



The CMI Lex Maritima 2025

The Tokyo Principles of Maritime Law

海事法に関する東京原則

Tokyo, 14th May 2025



The Great Wave off Kanagawa
(神奈川沖浪裏)

Presentation of the CMI Lex Maritima 2025 'The Tokyo Principles of Maritime Law'

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Agenda

- The work of the IWG
- The CMI Lex Maritima: purpose, methodology and structure
- Presentation of the 5 Rules
- Presentation of the 25 Principles
- Next steps
- Q&A

The work of the Lex Maritima IWG

Jesús Casas, IWG Rapporteur



Gai, Institutiones, I.1:

- *Omnes populi qui legibus et moribus reguntur partim suo proprio, partim communi ómnium hominum iure utuntur (...) quod vero naturalis ratio inter omnes homines constituit, id apud omnes populos peraeque custoditur **vocaturque ius Gentium***
- All peoples who are governed by laws and customs partly [use] their own [Law] , partly use the common law of all men (...) what truly natural order has established among all men, this is preserved among all peoples and **is called *ius Gentium***

Ulpian. Digest, 1,1,10,2

- Iurisprudentia est divinarum atque humanarum rerum notitia, iusti atque iniusti scientia.
- Jurisprudence is the knowledge of divine and human matters, the science of just and unjust

Members of the IWG

- Eric Van Hooydonk (Belgium), *Chairman*
- Jesús Casas (Spain), *Rapporteur*
- Lijun Zhao (Ms) (China)
- Michael Sturley (USA)
- Tomotaka Fujita (Japan)
- Andreas Maurer (Germany)
- Mišo Mudrić (Croatia)
- Werner Braun Rizk (Brazil)
- Massimiliano Rimaboschi (Italy)
- Bernardo Melo Graf (Mexico)
- Eduardo Adragna (Argentina)
- Javier Franco (Colombia)
- Kerim Atamer (Turkey)
- Aybek Ahmedov (Russia)
- Andrea La Mattina (Italy)
- Frank Smeele (The Netherlands)
- Luiz Roberto Leven Siano (Brazil)
- Filippo Lorenzon (UK/Italy)
- Gustavo Omaña (Venezuela)

Time-line (1)

- The IWG was established by the ExCo in 2014 in Istanbul
- The IWG reported on its work in New York 2016, London 2018, Mexico City 2019, Antwerp 2022, Montreal 2023, Gothenburg 2024 and Tokyo 2025



Oxford: Comparative Law

Comparative law is the study of how legal systems construct, interpret, understand and apply their laws. It is as difficult as it is powerful, but has (at least) five purposes:

1. It helps the lawyer to detach from what she has learnt a legal system is or must be, to reach out to understand further facets of what law is, and to then understand differently (and perhaps reform) her own law.
2. It is the antidote to isolation, to parochialism and to the conceited belief that nothing could be worth knowing in laws outside of your own existing knowledge, experience or kindred systems.
3. It also helps lawyers see law as not merely rules, but as institutions, actors, cultures, language and history.
4. It promotes an understanding of law not only from one authority paradigm, that of the national state.
5. It suggests law might be explored as a construct with potential existence outside of national conceptions of it.

Time-line (2)

- At the New York Conference, 4th September 2016, a one-hour session was devoted to the subject, co-chaired by Profs. Eric Van Hooydonk and Michael Sturley.
- **The objective of the project is the compilation of selected principles of the Lex Maritima.**
- On 6th September 2016, support to the IWG was given by judges James Alsop and Johanne Gauthier in their 13th Nicholas J. Healy lecture on admiralty law delivered at the NYU School of Law.
- **The scientific methods of comparative law** have been used to validate the proposed principles

Time-line (3)

- See CMI Yearbook 2015, page 432 and 2016, page 260
- Some members published articles on the subject
- Fourteen draft documents were prepared, starting from a simple list and ending in 25 Principles and 5 Rules
- The 8th Draft was publicly presented at Antwerp (125th Anniversary of the CMI and hometown of our Chairman)
- In 2023 the work led to the “**The Montreal Draft**”



