

**MINUTES OF THE
CHARTERING & DOCUMENTARY COMMITTEE
PLenary MEETING HELD AT
THE JW MARRIOTT HOTEL
LIMA
AT 9.00 a.m. ON WEDNESDAY, 23rd OCTOBER 2013**

Present:

Mr. F. Carlini FICS	Chairman
Mrs. M. Collins	President FONASBA
Capt. N. Hristov	Vice Chairman

In Attendance:

Mr. J.C. Williams FICS	General Manager
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Mr. R. Garcia Piñero	Argentina	Mr. T. Iigaki	Japan
Mr. J. Dulce	Argentina	Mr. T. Saita	Japan
Mr. G. Hernandez	Argentina	Sñr. J. Arriaga Vega	Mexico
Mr. S. Diaz Mathé	Argentina	Sñr. M. Andrade Gomez	Mexico
Mr. A. Zanin	Brazil	Sñr. C. Bennett Lira	Mexico
Mr. G. Gordon Findlay	Brazil	Mr. V. Banovic	Montenegro
Mr. W. Rocha Jnr.	Brazil	Mr. A. Mantrach	Morocco
Mr. P. Alves	Brazil	Sñr. L. Franchy	Peru
Mr. J. Pantoja jnr.	Brazil	Sñra. O. Gajate	Peru
Mr. M. Dos Santos	Brazil	Sñr. P. Alfaro	Peru
Ms. M. Lachmann	Brazil	Sñra. X. Orostegui	Peru
Capt. J. Karmelić	Croatia	Sñr. E. Sanchez	Peru
Mr. C.P. Papavassiliou	Cyprus	Sñr. A. Morales	Peru
Mr. T.D. Paulsen	Denmark	Sñr. M. Wolf	Peru
Mr. G.J. Heinonen	Finland	Mr. A. Belmar da Costa	Portugal
Mr. C. Bele	France	Mr. E. Bandelj	Slovenia
Mr. A. Gourdon	France	Sñr. J. Fernandez	Spain
Dr. A. Geisler	Germany	Mrs. B. Blomqvist	Sweden
Mr. J. A. Foord FICS	Great Britain	Mr. W. Stewart	USA
Mr. N. Ingle	Great Britain	Mrs. J. Cardona	USA
Mr. B. Szalma	Hungary	Mr. K. Stes	BIMCO
Mr. G. Masucci	Italy	Mr. A. Jamieson	ITIC
Mr. V. Totorizzo	Italy	Mr. G. Wramfelt MICS	Shipbrokers' Register
Ms. G. Reghellin FICS	Italy	Observers	
Ms. L. Tropia	Italy	Mr. W. Delvalle	Panama

This meeting was undertaken in compliance with FONASBA's Anti-Trust and Competition Policy and at no time were any discussions undertaken in relation to: fixing of terms, prices or rates, matters relating to particular customers or suppliers, boycotting or black listing particular customers or suppliers, dividing markets or customers or otherwise seeking to distort competition

Item

Action

- 1. President's Welcome, Chairman's Opening Address**
The **President** welcomed all those present to the 2013 Chartering & Documentary Committee Plenary Meeting. The **Chairman** also gave his welcome to all those present and also expressed his thanks to APAM for having hosted this meeting.

The **General Manager** reminded those present that the meeting was being held in accordance with FONASBA's Anti-Trust and Competition Policy, which was read out for the avoidance of doubt.

2. **Minutes of the Previous Meeting**

The minutes of the meeting held in Venice on 10th October 2012 had been circulated previously. With no comments having been made at the meeting, or previously, the **minutes were approved.**

3. **Matters Arising**

None

4. **Chartering & Documentary Committee Market Reports**

The **Chairman** introduced the sector reports being presented as follows;

Dry Bulk – the **Chairman**

Container Shipping – Sñr. **Garcia Piñiero** (Argentina)

Project Cargo – the **Chairman**

River Transport – Mr. **Szalma** (Hungary)

Short Sea Shipping – the **Chairman**

In addition to these regular market reports, the **Chairman** also invited Sñr. **Contreras** to present a report on the current state of maritime transportation in Peru.

The **Chairman** thanked all the presenters for their reports, copies of which are available for download from the Members' Area of the FONASBA website: www.fonasba.com. He also reiterated the **President's** desire, expressed at the Venice meeting, to expand the range of reports every year and invited delegates with specialist knowledge of other sectors to volunteer to deliver presentations at the next meeting.

5. **ITIC Claims Review**

Once again, Mr. **Jamieson** delivered an excellent and entertaining presentation on the issues that are currently giving rise to claims from ship agents and ship brokers.

