

## Melbourne Branch

The Log  
The Monthly Newsletter of the Melbourne Branch of  
The Company of Master Mariners of Australia Limited

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**NEXT MEETING 28th June 2017**

**Update on the restoration of  
the Tug Wattle**

**Speaker Tony Lewis**

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## From the Branch Master



I was disappointed to miss the May meeting particularly after reading Francis Castellanos' "Speakers Summary".

It must have been a very interesting and informative evening. That event was a joint meeting with MLAANZ and the Nautical Institute and so a large number of people attended. Unfortunately the attendance at some of our regular monthly meetings is disappointing.

As a percentage of the membership the average attendance at our meetings is the lowest of all the branches. There is no obvious reason for this because all the branches follow the same basic format namely a short session on company business followed by dinner and a speaker. I appreciate that some members are unable to come to the meeting for a variety of reasons but I encourage those who can attend to come along and participate in this important benefit of your membership.

I look forward to seeing many more of you at our meetings in the future.

As part of a general survey of CoMMA membership the Federal Registra has produced the following breakdown of the Melbourne membership by occupation.

|                       |            |
|-----------------------|------------|
| Seagoing              | 12         |
| Pilot                 | 6          |
| Port Official         | 12         |
| Stevedore             | 1          |
| Marine Superintendent | 3          |
| Ship Manager          | 9          |
| Business executive    | 3          |
| Consultant            | 8          |
| Shipping Organisation | 1          |
| Tug Master            | 1          |
| State Government      | 2          |
| Private Business      | 1          |
| Other                 | 6          |
| Retired               | 44         |
| <b>TOTAL</b>          | <b>116</b> |

The fact that we have only 12 seagoing members is indicative of what has happened to our industry over the last couple of decades.

*Capt. Ian French*



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## News Items



Captain Terry Green was presented with a plaque in recognition of his 50 years of membership of CoMMA. The presentation was made by Captain David Shennan. The picture shows Terry's wife Jill, David Shennen and Terry in the Portland Harbour Masters Office. Terry is a former General Manager of the Port of Portland.

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Coroner Sharon Freund has found that two foreign seafarers on the **Sage Sagittorius** died as a result of foul play at the hands of unidentified people on board. The Chief Cook disappeared overboard in August 2012 and the Chief Engineer was killed in an engine room fall two weeks later when the ship was in Newcastle. Another crew member died on board while the ship was in Japan.

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There is a short animated presentation available of an autonomous zero emission container ship designed to carry containers on a short voyage in sheltered Norwegian waters. See it at [www.youtube.com/watch?v=bumqWnOgy60](http://www.youtube.com/watch?v=bumqWnOgy60)

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The Australian Government will ratify the International Ballast Water Convention which will enhance marine biosecurity in Australia's maritime environment by removing the risk of transferring marine pests through ballast water.



## IFSMA Strategic Plan

The International Federation of Shipmasters' Associations has released its strategic plan for the years 2017 to 2020. During this period they will concentrate their efforts on five specific challengers and they are:

**Skills and competence of ships crews.** The aim is to identify those areas where further training is required and to influence STCW amendments to reflect the evolving complex shipboard systems that result from more technology.

**Criminalization of the shipmaster.** This is seen as an increasing problem and IFSMA will work to influence international regulations to reduce the incidence of the criminalization of shipmasters and to introduce a shipmasters protection scheme.

**Operation of ships of the future.** To be actively involved in the development and use of ships of the future particularly regarding the role of the master both at sea and ashore and in the development of regulations controlling ships of the future and the standards of competence for the maritime workforce of the future.

**Safety Management.** To remove the Master from the watch keeping roster and to reduce the administrative burden of the Master. To ensure the shipping industry meets its responsibilities under the ISM code.

**Public Relations and Communications.** To ensure members receive regular information on matters of interest and to effectively represent the views of shipmasters at the IMO and other international bodies.



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## Speakers Summary



### The Demise of Hanjin

A presentation was given by Andrew Tulloch, Partner, Colin Biggers & Paisley and Hazel Brasington, Partner, Norton Rose Fulbright at the joint function of CoMMA, MLAANZ & the NI on 21 May 2017.

In August 2016, the world's seventh largest container line, Hanjin Shipping Co of South Korea, filed for receivership. At that time the company owned and operated 24 container vessels with 2.9% share of the global container trade and had about \$14 billion worth of cargo on 97 vessels worldwide. The company also owned 14 shipyards around the world.