Time-line (4): The Gothenburg Draft

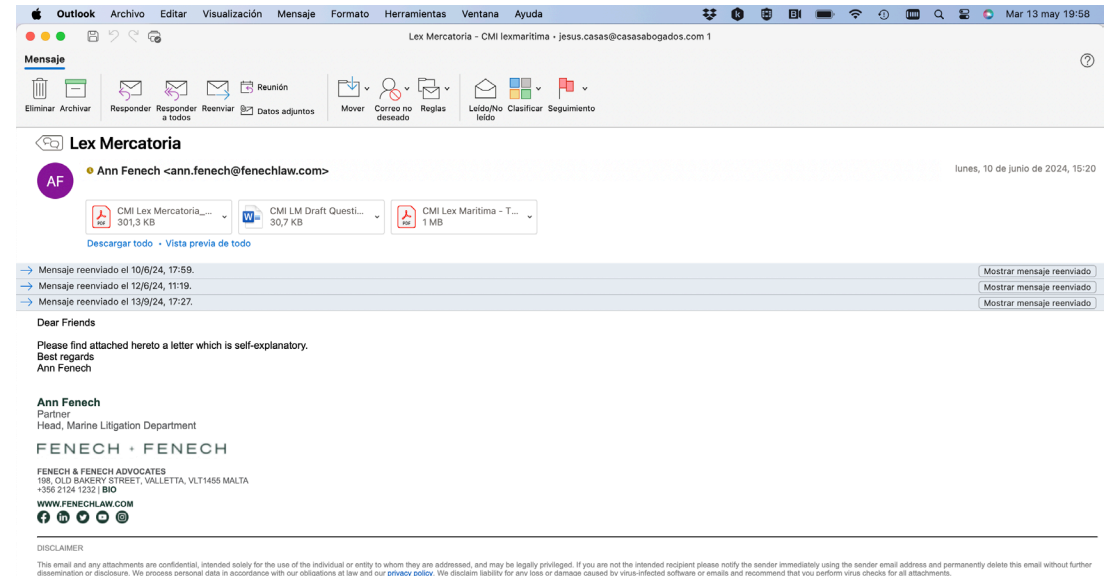
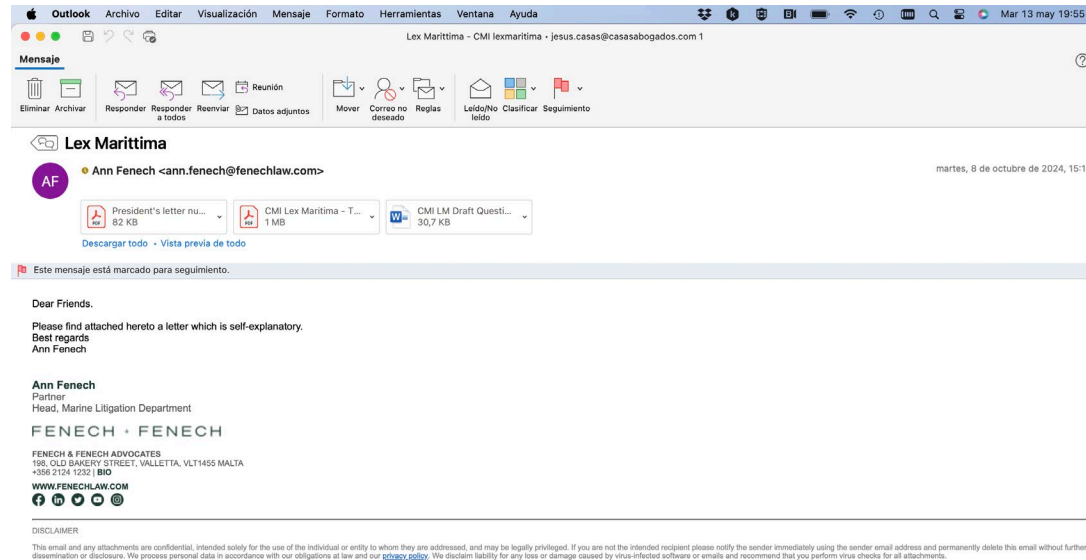
- The IWG held 8 videoconferences in 2024
- The 14th version was entitled **“The Gothenburg Draft”**:
- <https://comitemaritime.org/work/lex-maritima/>
- And it was expected that it will lead to the **“Tokyo Principles of Maritime Law”** in 2025





Questionnaire to all NMLAs

President Fenech's letters 10/06 and 18/10/24



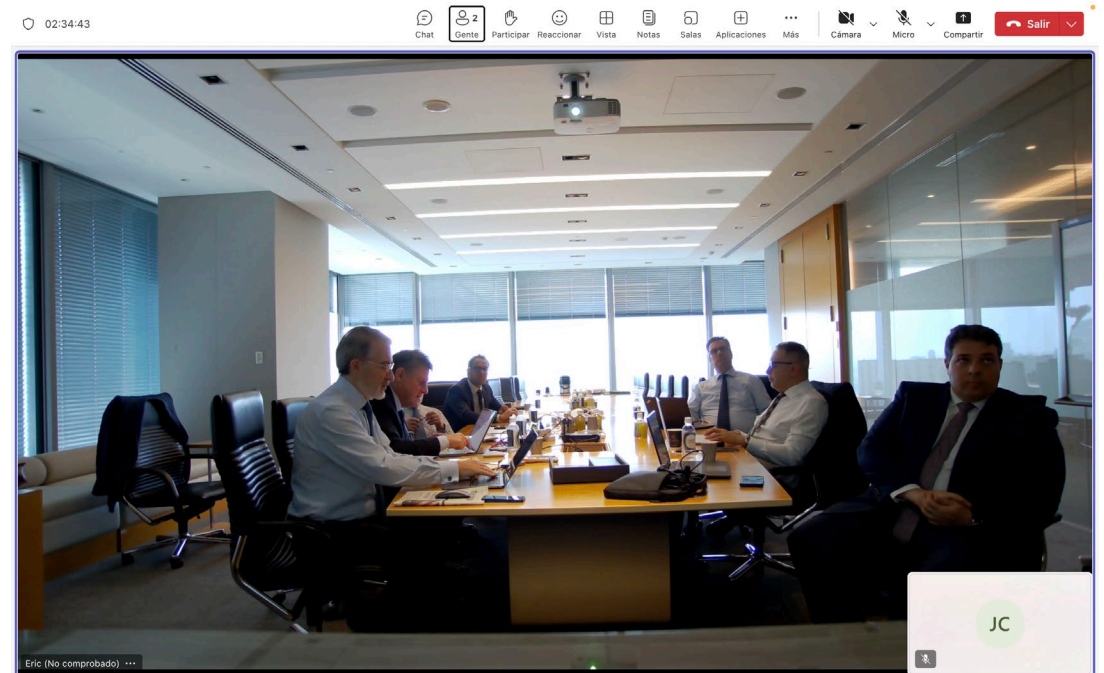
Replies from the NMLAs

- The Gothenburg Draft published in the CMI YB 2024 (page 201)
- Initial deadline of 1/11/24 was extended to 31/12/24
- Template for questionnaire replies supplied
- 25 comments were received
- All comments, including those received in 2025 were processed
- All comments were replied to one by one by the IWG's Chair
- A new 'Tokyo Draft' was prepared, with track changes
- 20 NMLAs already confirmed their support for the Tokyo Draft
- 52 national jurisdictions of members of the CMI covered
- 16 other jurisdictions outside the CMI also included

