be rigorous and set a limit to the interventions; another way was to be flexible, to keep a relaxed atmosphere and, if need be, to ask the delegates to adopt self-discipline in order to avoid any unnecessary or repetitive comments. I decided on this second alternative and when I realized we were late and that many people thought we could never make it, I asked all delegates to shorten the debates as much as possible. The result was more positive than I would have ever expected. Interventions were all very brief and to the point. No time was lost and we finished exactly at the right time.

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*Fifteen years presidency of the CMI*

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That spirit of co-operation and reciprocal respect which made the Rio Conference a success continued throughout the fifteen years of my presidency and was the secret of the good work that has been done.

But if there has never been any problem within the CMI, there were several in respect of the external relations. The CMI had lost its traditional role as promoter of the uniform law-making process that had been made possible by the institution of the Diplomatic Conference of Maritime Law to which all CMI draft conventions were submitted. The initiative of convening diplomatic conferences was now in the hands of the UN Organizations, such as IMO, UNCTAD and UNCITRAL.

Any draft convention prepared by the CMI had to be submitted to one of them and it was within their exclusive power to decide what action was proper. In this connection, it was necessary to consider, prior to embarking upon a new project, whether the subject chosen by the CMI would have been found interesting by any of the UN Organizations and whether they would be prepared to rely on the work done by the CMI.

Mr. Lilar had been able, with his authority and diplomacy, to create a very good relationship with IMO and the preparation by the CMI of the draft Convention on Civil Liability for Oil Pollution Damage was the result of his work, as well as the choice of Lord Devlin as chairman of the CMI International Sub-Committee. It was necessary to follow that method and it was for such reason that the two draft Conventions approved by the Rio Conference were submitted to the IMO Legal Committee.

It was necessary to establish a similar relationship, if possible, with UNCTAD and UNCITRAL. It did not take too much time for me to realize that this would have been a very difficult task to achieve, particularly with UNCTAD. The CMI was suspiciously considered as being an organization that had always traditionally protected the interests of developed countries and had been responsible for several maritime conventions which, rightly or wrongly, were considered to be against the interests of developing countries: it suffices to mention the Hague Rules. The first time the CMI tried to offer UNCTAD its co-operation was in respect of the drafting of the Hamburg Rules, but it was a failure.

I realized that, whilst awaiting a more favourable opportunity, it was necessary to change the atmosphere and to prove that the CMI was pursuing the unification of maritime law in a totally objective manner, without protecting any particular interest as opposed to others. It occurred to me that in order to achieve that result, it was necessary to make the CMI known outside the traditional maritime countries and that for this purpose, it would have been important to increase the number of Maritime Law Associations in developing countries and to offer such countries the assistance of the CMI in the creation or modernization of their maritime laws. After having accepted to lecture at the Arab Maritime Academy in Alexandria, I thought it would be useful to offer the CMI's assistance to the Economic and Social Commission for Asia and the Pacific, a UN Organization based in Bangkok. The opportunity to create a link between the CMI and ESCAP arose when, on the occasion of a business trip to Bangkok, I was approached by the Director of the Transport Division of ESCAP who told me that ESCAP had in mind to create a model maritime code for the countries of South East Asia, but lacked the necessary experience.

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The following year I was invited to assist at the meeting of an ad hoc group created by ESCAP and succeeded in persuading its members to abandon the idea of a model maritime code and instead to prepare guidelines that could be used by all countries. This idea gave birth to the ESCAP Guidelines for Maritime Legislation, which, for the part relating to private maritime law, were prepared by the CMI, whose contribution was acknowledged with gratitude by the ESCAP Secretary-General.

Since then, ESCAP considered the co-operation of the CMI to be indispensable for the development of maritime law in the region, and when China requested ESCAP's assistance in organizing a number of Seminars aiming at expanding the knowledge of maritime law in the country and at paving the way to the preparation of a maritime code, ESCAP in turn asked the CMI to organize the Seminars, provide the speakers and make their papers available. Four Seminars took place between 1984 and 1989, and each time, three CMI speakers participated. This had the effect of substantially strengthening the relationship between China and the CMI. And when the draft Chinese Maritime Code was translated into English last year, I was requested by the competent Chinese Authorities to study the draft and to send my comments thereon. On the occasion of a trip to China, I had the opportunity of participating in a meeting of the Drafting Group appointed by the Chinese Government and to discuss the draft at length with them.

