

FONASBA

LINER & PORT AGENCY COMMITTEE MEETING OCTOBER 18TH 2001 – HILTON HOTEL ANTWERP

Present: Mr. J.A. Good – Chairman, Liner & Port Agency Committee
Mr. B. D'Orey – President

C. Alogoskoufis	Greece	L. Lindebäck	Sweden
E. Bandelj	Slovenia	A. Lobadowski	France
H. Duc Bang	Vietnam	U. Masucci	Italy
V. Banovic	Montenegro	C. Meyeraan	Netherlands
A. Belmar da Costa	Portugal	Mrs. G.C. Noer	Norway
L.A. Carvalho	Brazil	P. Lopes D'Oliviera	Brazil
R. Corrias	Italy	C.P. Papavassiliou	Cyprus
R.J. Davies	Great Britain	I. Pires Neto	Brazil
T. Delbeke	Belgium	A. Pérez-Maura	Spain
P. Demeter	Hungary	T. Rehder	Germany
R. De Meyer	Belgium	M. Ronayne	Ireland
D. Dobrev	Bulgaria	V.M. Simoes Pinto	Brazil
S. Digre	Intertanko	P.G.D. Smith	ITIC
M. Duin	Netherlands	A. Stove Lorentzen	Norway
Mrs. B. Fletcher	Great Britain	M. Tudor	Croatia
G.G. Findlay	Brazil	V. Vaichekauskas	Lithuania
M. Froio	Brazil	A. van den Hoist	Netherlands
G.J. Heinonen	Finland	R. Vermeersch	Belgium
M.J. Hennerbry	Ireland	R. Veselko	Slovenia
J. Hunter	Belgium	N.A. West	South Africa
T. Iigaki	Japan	S. Winger	USA
G. Georgopoulos	Greece	G. Wramfelt	"The Shipbroker's Register"
A. Houtved	Denmark		Great Britain
E. Itoh	Japan	P.J. Wood	Taiwan
K. Kuusela	Finland	R. Yu	
F. LeBars	France		

In Attendance: Mr. J. C. Williams – General Manager

Item **Action**

1. President's Welcome

The **President** welcomed all those present to the meeting of the Committee and then handed over to the **Chairman**.

2. Chairman's Welcome

The **Chairman** welcomed those present, promising an interesting meeting. He also advised that apologies for absence had been received from Volkert Knudsen, the Vice-Chairman of the Liner & Port Agency Committee.

3. Minutes of the Last Meeting Held in Paris October 19th 2000

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

4. Matters Arising

There were no matters arising that were not otherwise covered in the agenda.

5. Range Committee Reports

The **Chairman** asked for reports from the Range Committees, starting with **BRISCOM**. **Mr. Hennebry** referred delegates to the report that had been tabled **copy attached**. He also made specific mention of the establishment of the Irish Maritime College, which will be operational from 2002, and the possibility that the Irish Maritime Development Office may consider the introduction of an Irish tonnage tax.

On behalf of **CNAPSCO**, **Mr. Hunter** introduced **Mr. Robert Vermeersch**, President of the Antwerp Shipping Federation, who made a statement regarding the future development of liner agency and also membership of national associations by major liner agencies, **copy attached**.

Mr. Yu, representing Taiwan (**Far East**), tabled a written report on the economic and trade developments in the Far East, **copy attached**. This was followed up by a verbal statement from **Mr. Iigaki** of Japan. He said that competition in the Japanese shipping and agency sectors was fierce but in spite of this the outlook in the medium term was optimistic. He said the 15% devaluation of the yen against the US Dollar had reduced the cost of agency services as well as labour costs, with the consequent increase in competitiveness. It was hoped that the improvement would continue.

Mr. Papavassiliou, Chairman of **MABSA**, reported that his Committee had met on Tuesday. He advised that the wide spread of the membership prevented the Committee meeting other than at the Annual Meeting and so all other correspondence was by e-mail. The Committee had looked at a number of issues including agency fees (see agenda item 8), short sea shipping, regulation and protection of the profession, finance and membership. There was also a suggestion that a small sub-committee should be formed to cover the land-locked member countries such as Austria and Hungary. On short sea shipping, he said that action was being taken to develop this further, particularly in the Aegean and Adriatic Seas, and members in Greece were working closely with the Greek Short Sea Shipping Promotion Centre.