He began his presentation by reminding delegates that ITIC's predecessor club was originally established in 1920 to help its members pursue unpaid commissions and this remained a core activity today, with cases running at record levels. Managing bad debts should be a priority issue for brokers and agents and although giving support to a principal by extended payment deadlines is a valid commercial objective, brokers and agents must recognise the risk of leaving it too late before taking recovery action. Citing a recent high level bankruptcy, he said that whilst ITIC had managed to secure something for members who had claimed before the event, those that came after would probably be disappointed.

In many countries agents are obligated to the port authorities to cover certain disbursements and where the agent believes those costs cannot be recovered from the principal they should take action to cover themselves. Some of these obligations relate to costs which may arise at the last moment, due for example to mechanical failure of the vessel or similar, and as there is no opportunity to include same in the disbursements account, it is vital the agent notifies their P&I club the moment the incident occurs.

Given the state of some national economies, statutory authorities are looking very closely at compliance and ITIC is seeing evidence of significant penalties being levied for relatively minor infringements. Agents and brokers should therefore ensure they are fully compliant with all their statutory obligations.

Bogus crew change and other immigration related frauds are increasing again and ITIC is reiterating its warning to agents to carefully check with whom they are dealing when receiving requests to organise visas or crew changes.

Supporting FONASBA's education initiative, Mr. **Jamieson** said that brokers and agents should understand the legal as well as commercial implications of their actions, citing as examples a failure to notice a time limit on a reply (which led to the ship being fixed elsewhere) and the perennial issue of the liability for an agent on being requested to issue switch bills of lading.

Whilst a number of FONASBA member associations issue their own terms and conditions for their shipbroker members, their use across the sector is limited, leaving brokers open to claims and liabilities which they could easily avoid or limit by issuing suitable terms. Mr. **Jamieson** therefore referred delegates to the release of the ITIC Terms and Conditions for Shipbrokers, which are available for use by FONASBA members.

A topic addressed last year but still relevant is the matter of brokers making statements regarding the financial or other standing of their principals. Default by one of the parties can lead to another party seeking damages wherever they can be found and statements regarding the standing of the principal made by the broker can be used against him, for instance by the injured party claiming they only entered into the agreement on the basis of the broker's recommendations that his principal was "sound". Care should therefore be taken when making any statement regarding the standing of a principal.

Concluding, Mr. **Jamieson** also mentioned professional indemnity claims, for example a broker quoting the wrong vessel particulars or the agent using an incorrect set of tide tables, just two examples of simple errors but where the cost to the company can be significant.

The **Chairman** thanked Mr. **Jamieson** for another detailed and thought provoking presentation.

The **Chairman** then invited Mr. **Delvalle** to update the meeting on the current status of the Panama Canal project. Mr. **Delvalle** thanked the **Chairman** for the opportunity to address the meeting and thanked FONASBA, CIANAM and APAM for his invitation to be present at the meeting.

With regard to the canal project, he confirmed that due to a number of technical issues it was running some six months behind schedule and completion was now scheduled for March or April 2016, with commercial operations starting towards the end of that year, always assuming there were no further technical issues. In a change to current practice, he said that in the new locks tugs would enter with the vessels to provide motive power, instead of suing shore based tractor mules as in the current locks. The maximum size of vessels able to use the canal after completion of the project is anticipated to be 326 m LOA, 49 m beam with a maximum draft of 15 m, thus allowing 14,000 TEU container vessels to transit the canal.

Mr. Delvalle also confirmed that Camara Marítima de Panamá was in close contact with the Canal Authority and monitoring developments. At present the Authority has given no indication of the transit charges to apply once the new locks are in operation. *Post meeting note: An update report on the project issued by the Panama Canal Authority in January 2014 is attached to these minutes for information.*

9. **BIMCO and Intertanko Documentary Committee Reports**

The **Chairman** advised the meeting that for effective scheduling this item would be taken next. He therefore formally welcomed Mr. **Stes**, Chairman of the BIMCO Documentary Committee to the meeting and asked him to report on the Committee's activities over the past year. Thanking FONASBA for the invitation to attend and acknowledging the close and effective relationship between BIMCO and FONASBA, Mr. **Stes** then gave a detailed report on the centenary DC meeting in Paris in May, and the current schedule of documents, clauses and other instruments in the Committee's current work programme. He also highlighted the role of the **President** in the updating of the VOYLAYRULES document, see agenda item 6 below. A copy of Mr. **Stes'** report is attached to these minutes.

Unfortunately INTERTANKO were unable to be present at the meeting but their Legal Counsel and FONASBA representative, Ms. Michele White, had sent the organisation's apologies and provided a written report on its Documentary Committee's work in the past year. This was presented to the meeting by the **General Manager**. A copy of that report is also attached to these minutes.

FONASBA Education Survey Report

Due to a very tight programme in the ECASBA Plenary Meeting, it had been agreed to move **Capt. Karmelic's** report on the education survey to this meeting and so the **Chairman** invited him to present the results of the education survey at this time. The information presented is included in the overall education, recognition and licensing presentation and is available for download from the website.

