

**MINUTES OF THE
CHARTERING & DOCUMENTARY COMMITTEE
PLENARY MEETING HELD AT
THE CLARION POST HOTEL
GOTHENBURG, SWEDEN
AT 9.00 a.m. ON WEDNESDAY, 8th OCTOBER 2014**

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. D. Barrett	Great Britain
Mr. J. Dulce	Argentina	Mr. B. Szalma	Hungary
Mr. G. Hernandez	Argentina	Dr. Y. Sebba	Israel
Mr. S. Diaz Mathé	Argentina	Mr. V. Totorizzo	Italy
Mr. X van Engelen	Belgium	Ms. L. Tropia	Italy
Mrs. H. Bruggeman	Belgium	Mr. A. Banchemo	Italy
Mr. G. Gordon Findlay	Brazil	Mr. S. Carlini	Italy
Mr. W. Rocha Jnr.	Brazil	Mr. T. Iigaki	Japan
Mr. A. Zanin	Brazil	Mr. T. Saita	Japan
Mr. M. Neri	Brazil	Mr. M. Andrade Gomez	Mexico
Mr. Sun Jun	China	Mr. F. Orozco	Mexico
Mr. Liu Gaixin	China	Mr. V. Banovic	Montenegro
Mr. Wang Fengshu	China	Mr. A. Mantrach	Morocco
Mr. Xu Qingwen	China	Mr. B. Kjeldsen	Morocco
Capt. J. Karmelić	Croatia	Mr. A. Brune	Norway
Mr. C.P. Papavassiliou	Cyprus	Mr. A. Belmar da Costa	Portugal
Mr. E. Kouzapas	Cyprus	Mr. E. Bandelj	Slovenia
Mr. T.D. Paulsen	Denmark	Mr. N. Warner	South Africa
Mr. J. Sebbelin FICS	Denmark	Mr. M. Jarlhammar	Sweden
Mrs. N. Nandkumar	Dubai	Mrs. B. Blomqvist	Sweden
Mr. G.J. Heinonen	Finland	Mr. K. Turkantos	Turkey
Mr. J. Vikström	Finland	Mr. J. Kelly	USA
Mr. S. Lomborg	Finland	Mrs. J. Cardona	USA
Mr. C. Bele	France	Mr. S. Larsen	BIMCO
Mr. A. Gourdon	France	Ms. M. White	INTERTANKO
Dr. A. Geisler	Germany	Mr. A. Jamieson	ITIC
Mr. J. A. Foord FICS	Great Britain	Mr. G. Wramfelt MICS	Shipbrokers' Register
Mr. A. Dobson FICS	Great Britain	Observers	
Mr. N. Ingle	Great Britain	Mr. A. Mataragas	Greece

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 2014 Chartering & Documentary Committee Plenary Meeting. The **Chairman** also gave his welcome to all those present and also expressed his thanks to the Swedish Association 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 Lima on 23rd October 2013 had been circulated previously. With no comments having been made at the meeting, or previously, the **minutes were approved.**

3. Matters Arising

The **Chairman** advised the meeting that he was endeavouring to increase FONASBA's coverage of the issues relevant to broker. Whilst he admitted that brokers were rather less affected by current developments in the maritime sector than agents, it was still necessary to ensure that the broking community was fully engaged with, and played an active role in, the Federation and that their role in international transport was promoted and recognised. To this end he was enhancing FONASBA's participation in organisations such as BIMCO and INTERTANKO and he urged all associations to do likewise.

4. 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. A copy of the presentation is available on the website.

He began by advising delegates that ITIC had seen a fall in both indemnity and debt collection activity and that this may be a sign of an improving market.

