

**MINUTES OF THE
CHARTERING & DOCUMENTARY COMMITTEE
PLENARY MEETING HELD AT
HOTEL MILENIJ, OPATIJA
AT 9.00 a.m. ON FRIDAY, OCTOBER 17th 2008**

Present:

Mrs. G.C. Noer	Chairman
Mr. M. Froio	President FONASBA
Mrs. M. Collins	Vice Chairman

In Attendance:

Mr. J.C. Williams FICS	General Manager
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Mr. R. Garcia Piñiero	Argentina	Mr. M. Andrade	Mexico
Mr. P. Campbell	Argentina	Mr. F. Bracamontes	Mexico
Mr. J. Dulce	Argentina	Mr. J. Vega	Mexico
Mr. G. Hernandez	Argentina	Mr. V. Banovic	Montenegro
Mr. P. Marassi	Argentina	Mr. A. El Glaoui	Morocco
Mr. J. Hunter	Belgium	Mr. A. Mantrach	Morocco
Mr. G. Gordon Findlay	Brazil	Mr. J.W. van der Huel	Netherlands
Mr. L. Oliveira	Brazil	Mr. M.S.B. Duin	Netherlands
Mr. W. Rocha Junior	Brazil	Mr. K.F. Eriksen	Norway
Mr. N. Hristov	Bulgaria	Mr. J. Contreras	Peru
Mr. C. Papavassiliou	Cyprus	Mr. A. Belmar da Costa	Portugal
Mr. A. Houtved FICS	Denmark	Mr. J. Azeredo	Portugal
Mr. T.D. Paulsen	Denmark	Mr. E. Bandelj	Slovenia
Mr. G. J. Heinonen	Finland	Sñra. A. Martin	Spain
Mr. E. Holma	Finland	Mr. N. Warner	South Africa
Mr. S. Lomberg	Finland	Mrs. B. Blomqvist	Sweden
Mr. C. Génibrel	France	Mrs. J. Cardona	USA
Mr. K. Bültjer	Germany	Mr. M. Ogle	USA
Mr. F. Naumann	Germany	Mr. K. Stes	BIMCO
Mr. J. A. Foord FICS	Great Britain	Mr. G. Knudsen	Intertanko
Mr. P.J. Wood FICS	Great Britain	Mr. A. Jamieson	ITIC
Mr. P. Demeter	Hungary	Mr. G. Wramfelt MICS	Shipbrokers' Register
Mr. B. Szalma	Hungary		
Mr. R. Zuck	Israel		
Ms. Cosma Cavallo	Italy	Observers	
Mr. T. Titi	Italy	Mr. Z. Smokvina	Croatia
Mr. G. Scotto	Italy	Mr. N. Filčić	Croatia
Mr. G.E. Duci	Italy	Capt. J. Karmelić	Croatia
Mr. V. Totorizzo	Italy	Capt. M. Skufca	Croatia
Mr. A. Guadalupi	Italy	Ms. A. Milinković	Croatia
Mr. T. Iigaki	Japan	Mr. T. Rožmanić	Croatia
Mr. E. Itoh	Japan	Mr. J. Srzentić	Croatia
Mr. K. Nakaue	Japan	Mr. M. Odvitović	Croatia
		Mr. B. Rađenović	Croatia

Item

1. President's Welcome, Chairman's Opening Address

Action

The **President** welcomed all those present, mentioning especially the guests from the Association of Shipbrokers and Agents of Croatia, before handing the meeting over the **Chairman**, who also specifically welcomed Mr. Jamieson, Claims Director of ITIC, and Mr. Stes, Vice Chairman of the BIMCO C&D Committee, attending their first FONASBA Annual Meetings.

2. Minutes of the Last Meeting held Buenos Aires, October 10th 2007

With no comments having been received previously or made at the meeting, the minutes **were approved.**

3. Matters Arising

None

Before proceeding with the rest of the agenda, **Mr. Garcia-Piñero** briefly referred back to the item on the Liner & Port Agency agenda the day before relating to EU Competition legislation and his offer to provide a translation of the presentation. He said that in spite of strenuous efforts it had not been possible to provide same within the required timescale. He therefore said that a translation would be sent to the Secretariat for circulation with the L&PA minutes.

4. C&D Market Reports

At the request of the **Chairman, Mrs. Collins, Mr. Wood, Mr. Stes, Mr. Garcia Piñero and Mr. Naumann** made presentations on their market sectors. Due to their size, copies of the presentations are available for download from Members' Area of the FONASBA website see "Document Download". (**Mr. Stes** did not provide a presentation) and a brief summary of each presentation follows:

Dry Bulk Market – **Mrs. Collins** highlighted the significant market volatility and increasing demand for raw materials, particularly coal and iron ore over the past twelve months. She also looked forward to the impact of the financial crisis on the forward order-book and its possible impact on freight rates.