Although the announcement caught many practitioners unaware, the road to bankruptcy started about 2 years previously. Hanjin was falling behind in payments and only just managing to service their debts before each deadline, sometimes with a slight extension of time. They received creditor approval for a voluntary restructure in May 2016 but continued to suffer heavy financial loss. State aid was not forthcoming and on 30 August the Korean Development Bank withdrew funding support, forcing Hanjin to file for receivership the next day.

There were a number of competing priorities for the insolvent company – sale of assets, response to legal developments, obligations to court (examinations, reporting), obligations to banks and huge staff layoffs creating overwhelming demands over and above routine operations. Other considerations were the humanitarian and safety implications of those on board the vessels and time sensitivity – most vessels were transporting goods for Christmas sales. Of course, the plight of Hanjin provided its alliance partners with the “opportunity to assist” with the shipment of cargo already booked by Hanjin.

In Australia, the vessel *Hanjin California* was in Port Botany when it was arrested by the bunker supplier on 5 September 2016. Subsequently, the stevedores filed a caveat against release from arrest and the terminal operator exercised a lien over discharged containers for stevedoring and administration charges. The port authority required consignees to pay wharfage costs and arrangements for onward forwarding of cargo at additional cost. At about the same time, another vessel *Hanjin Milano* was approaching Melbourne, but was instructed by the company to stop and drift outside Australian waters until further notice. The vessel entered the Port of Melbourne on 13 September but was not permitted to dock so headed out again.



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## Speakers Summary Contd



With more and more claims for payment being made from various agencies, on 23 September Justice Jagot of the Federal Court of Australia ordered that pursuant to the *Cross Border Insolvency Act 2008*, that until 30 September or until further order, no person may enforce a charge or lien over the *Hanjin Milano*, its cargo, containers and bunker fuel and oil. This order provided some respite to Hanjin, to be able to discharge its cargo and obtain payment for the shipment.

The receivership created a few marine insurance issues. For example, the Institute Cargo Clauses 1982 version excluded cover for loss, damage or expense arising from insolvency or financial default of owners, managers, charterers or operators of the vessel, however the 2009 version of the clauses modified the exclusion so that it would only apply if, at the time of loading the cargo on board the vessel, the assured were aware or should have been aware that the insolvency could prevent normal carriage (words paraphrased).

Ultimately, cargo was discharged from the Hanjin vessels in Australia and transshipment arrangements were generally successful. There was very little cargo damage although some repacking was required. Claims for additional expenses were not as great as previously feared and generally paid by cargo insurers.

Meanwhile, in other parts of the world where Hanjin vessels were arrested, similar negotiations were taking place. 54 vessels were non operational, either seized, refused port entry or stranded in port. Emergency funding was received from the South Korean State run bank and a former Hanjin Shipping Co president. Australia, US, UK and Japan provided provisional protection to Hanjin, invoking the *Cross Border Insolvency Framework*.



## Speakers Summary Contd.



In the United States, maritime lienholders asked the court not to recognise the South Korean restructuring, which would stay their claims. In an unprecedented move, Hanjin's counsel requested Judge Sherwood to conduct a teleconference with a Korean judge so the US judge could understand how the South Korean court would treat US creditors. The US judge also applied the *Cross Border Insolvency Framework* – recognition of foreign insolvency proceedings – allowing the Hanjin vessels in the US to complete their operations whilst awaiting further developments in the South Korean court.

China and Singapore however, are not a part of this *Cross Border Insolvency Framework*. In a recent response to cross-border insolvencies in shipping, the Singapore Companies Act has been amended allowing for a foreign company to be wound up in Singapore if it has a “Substantial connection” to Singapore. The aim of the changes is to make Singapore a hub for financial restructuring. As further repercussion from the demise of Hanjin “THE Alliance” (which includes NYK, MOL, K-Line and Yang Ming publicised their solvency “joint guarantee”. This did not prevent about 6 weeks later trading in Yang Ming stock being suspended under intense speculation concerning its debt position.

Conclusion: Fewer operators now have a larger share of the box trade. Ongoing stresses in the box trade mean that earnings prospects remain unpredictable for some time yet, particularly as the world fleet attempts to adjust to change and disruption. One such change is China's “One Belt One Road” initiative (in which the merged COSCO and China Shipping businesses will have a spearhead role). Disruption from electronic trading platforms continues, as links are forged to land logistics, warehouses, terminals and liner shipping.



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