



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



President's Message

I am writing this message on World Maritime Day and as this is my last message as president of MLAANZ, there is much to reflect upon. I respectfully acknowledge the traditional custodians of the land upon which I work and live, Mianjin, the Turrbal and Jagera/Yuggera peoples, and I pay my respects to all Elders past, present and emerging.

World Maritime Day

This year is the 50th anniversary of the adoption of the International Convention for the Prevention of Pollution from Ships (MARPOL) – the foundation treaty for the prevention of ship-sourced pollution in the marine environment from intentional, operational or accidental causes. In recognition of International Maritime Organization (IMO) dedication to the objectives of MARPOL, the theme of World Maritime Day 2023 is “MARPOL at 50 – our commitment goes on”.

MARPOL has been adapted to meet technological advancements over the decades and now has six annexes:

- Annex I – Prevention of Pollution by Oil
- Annex II – Control of Pollution by Noxious Liquid Substances in Bulk
- Annex III – Prevention of Pollution by Harmful Substances Carried in Packaged Form
- Annex IV – Prevention of Pollution by Sewage from Ships
- Annex V – Prevention of Pollution by Garbage from Ships
- Annex VI – Prevention of Air Pollution from Ships

When MARPOL was first drafted, the main pollutants of concern were hydrocarbons (ie, oils), but now the unintended side-effects associated with transporting new technologies, such as plastics, means that environmental concerns are shifting to hazardous and noxious substances (HNS) and plastic. This is particularly relevant to incidents of cargo overboard. It is well-documented by the World Shipping Council that serious casualties involving containers lost at sea are increasing. Unlike oil, there is currently no dedicated international framework for liability and compensation in respect of ship-sourced plastic pollution from cargo. Accordingly, there continues to be a requirement for law reform in order to combat all marine pollution arising from ships.

In his message on the World Maritime Day theme, IMO secretary-general Kitack Lim said: “Shipping must embrace decarbonisation, digitalisation and innovative technology, including automation – while ensuring the human element is kept front and centre of the technological and green transition to ensure a sustainable planet for future generations. MARPOL has made a difference to shipping – and to the health of our ocean – and will continue to do so, as we look ahead to the next 50 years.”



Comité Maritime International (CMI) recognises that decarbonisation is one of the greatest challenges faced in the maritime sector and at this year's General Assembly, the CMI formed an International Working Group (IWG) focusing on decarbonisation – specifically, to consider the long-term prospect of a possible Maritime Decarbonisation Convention. In addition, the CMI formed an IWG to consider legal frameworks applicable to the Mobile Offshore Renewable Unit (MORU) industry and whether it is appropriate to develop a MORU Convention.

In addition, the United Nations (UN) secretary-general Antonio Guterres has called for “all-hands-on-deck” to realise “a just and equitable transition to a greener, decarbonised shipping industry”. The IMO has committed to do more to support the UN 2030 Agenda for Sustainable Development and its 17 Sustainable Goals, which include to

- take urgent action to combat climate change and its impacts (Goal 13)
- conserve and sustainably use the oceans, seas and marine resources for sustainable development (Goal 14)

An Overview of MLAANZ: 2022-2023

At the time I became president of MLAANZ in late 2021, we were still gripped by the COVID-19 pandemic and many borders remained closed. Our annual conferences had been cancelled and the Board was considering whether it could viably hold a conference in 2022. With great trepidation, we resolved to offer a conference in Brisbane, albeit, without the usual “bells and whistles” of a MLAANZ conference. Fortunately, the Brisbane conference received resounding support from the MLAANZ membership, and the Board was able to confidently put plans in place for a 2023 conference in Perth.

Within a few months of becoming president, the Russia invasion of Ukraine arose, and the Board received a request for assistance from the Ukraine Maritime Bar Association (UMBA). The Board resolved to support UMBA by endorsing appropriate government action, distributing the UMBA message to its members and offering pro bono assistance to advise on humanitarian rights pertaining to maritime law.

