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**THE WORK OF THE CMI TOWARDS UNIFICATION OF MARITIME LAW,
THE SLOVENIAN MARITIME LAW ASSOCIATION AND ITS FRIENDSHIP
WITH THE ITALIAN MARITIME LAW ASSOCIATION**

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Paper presented at the conference

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**Protection of the Marine Environment, Safety at Sea, Ports and
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**The work of the CMI towards unification of maritime law,
the Slovenian Maritime Law Association and its friendship with the Italian
Maritime Law Association**

*Giorgio Berlingieri**

Mr. President, Ladies and Gentlemen,

1) It is a honour and a privilege to attend this meeting in representation of the CMI and of its President, Karl-Johan Gombrii. He is ideally here with all of you. In my capacity as a member of the CMI Executive Council, and as such in charge to keep contacts with the member Associations in the Mediterranean area, President Gombrii asked me to convey to you, President Grbec and to the entire Slovenian Maritime Law Association, his very Best Regards and the Congratulations for two decades of faithful and active membership of your Association with the CMI. This is exactly the truth as your Association has shared quite closely much of the recent life of the CMI.

2) The Slovenian MLA was constituted in 1992 and became member of the CMI in 1993, whilst President of the CMI was Professor Allan Philip who served as such until 1997. Those were the times when at the 1992 Genoa Assembly a new Constitution was adopted which modernized the structure of the CMI. The number of Vice Presidents of the CMI was set from 8 to 2; they were given constitutional duties and were made members of the Executive Council. The office of the Executive Council was established and the criteria of election of its members ensured a balanced representation of the legal systems and of the geographical areas characterized by the Member Associations as contemplated by the newly art. 14 of the Constitution.

The 1992 Constitution then broadened the scope of the CMI to cover “*maritime law in all its aspects*” given that the international conventions were often including either private and public aspects of the maritime law.

3) Modernization of the CMI did not affect tradition and efficiency as the CMI went on to advise the various U.N. Organizations assisting in the drafting of new projects of

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international conventions such as the 1993 MLM Convention and the 1999 Arrest Convention. The CMI continued also to be involved in the formation and maintenance of other instruments of unification such as the Uniform Rules for Seawaybills which were adopted in 1990 and the York-Antwerp Rules which were revised in 1994 and in 2004. The CMI however is mainly dedicated to the realization of uniformity with the most efficient mechanism to that purpose, which is that of the international conventions. A recent example is constituted by the Rotterdam Rules, which were adopted by the U.N. Assembly the 11 December 2008 and which are based on a preparatory work made by the CMI.

4) However it must be acknowledged that the work of the CMI “...*the object of which is to contribute by all appropriate means and activities to the unification of maritime law*”, is performed only thanks to the Maritime Law Associations (now 51) constituting the CMI. In fact the national Associations answer the Questionnaires drafted by the CMI whenever there is a topic or issue which is worth of being considered in the field of international maritime law. Their members then take part to the works of the various International Working Groups set up by the CMI to study issues of maritime law. The unification of maritime law thus originates from the joint work of all National Associations members of the CMI which looks forward to continue a close cooperation with the Slovenian MLA and with its valuable members in order that progress in the maritime law may be continuously achieved.

5) The first President of your Association, Attn. Gregor Velkaverh, was succeeded in 1997 by Prof. Marko Pavliha who since the formation of the Slovenian MLA acted as coordinator of the activities. Prof. Marko Pavliha, who was appointed Titulary Member of the CMI in 1999, stood as President until 2004, with Dr. Patrick Vlačič as Secretary then succeeded by Dr. Mitja Grbec in 2000. Dr. Patrick Vlačič then took over as President with Prof. Marko Pavliha being again appointed President in 2008 with Dr. Boris Jerman confirmed as Secretary until the actual presidency of Dr. Mitja Grbec in 2010 with Dr. Boris Jerman Secretary. I enjoyed discussing with them uniformity of maritime law at the CMI Assembly in Oslo the 27 September 2011.

Prof. Marko Pavliha had an active and important role in the CMI, being elected in 2003 as Secretary General, but he had to withdraw from the appointment too soon when he was elected first Minister of Transport and then Vice-President of the Slovenian Parliament. Among the many Slovenian Titulary Members of the CMI there is also an old friend, Georgije Ivkovič, who I have the great pleasure to know since the 1969 CMI Conference in Tokyo, an outstanding lawyer with whom I have been in contact professionally on various occasions starting from that relating to the collision occurred between m/v “Cavtat” of Atlanska Plovidba and m/v “Lady Rita” off Otranto in 1974.

The friendship between the Slovenian MLA and the Italian MLA is marked by the recent contribution of Boris Jerman to the Essays in Honour of Prof. Francesco Berlingieri with an article on the role of maritime transport in conventions on multimodal transport and is underlined by the organizing of joint meetings such as that on port issues which took place in Trieste the 20 May 2007.

6) In the continuous efforts to achieve uniformity in international maritime law the CMI is presently attending to the study or revision of various topics which will be considered at the 40th International Conference which will take place in Beijing from 14 to 19 October 2012 with an optional add-on programme in Shanghai from 20 to 22 October.

There will be focus particularly on Judicial sale of ships and a decision will be taken on the adoption of a possible legislative text regarding the validity, recognition and enforcement of orders of enforced sales and transfer of ownership in foreign jurisdictions.

Among the most relevant topics there is the 1989 Salvage Convention with discussion on a possible revision to include an environmental award.

Cross Border Insolvency will also be considered and the Delegates are likely to review the replies to a recent Questionnaire circulated by the CMI to the National Associations. This is quite an interesting issue having particular reference to the provisions of Council Regulation (EC) no. 1346/2000 of 29 May 2000 on insolvency proceedings which under art. 16 establishes a principle that any judgments opening insolvency proceedings handed down by a Court of a Member State should be recognized in all other Member States.

Arctic and Antarctic Issues is a topic which was considered during a Colloquium which took place in Oslo in the occasion of the 2011 CMI Assembly and which will be reviewed in Beijing. It relates to the opening of a new Siberian coastal route cutting journey time, bunker costs and piracy attack risks. However such route can be operated only few months per year and always under tug's assistance although the transit from Europe to Asia and viceversa through the Arctic Ocean north of Russia could actually save about 3000 out of 11000 nautical miles.

Fair treatment of seafarers and the implementation of the relating IMO Guidelines, which give advice on the steps to be taken when seafarers are detained by public authorities in the event of a maritime accident, are included in the topics at Beijing.

The Conference will then consider a possible revision of the 2004 York-Antwerp Rules. It is a fact that the YAR 2004 are not being used and the main problem appears to be that salvage was basically exempted from General Average. As a result BIMCO decided not to incorporate the new YAR 2004 in their charter parties and other standard documents. The CMI naturally wants to see that the York-Antwerp Rules are used and has therefore formed a Working Group to consider the possibility to revise Rule VI reintroducing salvage in General

Average in certain situations and to revise also Rule XI reintroducing allowance in General Average of crew wages in ports of refuge.

These are the main topics which will be reconsidered in Beijing where I look forward to enjoying pleasant and fruitful meetings with the delegates of the Slovenian MLA and of all other NMLAs belonging to the CMI.