

FONASBA

MINUTES OF THE CHARTERING & DOCUMENTARY COMMITTEE PLENARY MEETING HELD AT THE INTERCONTINENTAL HOTEL BUDAPEST AT 2.00 p.m. ON THURSDAY, OCTOBER 7th 2004

Present:

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| Mrs. G.C. Noer | Chairman, Chartering & Documentary Committee |
| Mr. U. Masucci | President |
| Mr. P.G.D. Smith FICS | Vice Chairman |

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| Mr. P. Campbell | Argentina | Mr. F. Carlini FICS | Italy |
| Mr. R. Garcia Piñiero | Argentina | Dr. R. Corrias | Italy |
| Mr. G. Hernandez | Argentina | Mr. A. Guadalupi | Italy |
| Mr. J. Hunter | Belgium | Mr. V. Totorizzo | Italy |
| Mr. X. van Engelen | Belgium | Mr. F. Camisetti | Italy |
| Mr. M. Tudor | Croatia | Mr. T. Iigaki | Japan |
| Mr. C.P. Papavassiliou | Cyprus | Mr. Y. Isobe | Japan |
| Mr. E. Kouzapas | Cyprus | Mr. K. Itoh | Japan |
| Mr. G. Sarris | Cyprus | Mr. K. Nakaue | Japan |
| Mr. A. Houtved FICS | Denmark | Mr. V. Vaicekauskas | Lithuania |
| Mr. T. Paulsen | Denmark | Mr. A. Mantrach | Morocco |
| Mr. G.J. Heinonen | Finland | Mr. T. Skaug | Norway |
| Mr. S. Lomberg | Finland | Mr. A. Belmar da Costa | Portugal |
| Mr. R. Sandberg | Finland | Mr. V. Guedes | Portugal |
| Mr. C. Génibrel | France | Mr. J. Correia Luiz | Portugal |
| Mr. K. Bültjer | Germany | Mr. V. Banovic | Serbia & Montenegro |
| Mr. P.J. Wood FICS | Great Britain | Mr. E. Bandelj | Slovenia |
| Mr. J.W. Barclay FICS | Great Britain | Mr. N. Warner | South Africa |
| Mr. J.A. Good FICS | Great Britain | Mrs. B. Blomqvist | Sweden |
| Mr. J.A. Foord FICS | Great Britain | Mr. L. Chi-Ming | Taiwan |
| Mr. G. Georgopoulos | Greece | Mr. L. Karacelik | Turkey |
| Mr. J. Pachoulis | Greece | Mrs. M. Collins | USA |
| Mr. P. Demeter | Hungary | Mrs. J. Cardona | USA |
| Mr. B. Szalma | Hungary | Mr. A. Mukhadri | Yemen |
| Mr. Z. Pozsgai | Hungary | Mr. G. Wramfelt MICS | The Shipbrokers Register |
| Dr. M. Szabo | Hungary | Observers | |
| Mr. M. Cliffe | Ireland | Mr. Z. Bendjellit | Algeria |
| Mr. J. Dundon FICS | Ireland | Mr. R. Clayton | Fairplay Intl. |
| Mr. N. Ganzarski | Israel | Mr. T. Timlen | BIMCO |

In Attendance

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| Mr. J.C. Williams FICS | General Manager |
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Item

1. President's Welcome and Chairman's Opening Remarks

The **President** welcomed all those present to the Meeting. He then handed the meeting over to the **Chairman** who extended a particular welcome to **Mr. Timlen** of BIMCO.

2. Minutes of the Previous Meeting Held Istanbul, October 16th 2003

The minutes had been circulated previously and as no comments had been received in advance, or were made at the meeting, the **minutes were approved**.

3. C&D Advisory Panel Reports

The **Chairman** gave a brief report on the membership of the Advisory Panel before introducing

Action

the market sector-specific reports.

Dry Bulk Market - **Mrs. Collins**

- Current very high freight rate levels were being driven by significantly increased demand for vessels for carriage of iron ore and coal to China.
- Concerns at the ability of the market to sustain these high levels had seen an increase in spot market fixing.
- As traditional suppliers of iron ore and coal were unable to meet the Chinese demand and satisfy their long-term contract customers, other sources of raw material were being sought.
- Freight rates were expected to remain high for the short to medium term.

Tanker Market - **Mr. Wood**

- The market was also enjoying very high rates, again due to increased demand for product, both from China and other consumers and because of concerns over supply from Iraq.
- The phasing out of single hull tankers by 2010 and the increased use of gas for fuel were factors in the current high level of vessel orders.
- There was some concern that some of the high rates may be due to market speculation.