It is difficult to imagine a more tumultuous beginning to the role. However, with the full support of the Board, the work of MLAANZ began to unfold with some objectives closer to home. In this regard, the Board resolved to focus on the following key priorities:

1. to reinvigorate the membership of MLAANZ, including through a Young MLAANZ initiative. The Board has worked to increase the membership of Young MLAANZ members by funding Branch events, creating speaking opportunities at conferences and developing a Young MLAANZ column in Semaphore. This has been broadly successful, and since 1 January 2022, the total number of new individual MLAANZ members is 74, and we have welcomed four new corporate members
2. to recognise the contribution that eminent members of MLAANZ have made to our maritime law community by promoting the conferral of CMI Titulary membership, with these members now entailing the Honourable James Allsop AO, the Honourable Steven Rares, the Honourable Neil McKerracher, Professor David Goodwin and Dr Pat Saracini
3. to develop a suite of policies, beginning with a Sexual Harassment Prevention Policy for MLAANZ. This policy is currently under external legal review. A draft of the proposed policy will soon be circulated to members with a consultation process to commence in 2024

MLAANZ has also been active in its consultative roles, including through participation in the Australian Maritime Safety Authority (AMSA) Shipping Consultative Forum (SCF). The SCF was established to provide advice on strategic priorities that are likely to challenge AMSA and the maritime industry in the medium to long-term relating to the following themes:

- regulation – keeping pace with technology, social expectation and use of data to inform change
- environment – impacts of a changing climate, reduction in greenhouse gas emissions and changing energy sources

- stakeholders – impacts of COVID-19 on industry and the long-term recovery
- technology – improved connectivity and information exchange, and increased use of automation

In addition, in its ongoing efforts to contribute to maritime law reforms, MLAANZ has consulted with the Commonwealth Government on the ratification of the Wreck Removal Convention (WRC) and the Convention on the Judicial Sales of Ships (JSS Convention). Specifically in respect of the WRC, MLAANZ was consulted by the Department of Infrastructure, Transport, Regional Development, Communication and the Arts (Department) on matters of maritime law, including marine insurance law. Relevant to the JSS Convention, during the last two years MLAANZ was regularly consulted by the Office of International Law, Attorney General's Department regarding its development. As regards ratification of the JSS Convention, this is now in the remit of the Department, who is considering the JSS Convention. MLAANZ will continue to closely follow the progress of these conventions with the Department.

MLAANZ has also supported the work of CMI in many other ways, including by submitting a comprehensive response to the Marine Insurance Standing Committee questionnaire on Rights of Direct Action Against Insurers. This response can now be accessed on the CMI website.

MLAANZ 48th Annual Federal Conference in Perth, 4-6 October 2023 – “Future of Shipping”

This week, the MLAANZ Annual Federal Conference will be held in Perth over 4-6 October. Pat Saraceni, chair of the Western Australia Branch of MLAANZ, and the organising committee are to be congratulated on the planning of a programme with exceptional maritime law content on current issues in shipping. We are privileged that this year's Dethridge Memorial Address will be delivered by the Honourable James Allsop AO.

Thank You to the Board

The work of MLAANZ is constant and varied, involving the co-ordination and collaboration of five branches, including our colleagues across the Tasman. I am honoured and deeply thankful to have been supported by such a collegiate Board, which has contributed its time selflessly to meet each month (and dedicate countless hours in-between), to ensure that MLAANZ continually strives to meet its objectives in advancing maritime law reforms and bring about the unification of maritime law through the education of its members and consultation with stakeholders.

I would like to thank each of the Board members for their contribution in making the last 12 months such a success:

- Hamish Fletcher (New Zealand vice-president and sub-committee member of MLAANZ policy development)
- Naraya Lamart (Australian vice-president and sub-committee member in MLAANZ policy development)
- Janine Lang (treasurer)
- Clinton McKenzie (assistant treasurer, whilst Janine was on parental leave)
- Maurice Lynch (secretary)
- Stacey Fraser (sub-committee member in MLAANZ policy development)
- David Goodwin (immediate past president and sub-committee member in MLAANZ policy development)
- Gemma Tually
- Ashwin Nair

Acknowledgement of MacIntyre Public Relations

Finally, I would like to take this opportunity to acknowledge and thank Iain MacIntyre of MacIntyre Public Relations for his tireless efforts to produce the *Semaphore* publication each quarter. During my time as president of MLAANZ, Iain's experience and professionalism has

ensured that *Semaphore* maintains quality in its content and publication. Iain began working with MLAANZ in 2014, and in close co-operation with successive MLAANZ presidents, the relationship has evolved to include the circulation of regular E-alerts ensuring timely notification of industry events, as well as the ongoing management of our webpage.

I am looking forward to the 48th MLAANZ Annual Federal Conference in Perth and hope to see many of you there!

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