A relatively new and increasingly frequent issue facing shipbrokers and agents was the issue of the fraudulent diversion of funds from shipowners and operators. Owners and brokers are receiving messages purporting to come from principals or agents alleging that the agent had changed their bank account and asking that the pre-arrival funds be sent to the new account. He said these emails were very well put together and almost identical to those previously sent by the real principal or agent and as they also arrived at exactly the right time in the operational chain, it was extremely difficult to detect that the instruction was not genuine. Mr. **Jamieson** therefore issued a warning that a broker receiving an instruction to send funds to a different account from the one originally nominated should regard it as suspicious and take steps to verify its bona fides. Checks should be made by querying the instruction with the principal using trusted email contact details from the records (not using the "reply" button) or by calling the principal direct – again using trusted contact details.

The failure of brokers to act in a timely manner on instructions received from the principal was also giving rise to claims. The significant volume of emails received by brokers could mean that an important and time critical instruction may not be passed on, leading to delays or additional costs to the principal. ITIC therefore recommended establishing a specific email address for operational messages and including a clause in both their instructions to principals and as part of the signature block on all emails to use this nominated address, not the usual chartering one, for such messages. A copy of the clause is shown in Mr. **Jamieson**'s presentation.

Other current issues leading to claims included:

- failing to ensure that voyage estimates and disbursements accounts reflected actual port practice (for example understating the number of tugs required for a particular vessel), thus leading to underfunded estimates and rejection of subsequent claims for additional funds from principals
- language issues, for example the incorrect translation of instructions
- the frequent misreading of temperature limits for reefer containers, or transposing plus and minus temperatures

Whilst the reduction in the number of claims was very welcome, Mr. **Jamieson** warned that the size of claims was increasing. This is partly due to the cost of legal services and is a particular

problem in relation to debt collection cases. Many cases were settled before reaching court and therefore the costs were reduced but cognisance should be given to the costs that will be incurred if mistakes are made.

The **Chairman** thanked Mr. **Jamieson** for another detailed and thought provoking presentation. He then invited the meeting to pose questions to Mr. **Jamieson** and these included the following:

- Given the pressure on brokers to fix ships, did third party charterparty checking services add value or increase risk?
 - Mr. **Jamieson** said that post-fixture claims were a growing issue for ITIC and whilst services such as these did provide some benefits, the liability still lies with the broker, not the third party service provider. He added that in increasing numbers of cases ships in all trades were being fixed without a written charterparty, with the parties to the contract relying on enhanced recaps instead. This has been common practice in the tanker trades for many years but the practice was increasingly being adopted elsewhere.
- The use of fraudulent documentation was also increasing. Mr. **Larsen** said that BIMCO had seen very convincing but slightly altered copies of their documents that had been used to defraud shipowners.
 - Mr. **Jamieson** reiterated that the level of sophistication being shown by the fraudsters was extremely high, leading the **President** to remind the meeting of the need to know and communicate regularly with the principal to ensure that any discrepancies or concerns relating to documentation, instructions and similar could be discussed and rectified before any damage was caused. The increasing volumes of information being exchanged and the lack of time to carefully review each one provided numerous opportunities for fraudsters, the **Chairman** warned.

Mr. **Larsen** also echoed the previous comments relating to receipt of time-sensitive operational instructions. He said BIMCO recommended including a “read receipt” or other form of positive confirmation in all such messages.

5. **Enhancing the Profile of the Shipbroking Sector**

The **Chairman** referred back to his comments under agenda item 3. He said it was regrettable, but clearly evidenced, that a lack of awareness of the importance of the broker, the reduction in personal contact between the broker and principal (often as a result of the emphasis on email rather than face to face or telephone communication) and the reduction in education and training were contributing to a marked decline in professionalism in the sector. The need for trainee brokers to generate income from the very start, rather than learn their business by shadowing their peers, was a significant contributing factor. Another detrimental element was the outsourcing of some tasks, particularly in the operations department. He said FONASBA should be taking the lead in both raising these issues amongst principals and in ensuring that high quality education and training programmes were available to arrest the decline in professional development.

He therefore called on all associations present to be proactive in promoting the role of the shipbroker within their local maritime clusters and to develop courses and training programmes for brokers locally. He also suggested that those associations that already provide education and training would be keen to support those that currently did not.

