

# FONASBA

## MINUTES OF THE PLENARY MEETING OF THE LINER & PORT AGENCY COMMITTEE HELD AT THE RITZ CARLTON HOTEL ISTANBUL AT 9.30 a.m. ON THURSDAY, OCTOBER 16<sup>th</sup> 2003

### Present:

Mr. J.A. Good  
Mr. U. Masucci  
Mr. M. Duin

Chairman  
President, FONASBA  
Vice Chairman

Mr. P. Campbell	Argentina	Mr. T. Theologitis	Greece
Mr. R. Garcia Piniero	Argentina	Mr. S. Finkei	Hungary
Mr. A. Wolf	Argentina	Mr. B. Szalma	Hungary
Mr. G. Gordon Findlay	Brazil	Mr. M. Gorgoni	Italy
Mr. M. Froio	Brazil	Mr. A. Guadalupi	Italy
Mr. O. Casado	Brazil	Mr. V. Tottorizzo	Italy
Mr. J.C. Gomes	Brazil	Mr. V. Vaicekauskas	Lithuania
Mr. R.F. Machado	Brazil	Mr. T. Iigaki	Japan
Mr. I. Pires Neto	Brazil	Mr. E. Itoh	Japan
Mr. V.J. Simoes Pinto	Brazil	Mr. T. Saita	Japan
Mr. D. Pendjuhoff	Bulgaria	Mr. A. Mantrach	Morocco
Mr. M. Tudor	Croatia	Mr. P. Bohaugen	Norway
Mr. A. Ellinas	Cyprus	Mrs. G.C. Noer	Norway
Mr. E. Kouzapas	Cyprus	Mr. A. Belmar da Costa	Portugal
Mr. C.P. Papavassiliou	Cyprus	Mr. O. Lazarashvili	Russia
Mr. G. Sarris	Cyprus	Mr. V. Banovic	Serbia & Montenegro
Mr. A. Houtved	Denmark	Mr. E. Bandelj	Slovenia
Mr. G.J. Heinonen	Finland	Mr. N. Warner	South Africa
Mr. K. Kuusela	Finland	Mr. A. Perez-Maura	Spain
Mr. F. LeBars	France	Mrs. B. Blomqvist	Sweden
Mr. A. Lobadowski	France	Mr. L. Karacelik	Turkey
Mr. K. Bültjer	Germany	Mrs. J. Cardona	USA
Mr. P.J. Wood	Great Britain	Mr. S. Winger	USA
Mr. S. Angelopolou	Greece	Mr. S. Digre	Intertanko
Mr. G. Georgopoulos	Greece	Mr. G. Wramfelt	The Shipbrokers Register
Mr. A. Symiakos	Greece		

### In Attendance:

Mr. J.C. Williams  
Mr. S. Larsen

General Manager  
Deputy Secretary General BIMCO

### Item

#### 1. President's Welcome

### Action

The **President** welcomed all those present to the plenary meeting of the Liner & Port Agency Committee.

## 2. **Chairman's Opening Remarks**

The **Chairman** also welcomed all those present and in particular those attending the meeting for the first time. He also thanked **Mr. Larsen** of BIMCO for having made time in his schedule to attend the FONASBA Annual Meeting.

He then advised the meeting that **Mr. Duin** had recently accepted the invitation to become Vice Chairman of the Committee and he looked forward to his support and input.

Details of the membership of the Liner & Port Agency Advisory Panel had been circulated with the explanatory notes and the **Chairman** thanked them all for their input over the past year.

He also acknowledged the continuing trend in the number of shipping lines setting up their own agency networks and called on independent agents to resist this by using their local knowledge to provide additional services to their principals through expansion into logistics and other related areas. He said the local knowledge and contacts available to an agent added significant value to the service provided to its principals and every effort should be made both to publicise and capitalise on this asset.

## 3. **Minutes of the Previous Meeting held October 11<sup>th</sup> 2002**

The minutes of the meeting had been circulated previously. As no comment had been raised previously or at the meeting, the minutes were taken as **approved**.