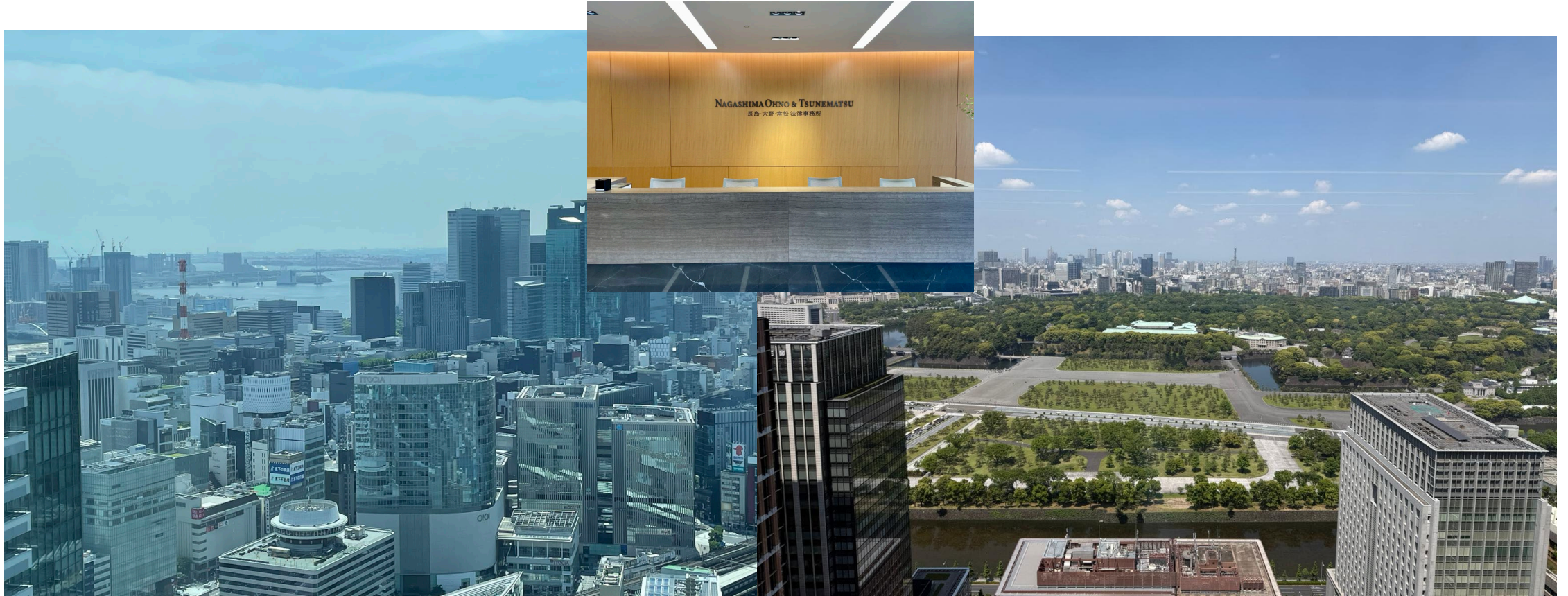
From Gothenburg to Tokyo

- 10 new drafts incorporating additional citations improvements based on input from NMLAs
- No essential modifications
- 5 meetings of the IWG
- More than 2,000 e-mails exchanged
- Final review by the Executive Committee and final meeting on Monday 12th May 2025
- Final wording agreed on 13th May 2025

Last closed meeting Tokyo 12/05/25



Thank you! Nagashima Ohno & Tsunematsu
ありがとう! 長島・大野・常松



The CMI Lex Maritima 2025

The Tokyo Principles of Maritime Law

Eric Van Hooydonk, IWG Chairman

The CMI Lex Maritima: Turning belief in the Lex Maritima into facts

- Prof Bill Tetley from Montreal, one of the great champions of the Lex Maritima idea

Is there a lex mercatoria in the twentieth century? The answer must be 'yes' in maritime law, it being the general maritime law in such countries as the U.K., the U.S. and Canada (the lex maritima), derived from the lex mercatoria, the Rôles of Oleron, the merchants' and admiralty courts, going as far back as the twelfth century. It also exists in various international documents and understandings which have no legal authority, national or international, such as BIMCO bills of lading, standard form charterparties, the CMI's Uniform Rules for Sea Waybills and the York/Antwerp Rules 1994 on general average.⁹

The general maritime law is a ius commune, is part of the lex mercatoria and is composed of the maritime customs, codes, conventions and practices from earliest times to the present, which have had no international boundaries and which exist in any particular jurisdiction unless limited or excluded by a particular statute.⁴⁶