Greek Market - **Mr. Georgopoulos/Mr. Pachoulis**

- Market earnings in the first four months of 2004 showed an increase of 40% on the same period the previous year.
- Container shipments increased by 10% to 8 million TEU compared to the previous year.
- Inter-island passenger numbers increased by 7.5% to more than 20 million per annum.
- Greek brokers had benefited from the increased levels of chartering activity worldwide.
- The current Greek flag fleet renewal programme, which expects to see 60 – 70% of the Greek fleet replaced with newer vessels, had also benefited Greek S&P brokers.

4. The Impact of the ISPS Code on Chartering Brokers

Mr. Smith gave the meeting an update on the broker's implied obligations under the code and reminded those present that all charters coming into force since July 1st 2004 should incorporate clauses relating to ISPS. There had been some concern, as expressed by **Mr. Skaug** and accepted by **Mr. Timlen**, that the original BIMCO clauses had been too owner-friendly. Although the clauses had been developed in consultation with the industry, **Mr. Timlen** said BIMCO was open to comment on this issue, which would be debated during the next BIMCO Documentary Committee meeting. **Mr. Skaug** also suggested that the industry should standardise on one set of ISPS clauses and called on BIMCO, Intertanko and others to work together in this regard. **Mr. Georgopoulos** said that useful information on ISPS Clauses was available from the International Chamber of Shipping website: www.marisec.org/isps/index.htm

5. When Is It Safe to Destroy Documentation ?

Mr. Smith reminded the meeting that brokers owe a duty to their principals to retain documentation in case of dispute and therefore that all brokers should have in place a programme for the retention – and subsequent destruction – of documents. The actual time for which documents must be kept is governed by the time bar legislation in the country of domicile of the broker, although it would be prudent to retain documents for a further year. In the UK, and in most other countries such as the USA, Canada, Australia etc., that have legal systems based on English law, the time bar is set at six years after the date on which the course of action originally arose and so documents should be kept for seven years.

In those countries whose legal system is based on civil law, the time bar varies between one and fifteen years, depending on the country and the nature of the documentation with, for example, Spain requiring up to fifteen years, Germany, six to ten years and France one to four years.

Mr. Smith said that all member associations should check their own particular local legislation and notify their members accordingly.

Mr. Foord enquired as to which documents needed to be retained for the full period, as storage, particularly in the liner trades, was a major problem. **Mr. Smith** said that companies should

draw up their own policies after having taken legal advice.

6. Demurrage Time Bar Claims

Mr. Smith said that this was an issue that FONASBA members in chartering should be aware of and recommended that national associations refer their members to specialist publications – such as the ITIC Bulletin – for further information.

7. UNCITRAL Review of Cargo Liability Conventions

At the request of the **Chairman, Mr. Barclay** gave a brief presentation on the current review being undertaken by UNCITRAL with a view to developing a unified cargo liability regime to replace the existing Hague, Hague-Visby and Hamburg Rules. A copy of **Mr. Barclay's** presentation and explanatory notes are attached. **Mr. Barclay** said that it was imperative that FONASBA member associations make contact with their own national authorities in short order to ensure their views were taken into account. It was expected that only two years remained before the consultation period ended and the text of the new convention was completed. FONASBA had given its views to UNCITRAL when it met in Paris in 2000 but it was now a matter for national action.

Mr. Timlen said that BIMCO was also involved in this issue and would be attending the next UNCITRAL meeting in Vienna in November. Further details were available from the BIMCO website.

8. Documents and Clauses Under Revision

Mr. Timlen gave the meeting a brief update on the work of the BIMCO Documentary Committee and details of the documents currently under review or development. Those under review or update included the “Gasvoy”, “Bimchemtime”, “Boxtime”, “Voycoa”, “Demolishcon” charter parties together with a number of sets of standard clauses. The Vetting and Inspection Clause from the “Bimchemtime” form was also being developed as a standalone document.

New documents under development included a heavy-lift charter form, a container interchange agreement and a standard new building contract.

Mr. Georgopoulos asked **Mr. Timlen** to comment on proposed action by the United Nations on charterparties. **Mr. Timlen** said he would investigate and revert.

9. INTERTANKO Documentary Committee Report

As Intertanko had tendered its apologies for not being present at this meeting, the **Chairman** asked that a copy of the Intertanko report be circulated to all members for information (Attached).

10. The Hamburg Index

At the request of the **Chairman, Mr. Bültjer** gave a presentation on the Hamburg Container Index. A copy of his presentation is attached.

11. Any Other Business

There was no other business. The **President** thanked the **Chairman** for her work in overseeing the business of this committee and for providing a programme that was of interest to ship agents as well as shipbrokers. The **Chairman** expressed her thanks to **Mr. Smith** for his support as Vice Chairman and also to messrs **Barclay** and **Bültjer** for their presentations.

12. Date and Place of Next Meeting

The **Chairman** confirmed that the next Plenary Meeting of the Chartering & Documentary

Committee would take place in October 2005 in Tokyo.

There being no further business to discuss, the Chairman brought the meeting to a close

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