In making his presentation, **Capt. Karmelic** said that the aim of the survey was to effect a baseline assessment of the current status of education and training currently available within FONASBA, upon which further developments would be based. In conjunction with the education pages on the website, the data would provide a useful resource through which those associations that do not provide their own education programmes, and the wider maritime community, could obtain information on those courses. He also reiterated that any further education and training course development would be undertaken by the member associations and confirmed that FONASBA itself would not undertake any such actions. Concluding his presentation he thanked all the contributing associations for their input.

The **Chairman** thanked **Capt. Karmelic** for carrying out such a detailed and extensive survey. He said FONASBA and its members were now much better informed as to what resources were available and that could only contribute positively to the Federation's commitment to raising standards and adopting best practice.

6. Revision of "VOYLAYRULES"

Following the reference in Mr. **Stes'** BIMCO DC report, the **Chairman** invited the **President** to report on the recent revision of the "VOYLAYRULES" document.

Before discussing the project, the **President** acknowledged the huge workload being undertaken by Mr. **Stes** and the BIMCO Committee and congratulated him on the significant and positive progress being made on a wide range of documents.

Moving to the project itself, she said that it had been a pleasure to be invited to participate and to work with the other members of the committee. As well as the official Baltic Exchange, BIMCO and CMI representatives, she also acknowledged the significant input from Grant Hunter and Donald Chard at BIMCO who had provided additional input. She said that correctly calculating laytime was a complex task with significant financial implications and therefore it was vital that all those involved had access to a comprehensive up to date and authoritative set of definitions. The update was therefore timely.

With the project now completed, BIMCO had organised a series of webinars and seminars to promote the new definitions to the industry and she recommended these to the membership.

The **Chairman** also endorsed the recommendation that all those involved with laytime calculations, agents as well as brokers, should review the new guidelines and also make use of the webinars that were available from BIMCO.

7. Revision of IMO Bulk Cargo Code

The **General Manager** updated the Committee on the recent work undertaken by IMO's Dangerous Goods, Solid Bulk Cargoes and Containers (DSC) sub-committee in relation to the ongoing review of the Bulk Cargo Code. He reported that discussions were still on-going in relation to the carriage of cargoes likely to liquefy in transit and further that every meeting of the sub-committee sees additional changes being proposed for a wide variety of cargoes, a total of more than 65 such documents having been put forward for the September 2013 meeting. Additionally this year the sub-committee had been asked to compile a list of materials harmful to the marine environment (HME's).

The Secretariat will continue to monitor developments and ensure the membership is kept advised on any changes of significance. For information, the DSC sub-committee has now been renamed the Carriage of Cargoes and Containers (CCC) sub-committee. It's inaugural meeting

will be held in early September 2014 and the BC Code revision is already on the provisional agenda.

8. FONASBA Document Revision

The **Chairman** said that preliminary discussions on the programme for reviewing – and where necessary updating or deleting – standard documents had already taken place within the Executive Committee and it had been agreed between himself and the Chairman of the Liner & Port Agency Committee that the first project to be undertaken would be to update the Standard Liner & General Agency Agreement 2001 (SL&GAA 2001). This was the most used FONASBA Standard document and whilst its usefulness as a stand alone liner agency agreement had declined in recent years, it is still used as a comparison and reference tool when agents are presented with draft agreements from principals, so there was merit in ensuring it remained up to date and relevant. The review would also look at expanding the agreement to cover other cargoes such as project, short sea and break bulk.

It was also agreed that it was logical that the L&PA Committee would have primacy on this revision and so Mr. **Foord** would take the project forward to his plenary meeting the following day.

With that project underway, the C&D Committee would review the rest of the Standard Documents in the coming months and recommend appropriate action.

10. C&D Committee Future Work Programme

The **Chairman** said that his Committee currently comprised the following members: Bahadir Tonguc – Turkey, Pierre Durot – Belgium, Mikael Jarlhammer – Sweden, Mohamed El-Mezouar – Morocco, Dinesh Tek – India and Philip Wood FICS – Great Britain but added that any other volunteers would be welcome. Individuals from the ship agency sector, with experience of developing agency documentation were also encouraged to join.

He also called on those present, and the wider membership, to nominate issues for the C&D Committee to scrutinise as he was keen to ensure that any documentary issues were brought to the attention of the Committee.

11. Any Other Business

None

12. Date and Place of Next Meeting

The **Chairman** advised that the next Plenary Meeting of the Chartering & Documentary Committee would take place in October 2014 in Gothenburg, with the date to be confirmed in due course. (*Post meeting note. The date has now been set for Wednesday, 8th October 2014.*)

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

JCW/01.2014