**DRAFT CMI QUESTIONNAIRE**

**on**

**The CMI Lex Maritima – The Gothenburg Draft**

National maritime law associations are hereby invited to comment on the attached Draft CMI Lex Maritima, prepared by the International Working Group on the subject. This draft was presented at the CMI Colloquium in Gothenburg in May 2024.

The Draft CMI Lex Maritima is an articulation of the universally applicable basic principles of maritime law. In other words, it deals with the common core of maritime law, on which there is at least a rough global consensus.

By articulating in the CMI Lex Maritima, in as simple terms as possible, the common basic principles of maritime law, the instrument aims to facilitate the understanding of maritime law, as a special branch of the law. The instrument can assist in education, interpretation, the drafting of national rules and case law. In line with the CMI's core objective, the CMI Lex Maritima can contribute significantly to the international uniformity of maritime law.

Given the aim of the Draft CMI Lex Maritima, aspects on which there is no international consensus as well as national specificities have been eliminated from the document. The preparation of the CMI Lex Maritima was done on the basis of a comparison of rules of the ‘positive maritime law’ in order to detect common ground. To substantiate the general acceptance of the Principles, numerous references to source materials are included in the footnotes. In other words, the methodology applied was strictly objective and scientific; one can compare it to a mechanical or chemical extraction or distillation process. Logically, in this process subjective or personal preferences and policy wishes ‘de lege ferenda’ about future unification initiatives have been disregarded.

The following three questions are submitted to national associations:

(1) please correct the references in the Draft Principles to your national law where necessary, adding to that end sources from relevant positive law (legislation, case law, legal doctrine);

(2) please complete the references in the Draft Principles to your national law where necessary, adding to that end sources from relevant positive law (legislation, case law, legal doctrine);

(3) please make substantiated suggestions to amend or expand the Draft Principles where you believe that they incorrectly or insufficiently reflects universally (or almost universally) accepted rules, taking into account the methodology and the distinction between three categories of Principles, and adding to that end sources from relevant positive law (legislation, case law, legal doctrine).

To facilitate your reply, a table is added below.

When providing feedback and/or suggestions the IWG would be grateful if you could always provide evidence in the form of full text legislation, full text of judgements, articles and scholarly work and/or any other materials supporting your views (weblinks, copies or scans, not just references).

Please submit your reply **no later than 1 November 2024**. Based on the comments and suggestions received, the Draft Lex Maritima will then be further finalised with a view to approval by the CMI Assembly in Tokyo in May 2025. Thank you very much in advance.

**Table**

**to facilitate MLA replies to the CMI Questionnaire on the CMI Lex Maritima – The Gothenburg Draft**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Please correct the references in the Draft to your national law where necessary** | **Please complete the references in the Draft to your national law where necessary** | **Please make substantiated suggestions to amend the Draft where you believe that it insufficiently reflects universally (or almost universally) accepted rules** | **Please state here which evidence you have added to your reply** |
| **Part 1 − Preliminary rules** |
| Rule 1Objective |  |  |  |  |
| Rule 2Definitions |  |  |  |  |
| Rule 3Scope ratione navis |  |  |  |  |
| Rule 4Status of Principles |  |  |  |  |
| Rule 5Application of Principles |  |  |  |  |

|  |
| --- |
| **Part 2 − Sources of maritime law** |
| Principle 1Interpretation of maritime law |  |  |  |  |
| Principle 2Maritime custom |  |  |  |  |
| **Part 3 − Ships** |
| Principle 3Identification, nationality and flag |  |  |  |  |
| Principle 4The law governing property interests |  |  |  |  |
| Principle 5Ownership and management |  |  |  |  |
| **Part 4 − Maritime responsibilities and liabilities** |
| Principle 6Responsibilities of shipowners and ship operator |  |  |  |  |
| Principle 7The Rules of the Road |  |  |  |  |
| Principle 8The ship master |  |  |  |  |
| Principle 9The pilot |  |  |  |  |
| Principle 10Joint and vicarious liability of ship owner and ship operator |  |  |  |  |
| Principle 11General tonnage limitation |  |  |  |  |
| Principle 12Pollution liabilities |  |  |  |  |
| **Part 5 − Maritime contracts** |
| Principle 13Freedom of maritime contract |  |  |  |  |
| Principle 14Bareboat charterparty |  |  |  |  |
| Principle 15Time charterparty |  |  |  |  |
| Principle 16Voyage charterparty |  |  |  |  |
| Principle 17Contract for the carriage of cargo |  |  |  |  |
| Principle 18Contract for the carriage of passengers |  |  |  |  |

|  |
| --- |
| **Part 6 − Maritime incidents** |
| Principle 19Collisions |  |  |  |  |
| Principle 20Salvage |  |  |  |  |
| Principle 21General average |  |  |  |  |
| Principle 22Wreck removal |  |  |  |  |
| **Part 7 − Maritime securities and time bars** |
| Principle 23Preferential rights |  |  |  |  |
| Principle 24Immobilization of ships |  |  |  |  |
| Principle 25Time bars |  |  |  |  |
| **Are there other general principles of maritime law which your National Association would like to see included in the CMI Lex Maritima?** |
|  |

|  |
| --- |
| **Does your National Association have any general comments on the CMI Lex Maritima?** |
|  |