An opportunity to improve the relationship between the CMI and UNCTAD occurred when both UNCTAD and IMO placed the subjects of Maritime Liens and Mortgages and Arrest of Ships on their work programme. The first step was to offer both organizations the co-operation of the CMI and then to take the initiative of investigating these problems and to try to persuade IMO and UNCTAD to postpone the commencement of their studies until after the completion of the CMI preliminary work. These tasks were successfully achieved and the CMI presented to IMO and UNCTAD the conclusions adopted at the Lisbon Conference in 1985. I also had the opportunity to co-operate with the Secretariats of the two organizations with a view to arranging a joint study by them of the subject. This gave rise to the creation of an ad hoc entity called the Joint International Group of Experts on Maritime Liens and Mortgages and Arrest of Ships-JIGE.

I personally attended all sessions of the JIGE and, after its members were convinced to set aside some revolutionary ideas about maritime liens, I obtained the adoption of the Lisbon Draft Conventions, on Maritime Liens and Mortgages Convention and on Arrest of Ships as working documents for the review of the subjects of Maritime Liens and Mortgages and Arrest of Ships by the JIGE. I was very happy to find out during the debates that the delegates relied more and more on the advice of the CMI. And when the JIGE had to form a study group to consider the delicate problem of the suspension of nationality following the bareboat charter of a ship, I, in my capacity as President of the CMI, was asked to chair the Group.

The preparatory work done by the CMI at Lisbon was very favorably received and the final drafts approved by the JIGE, which will, in the near future, be submitted to a Diplomatic Conference, are very similar to the drafts adopted at Lisbon.

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As I previously mentioned, it had become inadvisable for the CMI to choose the subjects in respect of which draft international conventions should be prepared, without previously consulting the competent UN Organizations, in order to find out whether they were interested in the subjects and would be willing to include them in their work programme. I think I can refer, as an example, to the Draft Convention on Off-shore Drilling Rigs approved by the CMI Conference held in Rio de Janeiro in 1977. This Draft Convention, immediately sent to IMO, was placed by IMO on its long-term work programme but, owing to the number of priority subjects on the list, it could only be inserted in the short-term work programme at the end of last year, when the Legal Committee of IMO decided to consult the CMI with a view to finding out whether the draft, due to the time elapsed, required updating.

It was for this reason that it appeared more reasonable, and more practical, for the CMI to study subjects that either IMO or UNCTAD or UNCITRAL had already placed on their short-term work programmes, and, if possible, to obtain an official request to prepare a preliminary study thereon.

This was done in respect of the new 1989 Salvage Convention, the draft of which was prepared by the CMI following the request of IMO and was approved by the CMI Conference held in Montreal in 1981.

The same procedure was followed in respect of the amendment of Rule VI of the York-Antwerp Rules of 1974, approved by the CMI Conference held in Paris last year.

As I previously mentioned, the first CMI Seminar was held in Aix-en-Provence in 1976. Since my election as President of the CMI, Seminars or Colloquiums have been organized approximately every four years, between the conferences, for the purpose of debating subjects that were not suitable for a conference. Thus, after the Rio Conference, a colloquium was held in Vienna in 1979 on the Hamburg Rules; after the Montreal Conference, a colloquium was held in Venice in 1983 on bills of lading; after the Lisbon Conference a colloquium was held in New Orleans in 1987 on insolvency in maritime law and then a Seminar was held in Knokke-Zoute in 1989 on bareboat charterparties; after the Paris Conference, two colloquiums will be held in Genoa in 1992, one on charterparties and one on pollution.

My fifteen-year presidency elapsed very quickly. My impressions? I found my work to be enormously interesting. I realized that presiding over an organization such as the CMI was surprisingly easy due to the fact that I have always worked in an exceptional atmosphere: I have had the assistance of a remarkable Secretary-General Executive, of a Secretary-General Administrative of extraordinary high quality and wholly devoted to the CMI, of Vice Presidents and members of the Executive Council to whom I could request an advice at any time. If I was able to obtain some favourable results during my fifteen years of presidency, it was due, to a great extent, to the very many friends I have always had around me.

My desire is to continue to work with them for the unification of maritime law, a task to which I have devoted a great part of my life.