

## MARITIME LAW ASSOCIATION OF AUSTRALIA AND NEW ZEALAND

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**Attention: Deucalion Rediadis**

### CMI Standing Committee on Promotion of Conventions – Maritime law Association of Australia & New Zealand Response

We refer to the letter from the CMI dated 25 March 2013 in relation to the Standing Committee on Promotion of Conventions. We understand that you were appointed as Rapporteur for the Standing Committee. We write with our belated response to that letter.

We attach a schedule setting out a summary of the ratification status and our understanding of the relevant political will in relation to the same in relation to the Conventions identified by the Standing Committee.

For the sake of convenience, we also attach a memorandum prepared by the President of the CMI, Stuart Hetherington, in relation to recent meetings with relevant government bodies on 7 August 2015 and within which he summarises the offers of assistance that he has put forward on behalf of the CMI and MLAANZ.

MLAANZ is presently considering the recommendations and suggestions set out by Mr Hetherington and will follow up and/or implement as appropriate in due course. We and/or Mr Hetherington will also forward any revised ratification status update received from the Department of Infrastructure (which Mr Hetherington has asked the Department to revise on behalf of the Australian government).

Please contact us if we can be of any further assistance.

Yours sincerely

**Nathan Cecil, Treasurer**  
**Maritime Law Association of Australia and New Zealand**

TREATY	Org.	DESCRIPTION	New Zealand Position	Australia Position
<b>Rotterdam Rules</b>	UN	"The Convention extends and modernizes the existing international rules relating to contract of maritime carriage of goods. The aim is that the Convention will replace The Hague rules, The Hague-Visby rules and the Hamburg rules and that it will achieve uniformity of law in the field of maritime carriage."	<a href="#">In progress.</a> No extrapolation provided on NZTO	Under consideration but off agenda. Awaiting action of significant trading partners.
<b>MARPOL PROT 1997</b>	IMO	Annex VI concerns Prevention of Air pollution from Ships	<a href="#">In force and accepted.</a> Entry into force date 10/01/1998	Acceded 07/08/2007.
<b>FAL 1965</b>	IMO	The Convention on Facilitation of International Maritime Traffic (FAL)	<a href="#">In force and acceded to.</a> Entry into force date 25/09/1973	Acceded 28/04/1986. But according to Derrington domestic legislation not entirely compliant.
<b>LLMC PROT 1996</b>	IMO	The LLMC sets out ship owners' rights to limit their liability in respect of various types of maritime claims, including loss of life or personal injury, loss or damage to property and loss resulting from delay in the carriage by sea of cargo, passengers or luggage	<a href="#">In force and acceded to.</a> Entry into force date 03/07/2014	Acceded 08/10/2002.
<b>PAL PROT 2002</b>	IMO	The Protocol to the Athens Convention relating to the Carriage of Passengers and the Luggage by Sea (PAL) introduces compulsory insurance to cover passengers on ships and raises the limits on liability. It also introduces other mechanisms to assist passengers in obtaining compensation, based on well-accepted principles applied in existing liability and compensation regimes dealing with environmental pollution. These include replacing the fault-based liability system with a strict liability system for shipping related incidents, backed by the requirement that the carrier take out compulsory insurance to cover these potential claims.	No apparent position.	Accession is under consideration. House of Representative Standing Committee reported in June 2013 that the Athens Protocol had merit and recommended a comprehensive review.
<b>HNS PROT 2010</b>	IMO	The Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and	No Progress. NZ is a signatory to the International	Dormant. Preliminary steps were taken as NIA

		Noxious Substances (OPRC-HNS Protocol) follows the principles of the OPRC Convention and was formally adopted by States already Party to the OPRC Convention at a Diplomatic Conference held at IMO headquarters in London in March 2000. It was designed to overcome many of the objections to the 1996 HNS convention.	Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (in force 1999).	and <a href="#">RIS</a> prepared and tabled to Parliament 1 November 2012. Referred to Joint Standing Committee on Treaties who suspended consideration of the protocol - none of the invited industry stakeholders made a submission.
<b>NAIROBI WRC 2007</b>	IMO	Provides legal justification for countries removal of wrecks that threaten various criterion. Merits investigation especially in light of the Rena, regardless of small international uptake.	No Progress. I refer to the following article by <a href="#">Neil Beadle</a> .	Department drafting discussion paper for possible ratification. Current status has reverted to " <a href="#">An assessment of whether Australia should adopt the WRC will be undertaken</a> "
<b>MCL 2006</b>	ILO	The convention sets out comprehensive rights and labour protections for seafarers. It revises and consolidates over 60 existing ILO maritime labour instruments, in some cases dating back to the 1920s. They include 14 conventions to which New Zealand is a Party, which are implemented primarily in the Maritime Transport Act 1994 and in maritime rules. Obligations are also given effect through general legislation concerning labour, occupational health and safety, accident compensation, and social welfare.	<a href="#">In progress</a> . /To Ratify. <a href="#">Ministers Woodhouse and Foss issued a press release indicating we will ratify</a> . NIA submitted to Cabinet in November 2014 and in March 2015 Select Committee Supported an amendment Act passage (no update on legislative agenda).	Ratified 21/12/11
<b>ILO 185 2003</b>	ILO	The Seafarers' Identity Documents Convention. Would create an internationally accessible register of biometric data. <a href="#">Very few ratifications</a> .	No apparent position.	No signs of Government support. Australia abstained from the discussion at the 2003 ILO Conference
<b>BWM 2004</b>	IMO	Ballast Water Management Convention. The primary objective of the convention is "to prevent, minimize and ultimately eliminate the risks to the environment, human health, property and resources arising from	Officially Listed as <a href="#">In progress</a> . This is incorrect, a cursory reading of Part 2 and Part 19A of the <a href="#">Biosecurity Law Reform Act 2012</a> at least in part	Officially it is listed as 'not yet in force' however <a href="#">Biosecurity Act 2015 (Cth)</a> , Chapter 5 incorporates BWM into domestic

		<p>the transfer of harmful aquatic organisms and pathogens through the control and management of ships' ballast water and sediments."</p>	<p>appears to incorporate BWM into domestic law.</p> <p>According to NZTO "The views of stakeholders informed the Government's decision on accession to the convention" and "The legislative amendments to give effect to the convention are contained in the Biosecurity Law Reform Bill. Marine Protection Rules made under the Maritime Transport Act will also be required before New Zealand is able to accede to the convention." That is a 2012 Act which has been passed. NZTO has not been updated.</p>	<p>law.</p>
<b>Arrest Convention 1999</b>	UN	<p>The Convention aims at providing a widely acceptable legal instrument promoting international trade and transport, by striking a balance between the interests of the owners of cargo and of ships in securing the free movement of ships and the right of the claimant to obtain security for his claim</p>	<p>No apparent position.</p>	<p>No position.</p>