## 4. **Matters Arising**

The **Chairman** said that although the Advisory Panel had considered developing a FONASBA position paper on the need for some agents to provide bonds or guarantees, (agenda item 8), it was felt that to do so could draw the attention of principals to the practice with the result that those principals that do not presently require these instruments may subsequently do so. Any member being asked to provide such guarantees was therefore recommended to contact the Advisory Panel through the Secretariat in London.

## 5. **Range Committee Reports**

### BRISCOM

No report had been received and the **Chairman** advised that as and when one were received it would be circulated.

### FAR EAST

The Far East range committee report had been tabled and **Mr. Iigaki** gave a brief verbal summary. A copy of the report is attached to these minutes.

### MABSA

**Mr. Papavassiliou** advised that the MABSA Range committee had met on Tuesday 14<sup>th</sup> and a written report would follow for circulation to all member associations.

During a very well attended meeting the committee had considered the impact on its members of a number of issues including port security (the US Customs 24 hour rule and the ISPS Code), the draft Directive on Access to Port Services, cruise vessel charges in Malta, agency tariffs and remuneration and port state control. The widening of the committee membership as a result of the FONASBA membership drive in the eastern Mediterranean had also been discussed.

Finally, after three years as Chairman, **Mr. Papavassiliou** had decided to step down and **Mr. Bandelj** had been unanimously appointed to serve as Chairman for the next three years.

The **President** congratulated **Mr. Papavassiliou** on his efforts to ensure an active committee and wished **Mr. Bandelj** success during this term of office. He also suggested that a copy of the range committee report should be sent to all associations in the region, even if not members of FONASBA, as evidence of the direct and relevant regional action being taken within the Federation.

#### NORDIC

A copy of the report of the Nordic Committee had been circulated previously and **Mr. Houtved** gave a brief verbal summary.

**Mr. Digre** supported the concerns expressed by the Nordic committee with regard to the carriage of oil by Russian vessels and oil transfer operations between vessels being carried out in restricted waters in the Baltic region. He said Intertanko had already raised these issues with the relevant authorities.

#### USA

The USA range committee report had been tabled and **Mrs. Cardona** gave a brief verbal summary. A copy of the report is attached to these minutes.

In addition, and with regard to the recent FONASBA surveys of agency fees, she said the US was unable to respond to such surveys on legal grounds.

She also reported that whilst licensing of agents and brokers was not required in the USA, ASBA had recently decided to promote the adoption of minimum standards of professionalism and financial security for its members and to encourage them to ensure their staff have adequate training.

The issue of US action on port and cargo security, including the bio-terrorism provisions, was debated at length and it was agreed that a small sub-committee be set up within the auspices of the Liner & Port Agency Committee with a view to both representing the views of the entire FONASBA membership and also to ensure that information on developments in US security policy was passed back to FONASBA as soon as possible. The committee will be led by **Mrs. Cardona**, assisted by **Mr. Bültjer**, representing ECASBA, and **Mr. Campbell**, representing Latin America. **Mr. Digre** of Intertanko also offered to assist as a consultant.

**JAG**  
**/JC**

**Mr. Larsen**, for BIMCO, recommended that FONASBA should also endeavour to meet with US Customs as BIMCO had found this had major advantages in subsequent discussions on port security issues. He also said BIMCO would be pleased to assist the sub-committee in its work.

The **Chairman** thanked **messrs. Digre and Larsen** for their guidance and their offers to assist the sub-committee were much appreciated.

#### LATIN America

The Latin American range committee report had been tabled and **Mr. Froio** gave a brief verbal summary. A copy of the report is attached to these minutes. He also reminded the meeting that an application for membership had been received from Mexico and this would be subject to a vote at the Council meeting. Furthermore, he advised that ASBA had expressed a desire to join the new inter-American committee CIANAM.

**Mr. Campbell** also reported briefly on improvements in the Argentine economy and shipping

industry, particularly mentioning the developing cruise industry in the Patagonian region.