- Judge Allsop (CMI NYC 2016): 'the common international heritage of values, rules and principles governing maritime matters'

The CMI Lex Maritima: What it is, and what it is not

- It is a compilation of universally applicable principles of maritime law
- It takes stock of what already unites us today, not of what divides us and still has to be harmonised
- It is not a convention
- It is not a model law
- It is not guidelines about an existing instrument
- It is a sui generis document
- It has never been done before

The CMI Lex Maritima: Its objectives

- Identify, compile and spell out the universally accepted principles of maritime law
- Clarify the specificities of maritime law (also to non-specialists)
- Contribute to unification

The CMI Lex Maritima: Its potential uses

- Information
- Education
- Inspiration for legislators
- A supplemental source of the law (but only if the positive maritime law so permits)

The CMI Lex Maritima: Its legal status (1)

- A CMI Assembly Resolution
- A soft law 'instrument' adopted by an NGO
- The CMI can do this itself, without the governments, the IMO etc.

The CMI Lex Maritima: Its legal status (2)

- No legal authority, except if the positive maritime law decides otherwise
- Non-supremacy: the CMI Lex Maritima is always subordinate to positive maritime law
- Non-exclusivity: other Principles and other sources of Lex Maritima etc may be acknowledged and put into use
- The CMI Lex Maritima is modest and flexible
- The LM compilation is *made available* to end users for whatever role or status they might want to assign to it (or not)
- Future updates are advisable (no Principles 'once and for all')

The CMI Lex Maritima: The methodology

- Extracting rules from ‘positive maritime law’ about which there is international unity
 - Based on analysis and comparison of all conventions and 68 national legal systems (codes, statutes, case law, doctrine)
 - It is an objective, mechanical, ‘scientific’ exercise based on ‘evidence’
 - National divergences, policy preferences and sectoral interests are eliminated
- 3 categories of LM Principles
 - The ‘instrument as such’ Principles (COLREG, YAR) (type 1)
 - The full ‘substantive’ Principles (type 2)
 - The ‘common occurrence’ Principles (type 3)

An example of type 1: COLREG

Principle 7 – The Rules of the Road

The International Regulations for Preventing Collisions at Sea, 1972, are as such part of the Lex Maritima.

An example of type 2: the pilot (1)

Principle 9 – The pilot

The pilot is a local guide to the master. The pilot may conduct the ship, subject to the master's command.

An example of type 1: the pilot (2)

Principle 9 – The pilot

The pilot is a local guide to the master. The pilot may conduct the ship, subject to the master's command.

Commentary

Most countries or ports have special laws or regulations concerning pilotage. Many of them indicate that the pilot is an advisor to the ship master^{128,129} and/or a local guide¹³⁰, an assistant^{131,132} or an expert¹³³, who contributes to the safety of navigation to, from and in ports¹³⁴. Furthermore, it is

¹²⁸ **Legal history:** Belgium (Pilotage Act 1967, Art. 5); France (Pilotage Act 1928, Art. 1).

¹²⁹ **Current law:** Argentina (Shipping Act, Art. 145; Pilotage Regulations, Arts. 1 and 13); Belgium (Flemish Pilotage Decree, Arts. 2, 4° and 8); Belgium-Netherlands (Scheldt Regulations, Art. 10.1); Brazil (Federal Law 9.537/97, Art. 12; Rules of the Maritime Authority on the Pilotage Service NORMAM--12/DPC, Arts. 0121 and Art. 0228 a) 1)); CEMAC (CEMAC Merchant Shipping Code, Art. 644.2); Chile (Pilotage Regulations, Art. 3); Colombia (Pilotage Act, Arts. 14 and 21); Croatia (Maritime Code 2004, Art. 68(1)); Cyprus (Cyprus Port Authority (Operation of Port Precincts) Regulations 1976 to 2015, Reg. 149(1)); Denmark (Pilotage Act 346/2023, S. 3, 8)); Ecuador (Organic Law on Navigation and Management of Maritime and Fluvial Security and Protection in Water Areas, Art. 5, 31)); EU (EU Maritime Pilotage Study 1995, 59-62); Finland (Pilotage Act 940/2003, Section 2, 1)); France (Transport Code, Art. L5341-1); Georgia (Maritime Code, Art. 15, d), mentioning in an English translation 'escorting ships to port approaches, within the internal port waters and between ports', and Art. 98.1, mentioning 'the pilot's recommendations'; Germany (Pilotage Act, §§ 1 and 23(1); Ehlers 2017, 275, para 2); Malta (Maritime Pilotage Regulations, Reg. 5(1); Netherlands (Pilotage Act, Art. 2.1); Poland (Maritime Code, Art. 220); Spain (Maritime Navigation Act 14/2014, Art. 325; General Pilotage Regulations (Royal Decree 393/1996), Art. 2.1 and 2.2.e)); UK (Chorley-Giles 1987, 350-351; Grime 1991, 227; Rose 1984, 31-32); Ukraine (Merchant Shipping Code, Art. 104 and 105).

¹³⁰ **Current law:** CEMAC (CEMAC Merchant Shipping Code, Art. 2, 56)); EU (Ports Regulation 2017/352, Art. 2(8)); Japan (Pilotage Act, Art. 2.1 and 41.1); Norway (Pilotage Act, §§ 4, a) and 8); South Korea (Pilotage Act, Art. 2.1); USA (Schoenbaum 2004 II, 71, § 13-1).