6. **FONASBA Document Revision**

With progress on the revision of the Standard Liner & General Agency Agreement being covered by Mr. **Foord** during the plenary meeting of the Liner & Port Agency Committee the day following this meeting, the **Chairman** restricted his remarks under this agenda item to reminding delegates that the purpose of the SL&GAA review was to provide an agency agreement that both covered many trades and was fully updated, compliant with current legalisation and actual practice.

Container Market Review

Whilst not an agenda item, the **Chairman** asked Mr. Garcia-Piñero to present his traditional summary of the container market. A copy of the presentation is available for download from the FONASBA website.

7. BIMCO and INTERTANKO Documentary Committee Reports

The **Chairman** invited Mr. **Larsen**, Deputy Secretary General of BIMCO, to present his report on the work of its Documentary Committee. Mr. **Larsen** thanked the **Chairman** and FONASBA for once again inviting him to participate in this meeting. He then summarised the documents scheduled for adoption at the Documentary Committee meeting taking place in November 2014, as well as other ongoing documentary work.

An updated “New York Produce” Charter (NYPE), replacing the 1993 version of this most popular of time charter forms, was being developed as a joint venture by ASBA, BIMCO and the Singapore Maritime Foundation. Following a number of consultations with brokers, Mr. **Larsen** said the final draft was now with the Documentary Committee and it was hoped that approval would be duly given. Noting that there had been significant revision of the previous form however, it was possible further deliberations may be necessary. Mr. **Larsen** acknowledged the enthusiastic support given by ASBA in drafting the new version.

Scheduled for adoption in November was the revised FUELCON Standard bunker contract. This was now a more balanced form than the original and it was hoped that this would ensure it was more widely used than it had been previously.

Increasing scrutiny by regulators of any action that could constitute bribery had led BIMCO to develop a suitable clause to protect shipowners and masters, as well as charterers, from the effects of any refusal to accede to demands for low-level bribes, facilitation payments and similar.

Although much of the work of the Documentary Committee is now related to clauses, there is still a demand for new charter parties, Mr. **Larsen** reported. In its early stages of development was a voyage charterparty for the LNG sector, to be known as LNGVOY. This form will adopt some of the provisions of existing gas charters but will address the specific requirements of the LNG market. Most of the major LNG carriers are involved in the project and although progress to date was good it will not be ready for adoption for some time to come.

Other longer term projects include the Newbuilding Supervision Contract for ship managers, tentatively known as SUPERMAN, and the revision of the SUPPLYTIME 2005 form. BIMCO was also looking at the possibility of developing a standard ship financing agreement and have been travelling extensively to ascertain if shipping banks and lawyers would support the project. The generally held view from the banks is that a formal document may be too ambitious and a set of standard terms might be preferable. The legal sector is rather more enthusiastic, Mr. **Larsen** said. A decision on whether to proceed with the project would be taken by BIMCO’s board at its meeting in November.

Closing his report, Mr. **Larsen** thanked FONASBA for its support in publicising the “Double Jeopardy” interactive presentation on ship casualties that was being held in London in November. He also said that BIMCO would be pleased to assist FONASBA in enhancing the profile of the shipbroking sector.

The **Chairman** thanked Mr. **Larsen** for joining the meeting and for his excellent presentation. He also confirmed FONASBA’s intention to continue to participate as an active member of the BIMCO Documentary Committee. The meeting then discussed the issues around the current actions to stamp out bribery and its direct impact on ship agents. It was agreed that in many parts of the world, low-level bribery was endemic and the ship agent was often an easy target. It was reported that in some countries the national authorities were taking action aimed at stopping bribery at a local level, with some success, and it was agreed that supporting those efforts – whilst at all times protecting the ship agent – was the preferred method of approaching the issue.

He then invited Ms. **White**, Counsel to INTERTANKO's Documentary Committee, to present her report.