**6. a) Joint Ventures**

The **Chairman** reminded the meeting that the increasing practice of agents entering into joint ventures with principals had been discussed during the Rio de Janeiro meeting and it had been suggested that FONASBA develop a draft standard agreement. Subsequent investigation had revealed that this was too complex and variable a matter to be covered by one document, particularly as local employment and other social legislation would have a significant impact on any such agreement. It was agreed, however, that some form of guidance would be useful for members asked to enter into joint venture agreements. An example of a JV Agreement had been circulated to all members.

**JAG**

**b) Unilateral Agency Contract**

The document provided by VRC Rotterdam was discussed and it was agreed by all present that its bias in favour of the importer and the obligations it placed on agents made it the sort of agreement that agents should guard against. The **Chairman** said that he and his Advisory Panel would look further into the issue and would be willing to issue guidance on such contracts.

**7. Liner Agents Remuneration**

The **Chairman** reported that a number of additional items had been passed to him for inclusion in the list of charges previously circulated. These included a security charge, dangerous goods fee and charges for noting protest and arranging health inspections.

The meeting then put forward a number of other possible charges. **Mr. Pérez-Maura** suggested that the increasing number of joint ventures also gave agents in such a situation the opportunity to levy fees on other parties, such as shippers and receivers.

**JAG/  
JCW**

The **Chairman** said a revised list of headings – that would also indicate whether the fees were for owners/principals or customers - would be circulated in early course.

The discussion then moved on to the question of agency tariffs and a number of members called for FONASBA to circulate member associations' tariffs for information. Others called for information on the actual fees, rather than the tariffs, to be circulated as these would give a more accurate view of the actual level of income.

The **General Manager** warned that FONASBA must take extreme care when circulating information of this kind. As a European based body, FONASBA is subject to European competition law and so any action in this regard must be taken in compliance with the appropriate legislation. Certain avenues, such as carrying out a survey under the guise of "market research" were available and if these were applicable they would be utilised. The **President** said he fully appreciated the desire of members to be able to openly exchange views on subjects such as this but reiterated the need to comply with competition and anti-trust legislation.

**8. Agents' Statutory Liability for Port Charges**

A copy of the survey of European agents' liability for port charges carried at the request of FACAM Paris had been circulated previously. The meeting fully supported the expansion of this survey to cover all FONASBA member countries and all associations were asked to respond by the end of November.

The **General Manager** reminded those present that the survey only covered charges that agents

were liable for under national commercial or shipping law. Those liabilities applying through the use of a particular port of facility, for instance, were not covered in the survey, although a brief note on such charges could be included.

**9. Greece – Agents Liability to Customs Authorities**

**Mr. Angelopolou** reported that since the Rio de Janeiro meeting five cases relating to the agents alleged liability for misdeclared cargo had been heard in the Greek courts, three in Piraeus and two in Salonkia. In all five cases, the court had found in favour of the agent. Whilst it was expected the customs authorities would contest the rulings, it was thought likely the initial decisions would be upheld. He said that once the matter had finally been settled he would report further to FONASBA.

With regard to agents being charged storage by port authorities for containers impounded by customs, he said ten cases had been heard and in every case the agent had won.

**Mr. Belmar da Costa** said that a similar situation had developed in Portugal but it was hoped this could be resolved locally and the same outcome achieved.

**10. Any Other Business**

**Mr. Wramfelt** advised that action had been taken recently in Sweden by local seamen's unions over levels of wages paid to Polish crew on a Danish owned, Swedish registered vessel operating in the Baltic. The vessel had been held by the Swedish seamen's union, which claimed the crew should be paid Swedish rates. The union had expressed concern that this matter must be resolved before the ten applicant members of the EU completed their application procedures.

Irrespective of the outcome of this particular case, **Mr. Papavassiliou** said he thought it likely that all applicant countries would have to abide by EU employment law before becoming full members of the Union.

**11. Date and Place of Next Meeting**

The **Chairman** reported that the next meeting of the Liner & Port Agency Committee would take place in Budapest in October 2004.

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

JCW/10.03