¹³¹ **Legal history:** Belgium (Pilotage Act 1967, Art. 5).

¹³² **Current law:** Algeria (Maritime Code, Art. 171); Australia (Navigation Act 2012, S. 21(1)); Colombia (Pilotage Act, Art. 2.22-23); Cyprus (Cyprus Port Authority (Operation of Port Precincts) Regulations 1976 to 2015, Reg. 149(1)); France (Transport Code, Art. L5341-1); Italy (Navigation Code, Art. 92); Malta (Maritime Pilotage Regulations, Regs. 3 and 5(1)); Paraguay (River and Sea Navigation Code, Art. 76); Portugal (Decree-Law 48/2002).

An example of type 3: Time bars

Principle 25 – Time bars

It is common for the positive maritime law to implement the Principle that maritime substantive rights or rights of action are time-barred if judicial, arbitral or alternative dispute settlement proceedings have not been instituted, or other events having similar effect have not occurred, within a specific period.

The CMI Lex Maritima: Its structure

- General introduction
- **Part 1 – Preliminary rules**
- **Part 2 – Sources of maritime law**
- **Part 3 – Ships**
- **Part 4 – Maritime responsibilities and liabilities**
- **Part 5 – Maritime contracts**
- **Part 6 – Maritime incidents**
- **Part 7 – Maritime claims**
- Citations and abbreviations

Part 1

Preliminary rules

Rule 1 – Objective

The objective of the CMI Lex Maritima is to identify and disseminate the universally applied principles of maritime law, thereby clarifying its specificities and promoting its international uniformity.

Rule 2 – Definitions

For the purposes of the CMI Lex Maritima:

- (1) ‘CMI Lex Maritima’ means the preliminary Rules and the Principles laid down in the present instrument;**
- (2) ‘Principles’ means the principles laid down in Parts 2 to 7 of the CMI Lex Maritima;**
- (3) ‘ship’ includes any type of seagoing vessel;**
- (4) ‘positive maritime law’ means the rules of public or private maritime law, including the rules of non-maritime law that apply to maritime matters, which are laid down in any applicable international convention, national maritime code or statute, case law or legal doctrine;**
- (5) ‘implement’ includes recognise, apply, introduce, put into effect and/or specify;**
- (6) ‘maritime custom’ means any customs, practice or usages which are widely known to and regularly observed in maritime matters by persons or parties in the same situation;**
- (7) ‘shipowner’ means the person or persons registered as the owner of the ship or, in the absence of registration, the person or persons owning the ship;**
- (8) ‘ship operator’ means the person or persons operating the ship, not being the shipowner;**
- (9) ‘Court’ means any court, tribunal, judge, arbitrator or any other dispute resolution entity.**

Rule 3 – Scope ratione navis

- (1) The Principles apply to all ships.**
- (2) Paragraph (1) is without prejudice to rules of positive maritime law excluding from their scope ships used for naval, governmental, non-commercial and/or other functions.**

Rule 4 – Status of Principles

- (1) The CMI Lex Maritima states the universally applied principles of maritime law as acknowledged by the General Assembly of the Comité Maritime International.**
- (2) The Principles do not intend to derogate from the positive maritime law but, to the extent that positive maritime so permits, to supplement it.**
- (3) Nothing in the Principles is intended to prevent a Court from applying any other general principles of maritime law which it identifies, in particular those general principles which underlie :**
 - (a) the most commonly applied international maritime conventions;**
 - (b) the positive maritime law of the nations.**
- (4) The Principles may be used as guidance for national and international legislators.**
- (5) This instrument may be cited as *The CMI Lex Maritima 2025* or *The Tokyo Principles of Maritime Law*.**

Rule 5 – Application of Principles

The Principles may be applied:

- (1) whenever the positive maritime law refers to the general principles of maritime law, the Lex Maritima or the lex mercatoria;**
- (2) whenever a Court decides to seek guidance in the general principles of maritime law, the Lex Maritima or the lex mercatoria;**
- (3) whenever the parties to a contract have agreed to incorporate the Principles, the general principles of maritime law, the Lex Maritima or the lex mercatoria into their contract.**

Part 2

Sources of maritime law

Principle 1 – Interpretation of maritime law

- (1) In the interpretation of the positive maritime law, a Court may find it appropriate to support the uniformity of maritime law and the facilitation of maritime shipping and trade.**
- (2) These Principles may be used to interpret the positive maritime law.**

Principle 2 – Maritime custom

- (1) The parties are bound by any maritime custom to which they have agreed or that they have confirmed between themselves.**
- (2) A Court may apply maritime custom whenever the positive maritime law so permits.**
- (3) A Court may apply maritime custom to, inter alia, the following matters:**
 - (a) the reception of goods for maritime transportation;**
 - (b) the carriage of goods on the deck of a ship;**
 - (c) the delivery of goods in the port of destination;**
 - (d) the issuance of a transport document or an electronic transport record;**
 - (e) the commercial formalities in the port.**

In the matters referred to under (a), (c), (d) and (e), regard may be had to local custom or the custom of the port.

Part 3

Ships

Principle 3 – Identification, nationality and flag

(1) All ships are identified by a name and a home port.

(2) Ships have the nationality of the State whose flag they are entitled to fly. Every State shall fix the conditions for the grant of its nationality to ships, for the registration of ships in its territory, and for the right to fly its flag. There must exist a genuine link between the State and the ship.