The Committee was also looking at how agents can protect themselves against action by Customs authorities where cargo, particularly contraband, had been mis-declared or has been short-shipped. He said a report would follow. **CPP**

Mr. Stove-Lorentzen reported on behalf of the **Nordic** countries. He said membership levels in all associations were either stable or slightly down on last year but remedial action was being taken. He said overall the mood of the industry was positive with fleet sizes and cargo volumes increasing steadily. A new regime of tax breaks for crew-members had recently been introduced in Sweden but high costs were still forcing vessels out of the Finnish flag. A down-turn in transit traffic to Russia was also having an adverse impact on trade in Finland but it is expected that the government will take action in the near future. In Norway, a number of locally based companies have been taken over by outside interests. Finally the adoption of the Schengen agreement by Denmark appeared to be working well.

The **USA** report was presented by **Mr. Winger**. He said that the economic situation was well known by all and this, of course, was having an adverse effect on the activity of ASBA members. From the Association's point of view, it was very busy on a number of issues, some of which related to increased security measures following September 11th. ASBA is working with other organisations issues such as vessel documentation, immigration and the new regulations regarding Coast Guard

inspections He thanked FONASBA for supporting the campaign on Mississippi tug operations and advised that currently ASBA are working with Intercargo with a view to raising the funds necessary to take the matter through the courts.

Mr. Digre of Intertanko, said that his organisation was following the tug situation closely and asked what action, if any, had been taken in Florida. **Mr. Winger** said he would check and reply. **SW**

Whilst there is presently not a formal range committee in South America, the **Chairman** asked the Brazilian delegation if they wished to report on activities locally. **Mr. Findlay** for FENAMAR, said that there were a number of major changes taking place in Brazil. Firstly, the government was in the process of privatising a number of ports and the process was being helped by close cooperation between all parties.

Regrettably, however, the outcome of another government initiative, a drive to improve standards of operations, had been the imposition on agents of heavy fines for relatively minor errors, even if these were not directly the fault of the agent. Unfortunately the delay in issuing the fines prevented agents from obtaining cover for these fines from owners. FENAMAR was leading a campaign to obtain an injunction and in due course aimed to have the fines repealed.

Finally, **Mr. Findlay** said he would report on the NVOCC situation under agenda item 10.

6. Standard Liner & General Agency Agreement

(a) Revision of Clause 6.04

The **Chairman** reminded delegates that BIMCO had refused to approve the document at their last Documentary Committee meeting following an objection to clause 6.04 from a Scandinavian P&I Club. The Liner Panel had therefore re-drafted the clause (**circulated to all associations ahead of the meeting**) which, it was hoped, would be acceptable to BIMCO. The Executive Committee meeting earlier this week had also approved it. If the revised clause did not satisfy BIMCO, he felt FONASBA should go ahead and issue the document without it.

Mr. Smith, who had attended the BIMCO meeting, said that there was some surprise that the agreement had been rejected but advised that some other liner agreements did not mention redundancy provisions or specifically excluded it. He also felt that BIMCO approval was necessary for a document of this type. He also said he felt the document had the support of the Chairman of the Documentary Committee, Mr. Stelios Niotis and the Deputy Secretary-General of BIMCO, Mr. Soren Larsen.

The meeting then debated the proposed amendment at length. Arguments in favour included the need to give agents as much protection as possible and also the feeling that it is easier to take a clause out of an agreement than to have another inserted. Counter-argument brought in concerns about the legality of the clause under the Commercial Agents Directive and the feeling of some delegates that the clause could raise problems in countries where no national rules on redundancy existed.

Finally, following two ballots, it was agreed by a majority of 19 votes to 6 that a compromise clause, using elements of the new clause and of the 1993 version, would be put to Council for approval.

The proposed wording is as follows:

“The basis of compensation shall be the monthly average of the commission and fees earned during the previous 12 months or if less than 12 months have passed then a reasonable estimate of the same, multiplied by the number of months from

the date of cancellation until the contract would have been terminated in accordance with clause 1.01 above. Furthermore the gross redundancy payments, which the Agent and/or Sub-Agent(s) is compelled to make to employees made redundant by reason of the withdrawal or suspension of the Principal's service, or termination of this Agreement, shall also be taken into account".

(b) Remuneration Frameworks

The **Chairman** reminded delegates of the decision taken in Paris to include a remuneration framework document as part of the Standard Liner & General Agency Agreement. It had been very difficult to draft a framework that covered all forms of remuneration but the Liner Panel felt that the present draft, with its opportunities to generate income from sources other than freight commissions, was a suitable compromise.

7. Adding Value to Liner Agency Operations

Following mention in the previous item of declining freight commission income, the **Chairman** asked **Mr. Davies**, Managing Director of Medite Shipping Co (UK), one of the UK's largest independent liner agencies, to lead discussion on the opportunities for liner agents to move away from the traditional commission based structure.

