

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 1 Objective				
Rule 2 Definitions				
Rule 3 Scope ratione navis				
Rule 4 Status of Principles				
Rule 5 Application of Principles				

Part 2 – Sources of maritime law				
Principle 1 Interpretation of maritime law				
Principle 2 Maritime custom				
Part 3 – Ships				
Principle 3 Identification, nationality and flag				
Principle 4 The law governing property interests				
Principle 5 Ownership and management				
Part 4 – Maritime responsibilities and liabilities				
Principle 6 Responsibilities of shipowners and ship operator				
Principle 7 The Rules of the Road				
Principle 8 The ship master				
Principle 9				

The pilot				
Principle 10 Joint and vicarious liability of ship owner and ship operator				
Principle 11 General tonnage limitation				
Principle 12 Pollution liabilities				
Part 5 – Maritime contracts				
Principle 13 Freedom of maritime contract				
Principle 14 Bareboat charterparty				
Principle 15 Time charterparty				
Principle 16 Voyage charterparty				
Principle 17 Contract for the carriage of cargo				
Principle 18 Contract for the carriage of passengers				

Part 6 – Maritime incidents

Principle 19 Collisions				
Principle 20 Salvage				
Principle 21 General average				
Principle 22 Wreck removal				

Part 7 – Maritime securities and time bars

Principle 23 Preferential rights				
Principle 24 Immobilization of ships				
Principle 25 Time bars				

Are there other general principles of maritime law which your National Association would like to see included in the CMI Lex Maritima?

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