Principle 4 – The law governing property interests

The property interests in a ship as well as maritime mortgages are governed by the law of the State where the ship is registered. In the case of bareboat registration, both these matters are governed by the law of the State of primary registration.

Principle 5 – Ownership and management

- (1) A ship may be owned by a single shipowner or by two or more part owners.**
- (2) It is common for the positive maritime law to implement the Principles that part owners of a ship:**
 - (a) take decisions affecting their common interest or the operation of the ship by majority voting;**
 - (b) are liable to other parties in proportion to their shares in the ship;**
 - (c) may appoint a managing owner, a ship's manager or a ship's husband.**
- (3) Shipowners or ship operators may hire a ship out to a bareboat, a time or a voyage charterer.**
- (4) Shipowners or ship operators may appoint a ship manager who may be responsible for the commercial, technical and/or crew management of the ship.**
- (5) Shipowners or ship operators may appoint a ship agent who represents them in port.**

Part 4

Maritime responsibilities and liabilities

Principle 6 – Responsibilities of shipowner and ship operator

The shipowner or, as the case may be, the ship operator, is responsible for compliance with international and national standards relating to, inter alia, the operation and safety of the ship, the protection of the marine environment, the employment of seafarers and maritime security.

Principle 7 – The Rules of the Road

The International Regulations for Preventing Collisions at Sea, 1972, are as such part of the Lex Maritima.

Principle 8 – The ship master

- (1) The ship master is responsible for the command, the proper management and the navigation of the ship, the safety of the ship, her crew and passengers, the safe and proper loading, stowage, carriage and unloading of cargo, and the maintenance of good order and discipline on board.**
- (2) The ship master shall:**
 - (a) apply good seamanship;**
 - (b) exercise due care in the treatment of crew and other persons on board;**
 - (c) have regard for the need to preserve the marine environment.**
- (3) Every ship master is bound, in so far as he can do without serious danger to his ship and persons thereon, to render assistance to any person at sea in danger of being lost and, after a collision, to the other ship.**
- (4) The ship master is authorised to sign bills of lading. It is common for the positive maritime law to mandate the ship master to perform further legal acts representing the shipowner, the ship operator or other parties.**

Principle 9 – The pilot

The pilot is a local guide to the master. The pilot may conduct the ship, subject to the master's command.

Principle 10 – Joint and vicarious liability of shipowner and ship operator

It is common for the positive maritime law to implement the Principle that the shipowner or, as the case may be, the ship operator, is liable not only for the consequences of his own actions, but also for contracts entered into or acts committed by other persons involved in the operation of the ship.

Principle 11 – General tonnage limitation

It is common for the positive maritime law to implement the Principle that shipowners, ship operators and salvors have the right to limit their liability for specific categories of claims.

To this end it may implement, inter alia, the following Principles:

- (1) Limits of liability are based on the tonnage of the ship and distinguish between general limits and limits for passenger claims.**
- (2) A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.**
- (3) A person liable may constitute a limitation fund which shall be distributed among claimants.**
- (4) Creditors are barred from exercising any right against other assets of the person by whom or on whose behalf a fund is constituted.**
- (5) The limitation may also be invoked without the constitution of a fund.**

Principle 12 – Pollution liabilities

- (1) It is common for the positive maritime law to implement the Principle of strict civil liability of shipowners for claims involving oil pollution damage.
To this end it may implement, inter alia, the following Principles:
 - (a) No liability shall attach to the shipowner in specific circumstances such as force majeure or intent to cause damage by another party.
 - (b) No claims for compensation may be made against specific categories of persons such as the owner's servants or agents, the crew, any charterer, any salvor or any person taking preventive measures.
 - (c) Nothing shall prejudice any right of recourse of the shipowner.
 - (d) The shipowner has the right to limit his liability in accordance with limits of liability based on the tonnage of the ship.
 - (e) The shipowner shall not be entitled to limit his liability if it is proved that the pollution damage resulted from his personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such loss would probably result.
 - (f) For the purpose of availing himself of the benefit of limitation of liability, the shipowner shall constitute a limitation fund which shall be distributed among claimants.
 - (g) The shipowner shall maintain insurance or other financial security, each ship shall carry a certificate relating thereto and any claim for compensation may be brought directly against the insurer or other person providing financial security.
 - (h) States may participate in an international funding mechanism to provide compensation for oil pollution damage to the extent that the strict liability of the shipowner is inadequate.
- (2) It is common for the positive maritime law to implement the Principles of, inter alia, strict civil liability and compulsory insurance or financial security and direct action for bunker oil damage, damage caused by hazardous and noxious substances and wreck removal costs.

Part 5

Maritime contracts

Principle 13 – Freedom of maritime contract

Within the boundaries of the positive maritime law, parties are free to enter into a maritime contract and to determine its contents.

