



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



President's Message

The activities of MLAANZ over the past few months have revolved primarily around online seminars organised by our Western Australia and Victoria Branches.

A Western Australia Branch seminar held on July 23 attracted a large number of participants from the eastern states and from New Zealand. The presenter was Philip Teoh, a partner with the Malaysian law firm Azmi & Associates. He addressed a range of maritime arbitration issues, from a Malaysian vantage point. Mr Teoh has also kindly contributed, for publication in this *Semaphore* newsletter, an article summarising principles of conflict of laws that can arise in maritime cases and maritime arbitration.

The Western Australia Branch has subsequently held two further seminars. On August 13 Margot Matthews of the LNG Marine Fuel Institute was guest speaker discussing a “Two-Pronged Approach to Decarbonisation” (covered in this edition), then on September 23 Matthew Harvey SC presented on “Does a Defective Passage Plan Render a Ship Unseaworthy?”. Both events drew large online audiences. In addition to a host of Australian and New Zealand MLAANZ members, there was interest from as far afield as Scotland, India, Chile, Japan and Singapore.

On September 16 the Victoria Branch hosted a successful panel-style maritime arbitration webinar, which featured:

- Bronwyn Lincoln, partner of Corrs Chambers Westgarth – “Due Process in Virtual Arbitral Hearings”
- Corina Song, partner with Allen & Gledhill, Singapore – “Current Issues in Singapore Maritime Arbitration”
- Matthew Harvey SC, of the Victorian Bar – “Is an Arbitration Clause in a Draft Bill of Lading Effective?”

In addition, we have been pleased to promote two other interesting recent webinars. In a broadcast from London on September 16 hosted by LSLC (The Forum for Shipping, Commercial Law and Dispute Resolution) panellists debated the subject of good faith. This discussion was chaired and moderated by Sir Bernard Eder, who delivered the keynote address “The Relevance of Good Faith in Shipping Disputes” at our Melbourne conference in 2017. On September 23 the Australian Academy of Law hosted an online event “World in a Box – 50 Years of Containerisation in Australia” which celebrated the development of container shipping. The speakers included, from the Federal Court of Australia, The Hon Chief Justice James Allsop AO, The Hon Justice Angus Stewart and The Hon Justice Sarah Derrington, together with author Martin Orchard. A number of our members took the opportunity to tune in to these stimulating presentations.

The combined effect of this diverse range of online events has been to maintain a strong sense of community amongst the MLAANZ membership, despite the challenges presented by the COVID-19 pandemic and the postponement of our annual conference until next year. Our thanks go to all of our speakers and those who have worked hard to organise these “virtual” seminars.

Coming up, the Victoria Branch is planning a further online seminar to be held on Thursday November 19, commencing at 5pm. The topic will be “Competing Liability Rules” and the seminar will include a

discussion of Rotterdam Rules possibilities. Panellists will include Matthew Harvey SC, Stuart Hetherington and myself and, we hope, an Australian Government official.

At the conclusion of the November 19 event we will conduct the Annual General Meeting of our association, which all MLAANZ members are encouraged to dial in to. A formal notice of meeting will be issued next month.

Also included in this edition of *Semaphore* we continue our profiling of presentations from last September's Auckland MLAANZ conference with an article headlined "Ship Arrest and Undertaking as to Damages – is it Time for a Change?" kindly contributed by Gregory Nell SC of New Chambers, Sydney.

Additionally, the publication features messages from both the New Zealand and New South Wales Branches, we mark the passing of Captain Barry Thompson, congratulate MLAANZ member Dr Damien Cremean on the recent publication of the Fifth Edition of his text "Admiralty Jurisdiction" and report on Port of Melbourne's operational performance during recent pandemic restrictions.

Finally, members should note three important recent sets of governmental communications. The first is a communiqué from the Australian Government's Department of Infrastructure, Transport, Cities and Regional Development, issued this month, concerning the next stage of consultations on coastal trading reform, following the lapse earlier this year of the Coastal Trading (Revitalising Australian Shipping) Amendment Bill 2017. The "Coastal Trading Reform for Cargo Vessels – Discussion Paper" dated September 2020 seeks feedback via E-mail to coastaltrading@infrastructure.gov.au by close of business Friday October 9, 2020. It makes the point that opening the coast, introducing a strategic fleet and high cost subsidies are not on the table as they have been deemed out of scope.

Secondly, a submission has been made by MLAANZ vice-president Michelle Taylor, with the support of the MLAANZ board, in response to the Federal Government's "Discussion Paper on Australia's Accession to the Nairobi Convention on the Removal of Wrecks". Details of the submission will shortly be posted on the MLAANZ Website. If there are any additional views or observations a member would like to see expressed on behalf of MLAANZ, please contact Michelle at Michelle.Taylor@cbp.com.au.

Thirdly, earlier this month we received correspondence from the Comité Maritime International on the status of the ongoing project to negotiate a judicial sales instrument with meeting notes for the UNCITRAL Working Group meeting planned to be held in Vienna from December 14 to 18, 2020 provided. These materials will soon be posted on the MLAANZ Website for the convenience of our members.

On behalf of the committee, I thank you all for your ongoing support and commitment to the mission of MLAANZ.

David Goodwin
President
MLAANZ
Associate Professor
Head, Industry & External Engagement
Victoria University Business School
Melbourne, Victoria, 3000
+61 3 9919 1989
david.goodwin@vu.edu.au

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