



COMITE MARITIME INTERNATIONAL

11 May 2015

Presidents of MLAs

"Compelling Need" for new Convention on Foreign Judicial Sales of Ships and their Recognition

As you will recall, the CMI draft International Convention on this subject was approved at the Plenary in Hamburg last June. In order to move forward the draft now needs to be adopted by an international organisation such as the IMO.

The Chair and Rapporteur of our International Working Group, Prof. Henry Hai Li and Jonathan Lux, were given the opportunity to present the draft Instrument to the IMO Legal Committee meeting on 15 April last. They report an enthusiastic reception and much support. However, there was a general feeling that for the IMO (or, indeed, any other international body) to take this on it is necessary to demonstrate a "compelling need" for this new Convention. Put another way, what are the "evils" which the Convention is designed to cure.

In order to be able to meet this request and thereby move forward I would be grateful if you will revert to me with as much information as you can muster in answer to the following **question**:

Has there in your jurisdiction been litigation and/or administrative confusion resulting in delay and/or expense by reason of either:

- Non- recognition in your jurisdiction of a judicial sale conducted elsewhere; or**
- Non-recognition elsewhere of a judicial sale conducted in your jurisdiction?**

Examples (and they are only examples) of the sort of problems we are looking for include: –

- The purchaser may encounter difficulty in deleting the vessel acquired at judicial sale from her previous register and then registering the vessel in a register of his choice.
- The purchaser's title to the vessel may be challenged by the previous shipowner, resulting in the vessel being arrested.
- The purchaser may be called upon to defend historical claims which arose before the judicial sale, whether or not secured by a maritime lien or mortgage.

It would also be useful to know how many Judicial Sales have taken place in your jurisdiction over the last five years.

Would it be possible please for you to research the matter and provide your response report by 30 September 2015?

Yours faithfully

Stuart Hetherington