Mr. Davies began by reminding delegates of the very steep falls in freight rates over the past twenty years and the obvious impact this had on liner agency earnings. Given the continuing downward trend in rates, it was imperative that agents take every opportunity to supplement this declining income from other sources.

He said that there were a number of areas where agents already provide services to, or on behalf of, the principal for which they did not receive compensation. These included the provision of maritime statistics, notification of arrival to consignees, the issuing and particularly the changing or amendment of documents. All these services were necessary to the operation of the line and in the provision of a service to its customers and therefore the agent has a right to expect some form of remuneration.

Principals should also recognise that their reputation is in the hands of their local agent, as is the source of their cargo. Given that the local agent is in most cases the direct link between the principal and the consignor/consignee, it is vital that the principal has a direct interest in the level of staff training provided by the agent to enhance that link and should be prepared to contribute to it.

The agent should not, however, just look to his principal for income, he must go out and develop other revenue sources. These can include services outside the port gate, such as warehousing, transport services, and, if appropriate, the agent should be prepared to provide the full customer to vessel service. Furthermore, the agent should act as the local representative of the principal, providing him with a regular flow of information on local conditions and developments.

Whilst the impact of recent moves by port authorities to offer inclusive agency services might be limited in liner agency by their inability to offer marketing and cargo generation services, it should always be borne in mind that there are other agents willing to take on another principal and the option for the line to establish its own agency operation is always on the horizon. The agent should therefore ensure that he is providing the best possible service to his principal – and that his principal is fully aware that is the case.

The delegates discussed the presentation and a number of points, such as the provision of additional services and the threat posed by line-owned agents, were commented on further.

8. MABSA Survey of Agency Fees in Mediterranean Region

Mr. Papavassiliou advised delegates that his Committee had picked up on the suggestion made by Greece in Paris that a survey of agency fees be carried out amongst FONASBA members. Whilst it was agreed that a world-wide survey would be so wide ranging as to be meaningless, it was suggested that a localised survey might be of benefit. His range committee had therefore asked all its members to respond and nine had done so. The results of the survey would be circulated to all FONASBA members, **copy attached**. The question of discounts was raised but **Mr. Papavassiliou** said that where possible average levels of discounts had been taken into account in the survey.

9. Statutory or Official Recognition of Agents Associations

The **Chairman** asked delegates to update the meeting on developments since Paris.

For **Belgium**, **Mr. de Meyer** said that whilst efforts to bring this long-running action to a conclusion had continued, there was still no result. The Ministry of Transport had, however, agreed to discuss licensing but it wanted to include the whole transport chain. ASV was therefore in discussion with other organisations and it was hoped that there would be better news to report next year.

Mr. Vaichekauskas reported that in **Lithuania**, the government had decided to introduce licensing and it was encouraging to note that licenses would only be granted to those companies endorsed by the Lithuanian Association. The Association was therefore contacting all those companies where were not presently members. The duration of licenses will initially be for three years but on some cases a licence may be awarded for one year only.

The **French** Government had belatedly decided to introduce licensing and **Mr. LeBars** said some assistance from FONASBA may be required.

10. NVOCC Cargo Clearance in Brazil

Mr. Findlay said that the situation was relatively unchanged since last year in spite of vigorous efforts by FENAMAR and other organisations. It is hoped that the recent decision by the government to introduce an electronic system for the collection of certain taxes and dues may drive the NVOCC's out as under the new system the bona fide agents will have control of the bills of lading. FENAMAR will be closely involved in the development of this new system and will report further progress in the near future.

Following local discussion on the topic, he asked if FONASBA members included NVOCC's in the local associations. The **Chairman** advised that FONASBA could not rule on the membership of local associations but **Mr. Masucci** said that FEDERAGENTI does have some NVOCC's as associate members.

11. Any Other Business

Turkey had raised the subject of the significantly increased levels of war risk insurance being applied across the board in the wake of September 11th and asked if FONASBA had taken a position in this respect.

It was agreed that whilst such increases should only be applied in cases where there was a proven risk and furthermore at realistic levels, it was felt that this was more properly a matter for ship and cargo owners associations, such as BMCO, Intercargo, than it was for agents. It was acknowledged that these organisations had already voiced their strong condemnation of the actions being taken by insurers.

12. Date and Place of Next Meeting

The **Chairman** advised delegates that the next meeting would be held on Thursday, October 10th 2002 in Rio de Janeiro.

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

JCW 11/01