Tanker Market – **Mr. Wood** reported on similar rate movements in the tanker market, driven in part by the significant increases in bunker prices. Predictions for forward rate indications were similarly difficult to make as a number of factors come into play, including bunker prices, the financial crisis, weather in northern Europe and refinery closures/maintenance. The impact of the accident with the "Hebei Spirit" had briefly sent rates for double-hulled vessels higher and another similar incident may well accelerate the phase out of single hulled vessels, currently on schedule for 2010 – 2015. He also briefly covered the impact of alternative fuels and new exploration being stimulated by higher oil prices.

Gas Market – **Mr. Stes** thanked the **Chairman** for the invitation to attend the meeting on behalf of BIMCO. Turning to his market report, he advised that with the vast majority of Liquefied Natural Gas (LNG) being carried under long term contracts, there was no spot market in this commodity. As with the previous speakers, he said the Liquefied Petroleum Gas (LPG) market had also been subject to significant volatility over the past year, again due to fluctuating demand, economic issues and the price of oil.

Container Market – **Mr. Garcia Piñero** discussed the ongoing trend towards ever-larger container vessels as a means of reducing costs, the use of advanced electronic cargo pricing and booking systems, the trend towards lines developing their own terminals and the ongoing concentration of the market in less and less, but ever larger companies.

Cruise Market – **Mr. Naumann** thanked the C&D Committee for the invitation to present the cruise market which, he said, operated on slightly different lines and was subject to different influences, than the cargo markets.

Initially, he compared the cruise and ferry markets and then went into detail on the evolution of the cruise market, covering the significant expansion of the sector, the increasing size and complexity of the vessels employed and the increasing number of destinations offered. Problems arising from the rapid expansion, including port congestion, a lack of available and appropriate port and tourist facilities etc., were also discussed.

The **Chairman** thanked all the speakers for their excellent presentations and recommended that the subjects covered be automatically included in the agenda for subsequent C&D Plenary Meetings.

5. **ITIC Claims Issues Review**

Mr. Jamieson opened his presentation with an introduction to ITIC and the services it provided to agents and brokers.

He then warned that the current state of the market would inevitably lead to an increase in the number of claims, defaults, debt collection issues and other similar incidents so agents and brokers needed to be alert to any indications that things were not as they should be. Demand for ship valuations had also significantly increased in recent months.

Turning to specific topics, he began with a review of problems relating to the use of **e-mail as the primary means of communication between agents, brokers and principals**. These included system failures leading to loss of messages, claims for missed messages, use of incorrect e-mail addresses, the failure of messages to be delivered. Inappropriate use of the “Reply” and “Reply to All” buttons was also an increasingly common reason for claims against agents and brokers. All companies should, he said, have robust procedures for filing messages, acknowledging/confirming receipt, back-up against system failures and other issues, and individuals should ensure that their own procedures and actions are appropriate. A regular check of spam filters and junk mail folders for misdirected messages is also recommended.

One area where failures in e-mail procedures can result in significant claims against brokers is in **handling demurrage claims**. Charterers are increasingly placing responsibility on the broker to handle such claims correctly, particularly in relation to ensuring safe receipt. Such claims are subject to time bars and a failure to notify a claim in due time will result in the claim being passed back to the broker. In some cases, the files exchanged were rejected by the receiving mail server due to their size and no notification was received by the sender. Positive action to verify safe receipt – by phone or by separate e-mail – is therefore encouraged. **Mr. Jamieson** said he was currently involved in a case to try and establish where the responsibility for non-receipt by reason of rejection of messages by e-mail servers lies.

The issue of chartering brokers being required to sign principal’s **Terms and Conditions** documents was also discussed. He said there were no standard formats for such documents and whilst they may assist in clarifying the liabilities and responsibilities of the broker and the principals – thus leading to less confusion about responsibility for uninsured costs – the broker does need to exercise care to ensure that they do not bind him to accept additional responsibilities above or beyond those considered to be acceptable practice. The current state of the market is likely to lead to an increase in claims on the broker for misrepresentation of the facts or inaccurate statements – particularly in relation to the financial standing of parties to the contract – and again brokers must ensure that any statements made can be separately verifiable.

Even the support of an agreed set of Terms and Conditions cannot absolve the broker from the responsibility to act professionally at all times, but they can assist in limiting liabilities for genuine mistakes.