Principle 14 – Bareboat charterparty

- (1) A bareboat or demise charterparty is a contract under which the shipowner or ship operator, hereinafter referred to as 'owners', in exchange for the payment of hire, provides the charterers with an unmanned ship which the charterers shall possess, employ, man and operate for an agreed period.
- (2) It is common for the positive maritime law or the contract to implement, inter alia, the following Principles:
 - (a) The contract shall specify place and date, identity of the parties, particulars of the ship, place of delivery, time for delivery, cancelling date, place of redelivery, trading limits, charter period and charter hire.
 - (b) The owners shall deliver the ship in a seaworthy condition, ready for service and properly documented, and at a safe berth or mooring.
 - (c) The ship shall be employed in lawful trades for the carriage of lawful merchandise within the agreed trading limits.
 - (d) The charterers shall properly maintain the ship in a good state of repair, in efficient operating condition and in accordance with good commercial maintenance practice.
 - (e) The charterers shall at their own expense crew, victual, navigate, operate, supply, fuel, maintain and repair the ship and they shall be responsible for all costs and expenses whatsoever relating to their use and operation of the ship. The crew shall be the servants of the charterers for all purposes whatsoever.
 - (f) The charterers shall indemnify the owners against any loss, damage or expense arising out of or in relation to the operation of the ship by the charterers.
 - (g) At the expiration of the charter period the ship shall be redelivered by the charterers and taken over by the owners at the place for redelivery at such readily accessible safe berth or mooring as the owners may direct.

Principle 15 – Time charterparty

- (1) A time charterparty is a contract under which the shipowner or ship operator, hereinafter referred to as 'owners', in exchange for the payment of hire, provides the charterer with a manned ship which the charterer shall employ for an agreed period.
- (2) It is common for the positive maritime law or the contract to implement, inter alia, the following Principles:
 - (a) The contract shall specify place and date, identity of the parties, particulars of the ship, place of delivery, time for delivery, cancelling date, place of redelivery, trading limits, charter period and charter hire.
 - (b) The ship shall be delivered to the charterers at the place of delivery seaworthy, in every way fit to be employed for the intended service, with full complement of qualified master, officers and crew and her holds clean and in all respects ready to receive the cargo.
 - (c) The ship shall be employed in lawful trades for the carriage of lawful merchandise within the agreed trading limits.
 - (d) The ship shall be loaded and discharged in any safe anchorage or at any safe berth or place that the charterers may direct, provided the ship can safely enter, lie and depart always afloat.
 - (e) The owners shall provide and pay for the insurances of the ship, provisions, stores, wages, and crew costs; they shall maintain the ship's class and keep her in a thoroughly efficient state in hull, machinery and equipment.
 - (f) The charterers shall provide and pay for all the bunkers, port and waterway charges, pilotage and towage.
 - (g) The master shall be under the orders and directions of the charterers as regards employment and agency and perform the voyages with the utmost despatch; the charterers shall perform all cargo handling, at their risk and expense, under the supervision of the master.
 - (h) The ship shall be redelivered to the owners in good order and condition, ordinary wear and tear excepted, at the place for redelivery.

Principle 16 – Voyage charterparty

- (1) A voyage charterparty is a contract under which the shipowner or ship operator, hereinafter referred to as 'owners', in exchange for the payment of freight, provides the charterer with a manned ship which the charterer shall employ for an agreed voyage.
- (2) It is common for the positive maritime law or the contract to implement, inter alia, the following Principles:
 - (a) The contract shall specify place and date, identity of the parties, particulars of the ship and the cargo, loading place, date expected ready to load, discharging place, freight rate, laytime, demurrage and cancelling date.
 - (b) The ship shall proceed to the agreed loading place or so near thereto as she may safely get and lie always afloat, and there load a full and complete cargo which the charterers bind themselves to ship, and being so loaded the ship shall proceed to the discharging place, or so near thereto as she may safely get and lie always afloat, and there deliver the cargo.
 - (c) The owners are responsible for loss of or damage to the goods or for delay in delivery of the goods in specific cases only, including in case the loss, damage or delay has been caused by personal want of due diligence on the part of the owners to make the ship seaworthy and to secure that she is properly manned, equipped and supplied, or by the personal act or default of the owners, and subject, where applicable, to any defences they might be entitled to rely on in their capacity as carrier.
 - (d) The cargo shall be brought into the holds, loaded, stowed and/or trimmed, tallied, lashed and/or secured and taken from the holds and discharged by the charterers, free of any risk, liability and expense whatsoever to the owners.
 - (e) The owners shall give free use of the ship's cargo handling gear and of sufficient power to operate it. All such equipment shall be in good working order.
 - (f) The owners shall pay all dues, charges and taxes customarily levied on the ship. The charterers shall pay all dues, charges, duties and taxes customarily levied on the cargo.

Principle 17 – Contract for the carriage of cargo

- (1) A contract for the carriage of goods by sea is a contract under which a carrier undertakes, in exchange for the payment of freight, to carry goods by sea from one place to another and to deliver them to a consignee.
- (2) The shipper is entitled to obtain from the carrier a transport document for the carriage of goods by sea, such as a bill of lading, evidencing the maritime transport contract and the receipt of the goods under such contract by the carrier. Such transport document may be negotiable or non-negotiable.
- (3) In relation to carriage of goods by sea, it is common for the positive maritime law to implement, inter alia, the following Principles:
 - (a) The period of responsibility of the carrier is limited.
 - (b) The carrier shall exercise due diligence to make the ship seaworthy, properly man, equip and supply the ship, and make the holds and all other parts of the ship in which the goods are carried, fit and safe for their reception, carriage and preservation.
 - (c) Cargo may be carried on deck only in specific cases.
 - (d) In specific cases the carrier shall be exonerated from liability.
 - (e) The carrier's liability for loss or damage to cargo is limited to a specific amount per package or unit or per kilogram of weight of the cargo lost or damaged.
 - (f) Notice of loss or damage to cargo must be given within a specific time limit.
 - (g) Any clause in a contract of carriage relieving the carrier from mandatorily defined liability or lessening such liability shall be null and void.

Principle 18 – Contract for the carriage of passengers

- (1) A contract for the carriage of passengers by sea is a contract under which a carrier undertakes, in exchange for the payment of a fare, to carry passengers and their luggage by sea from one place to another.**
- (2) In relation to carriage of passengers by sea, it is common for the positive maritime law to implement, inter alia, the following Principles:**
 - (a) The passenger is entitled to obtain from the carrier a passenger ticket and, whether or not included therein, a receipt for his luggage.**
 - (b) The carrier is liable for loss suffered as a result of the death of or personal injury to a passenger and loss of or damage to luggage or vehicles under specific conditions and within specific limits.**
 - (c) Notice of loss or damage to luggage must be given within a specific time limit.**
 - (d) The carrier shall maintain insurance or other financial security and each ship shall carry a certificate relating thereto.**
 - (e) Any clause in a contract of carriage relieving the carrier from mandatorily defined liability or lessening such liability shall be null and void.**

Part 6

Maritime incidents

Principle 19 – Collision

- (1) If the collision is caused by the fault of one of the vessels, liability to make good the damages attaches to the one which has committed the fault.
- (2) If two or more vessels are in fault the liability of each vessel shall be in proportion to the degree of the faults respectively committed. In respect of damages caused by death or personal injury, the vessels in fault shall be jointly and severally liable to third parties, without prejudice to their right of recourse.
- (3) If, having regard to the circumstances, it is not possible to establish the degree of the respective faults, or if it appears that the faults are equal, the liability is apportioned equally.
- (4) If the collision is accidental, if it is caused by force majeure, or if the cause of the collision is left in doubt, the damages are borne by those who have suffered them.

Principle 20 – Salvage

- (1) Voluntary assistance to a ship in danger constitutes a salvage operation.**
- (2) Salvage operations which have had a useful result give right to a salvage reward. No salvage reward is due if the salvage operation has had no useful result.**
- (3) The salvage reward shall not exceed the salved value of the ship and other property.**
- (4) The salvage reward shall be fixed taking into account the relevant circumstances and with a view to encouraging salvage operations.**
- (5) The positive maritime law or contractual arrangements may provide for compensation for the costs incurred by a salvor to prevent or limit damage to the environment.**

Principle 21 – General average

- (1) There is a general average act when, and only when, any extraordinary sacrifice or expenditure is intentionally and reasonably made or incurred for the common safety for the purpose of preserving from peril the property involved in a common maritime adventure.**
- (2) General average sacrifices and expenditures shall be borne by the different contributing interests in accordance with the most commonly applied version of the York-Antwerp Rules, as revised from time to time by the Comité Maritime International, which is as such part of the Lex Maritima.**

Principle 22 – Wreck removal

- (1) For the purposes of this Principle, ‘wreck’ means a sunken or stranded ship, any part thereof, and any object that is lost a from a ship and that is stranded, sunken or adrift at sea.**
- (2) It is common for the positive maritime law to implement the following Principles:**
 - (a) The shipowner, ship operator or ship master shall report to the authorities without delay when a ship has been involved in a maritime casualty resulting in a wreck.**
 - (b) The shipowner or ship operator shall remove a wreck determined by the authorities to constitute a hazard. To that end, the authorities may set a reasonable deadline.**
 - (c) If the shipowner or ship operator does not remove the wreck within the deadline set or if immediate action is required, the authorities may remove the wreck themselves.**
 - (d) Except in specific circumstances and without prejudice to any right to limit liability, the shipowner or ship operator shall be liable for the costs of locating, marking and removing the wreck.**

Part 7

Maritime claims

Principle 23 – Prioritised claims

It is common for the positive maritime law to implement the following Principles:

- (1) Specific categories of creditors of a ship are given priority over others in accordance with an order of precedence. Such preferential rights may include special legislative rights, maritime liens, mortgages, hypothecs and similar registerable charges, and second-rank liens.**
- (2) Claims secured by a maritime lien are ranked based on an order between categories, taking into account, as the case may be, the sequence of voyages and the date when the claim came into existence.**
- (3) Except in the event of a judicial sale, a maritime lien follows the ship notwithstanding any change of ownership or of registration.**
- (4) A maritime lien shall be extinguished after a specific lapse of time.**

Principle 24 – Immobilisation of ships

- (1) Ships may be prevented from sailing pursuant to arrest, seizure, administrative detention or a right of retention.

Arrest is the immobilisation of a ship by judicial order at the request of a creditor in order to secure a claim.

Seizure is the immobilisation of a ship in execution or satisfaction of a judgment or other enforceable instrument with a view to a forced sale of a ship.

Administrative detention is the immobilisation of a ship by a body with public law powers in order to secure a claim or based upon suspected or proven infringements of laws or regulations.

A right of retention is the immobilisation by a creditor of a ship in its possession in order to secure a claim.

- (2) It is common for the positive maritime law to implement the Principle that ships may only be arrested to secure specific categories of maritime claims.
- (3) The competent judicial authority shall permit the release of an arrested ship upon sufficient security being furnished.

Principle 25 – Time bars

It is common for the positive maritime law to implement the Principle that maritime substantive rights or rights of action are time-barred if judicial, arbitral or alternative dispute settlement proceedings have not been instituted, or other events having similar effect have not occurred, within a specific period.

Next steps

Q&A