Mr. Foord enquired if ITIC had issued any guidance to independent liner agents in respect of their liabilities and responsibilities following the abolition of the conferences and the enhanced application of EU competition law in the maritime sector. **Mr. Jamieson** said ITIC was not in a position to give such guidance so referred delegates to the presentation given at the ITIC Forum 2008 by Marjorie Holmes of Reed Smith which, he said covered the role of the agent in considerable detail. The presentation can be downloaded from ITIC’s website, www.itic-insure.com, go to the Forum 2008 page and see under “Ship Agency”.

The **Chairman** thanked **Mr. Jamieson** for an excellent presentation that had raised some important issues for the delegates.

6. Member Issues

No issues had been put forward for discussion from the membership but the **General Manager** referred delegates to the International Group of P&I Clubs' recent issue of its revised standard charterparty clause covering financial responsibility for oil pollution in accordance with the Bunker Convention that comes into force on November 21st 2008. He said that brokers and agents should be aware of the new convention and the obligations and liabilities it places upon owners and operators. A copy of the clause is attached to these minutes.

The **Chairman** then issued a warning to delegates that illegal copies of certain charterparty forms were in circulation and brokers and agents should be alert to ensure that forms being used are genuine.

7. BIMCO and INTERTANKO Reports

The **Chairman** invited **Mr. Stes** to deliver a report on recent activity by the BIMCO Documentary Committee. He covered the following:

Revision of Forms – the following forms are in the process of, or have completed, revision:

- SHIPMAN 98 – currently under review ahead of updating. It is not expected there will be any fundamental changes to the form, although it will make reference to changes in the management company during the currency of the management contract
- BARGEHIRE 94 – a minor revision to amend the insurance and liability provisions. The form is expected to be adopted at the Doc. Ctee. meeting in November 2008
- TOWCON and TOWHIRE – a modest update to incorporate current practice and relevant legislation. Adoption is expected in November
- CHEMTANKVOY – a major revision reflect current practice in the chemical trades and to incorporate the current versions of appropriate BIMCO Standard Clauses. Adoption is scheduled for November, following which the form will be renamed BIMCHEMVOY to bring it into line with the other chemical form, BIMCHEMTIME
- HEAVYLIFTCON Booking Note – a new document aimed at providing a parcel booking note specifically for the heavy lift sector (previously parcels have been booked using heavily modified forms of the CONLINE booking Note. The main terms have now been agreed and it is expected the new form will be adopted in May 2009
- HEAVYCON – this form will be available via the IDEA system from November
- FERTICON – also to be uploaded to IDEA in November
- NEWBUILDCON – interest in the new form is very high and BIMCO will continue to promote its use through a number of seminars through the rest of this year and early next

Standard Clauses – The following clauses are in the process of, or have completed, revision:

- Bunker Clause for Time Charterparties – a first draft of the clause will be presented in January 2009
- Stevedore Damage and Dunnage Removal – now published following minor revisions
- Bunker Clause for time charterparties – revision to develop a comprehensive clause for use across all time charterparties is now ongoing
- Advanced Manifest System (AMS) – modest revision underway in the light of operational considerations
- Himalaya Clause – the revised clause has been completed by the International; Group of P&I Clubs and is now awaiting BIMCO's endorsement, due to be considered at the November meeting

The **Chairman** then invited **Mr. Knudsen** to report on the activities of the INTERTANKO Documentary Committee. A copy of his report is attached to these minutes.

The **Chairman** thanked both **Mr. Stes** and **Mr. Knudsen** for their comprehensive reports. She then asked for questions from the floor.

Mr. Masucci raised the issue of the presentation of Notice of Readiness under the Baltimore Form C when the vessel was at anchor, but otherwise in all respects ready to load cargo.

Currently the form does not allow NOR to be tendered at anchor so the vessel has to go alongside to tender, this incurring additional costs/time etc. **Mrs. Collins** said that ASBA were aware of this fact and indeed vessels were required to go alongside to tender NOR, even if it was then required to proceed to sea again. She said, however, that this requirement was well-known and so it was assumed that the additional costs/time would be recognised in the freight rate. Certainly owners' brokers should be aware of the requirement and make provision in their freight indications.

8. Date and Place of Next Meeting

The **Chairman** advised the next meeting would be held in Cape Town, South Africa as part of the 2009 Annual Meeting.

As she was stepping down from the Chairmanship of the Committee at the Council Meeting, she took the opportunity to thank her Vice-Chairman, **Mrs. Collins**, and colleagues for their support during her term of office. He then pledged his support to the incoming Chairman and wished her well.

The **President** then thanked the **Chairman** for her long and excellent service to FONASBA, both as a member of the Executive Committee and Chairman of the C&D Committee. The delegates also expressed their thanks by means of a round of applause.

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

JCW/11.2008