Ms. **White** thanked FONASBA for the invitation to Intertanko to participate in the meeting before presenting her report. A copy of the report is available for download from the website but in précis it covered the following:

- Revision of the standard piracy clause
- Revision of the Vessel Modification Due to Change of Regulations clause
- The development of a bunker adjustment clause for use in the Baltic and North Sea SECA's
- A summary of recent actions to mitigate the impact of the Ebola outbreak on tanker operators
- INTERTANKO's new sustainability project which aims to ensure that the industry can continue to survive and operate effectively

Concluding her presentation, Ms. **White** said that INTERTANKO shared the concerns of BIMCO and FONASBA in relation to the impact of bribery and anti-corruption legislation on the shipping industry.

The **Chairman** thanked Ms. **White** for her presentation.

8/9. Tanker and Dry Cargo Shipbroking Panel Discussions

The **Chairman** introduced these new elements in the Plenary agenda.

For the Tanker Panel he was joined by Mr. **Jarlhammar** of the Swedish association who made a verbal presentation on the current market for tankers. In summary this covered:

- The oversupply of tonnage leading to low freight rates and a lack of investment in most sectors
- A slightly better outlook for medium size vessels due to the increased opportunities for the movement of refined products – for example in rebalancing over and under supply of products such as petrol and diesel
- The trend towards locating refineries closer to the point of extraction, rather than the point of supply
- The impact of shale gas and fracking on global oil trades
- The large numbers of second hand vessels for sale but the lack of funding available to buy, due to the large scale withdrawal of banks from the ship finance sector
- Demolition is slow and most new building activity is concentrated in the medium size vessel market
- The reluctance of traders to pay higher rates for modern, economic vessels. The only current advantage of such vessels is therefore the reduction to owners in running costs
- With regard to the relationship between the shipowner and the agent, Mr. **Jarlhammar** said that it was vital that the agent and the shipowner maintained a close and effective working relationship. The agent was the owner's local representative and that relationship needed to be maintained and strengthened

The meeting then discussed these points in detail.

The Dry Cargo Panel featured a presentation by Committee Vice Chairman Capt. **Hristov** on the current dry cargo market in the Black Sea. A copy can be downloaded from the website, Joining the **Chairman** and **Vice Chairman** on the panel were Garry Storrar, a broker from the United Kingdom specialising in short sea and medium sized vessels, and Jan Sejr of Holst Shipping, a small dry cargo brokerage practice in Denmark.

Following Capt. **Hristov's** presentation he answered questions from the audience on topics such as the often contrary nature of freight rates in the Black Sea (e.g. increasing when rates elsewhere are declining and vice versa) the impact of seasonal freight movements such as grain and the lack of finance for new vessel construction. Capt. **Hristov** said that although port state

control regulations were rigorously applied in the region, the age of the vessels was an issue. The reduced salinity in the Black Sea compared to the Mediterranean and elsewhere was a slight help but overall, maintenance remained a significant problem.

Messrs. Storrar and Sejr introduced themselves and their companies before discussing the current prospects for the short sea and medium size broking sectors. The general consensus is that owners are now starting to demand higher rates as the effects of the economic crisis start to wear off but it is not expected that any noticeable increase will be seen in European markets until sustainable demand, driven by an upswing in construction and other large scale consumers of bulk goods, starts to work its way through.

Questioned on whether there was any logic in purchasing new vessels, they said that fuel efficiency savings were the prime driver, followed by increasing vessel size limitations in ports. With fuel costs now reaching 50% of the daily running cost, almost any reduction in fuel consumption was worth chasing. The actual age of the vessel was less of an issue, especially as the lack of finance was forcing owners to retain and maintain older vessels as newer tonnage was not available to meet demand.

With the significant reduction in traditional finance for ship purchases being an issue, the panel discussed alternative means of securing funding. It was clear, however, that major obstacles to novel funding mechanisms remain, for example regulatory issues and wide variations in how lenders value a vessel and assess its long-term earning potential.

Concerns remained over the standard of the crews on vessels around Europe as owners sought to minimise costs in this area and thus free up operating income for the increased costs of maintenance and fuel. This had forced them to accept lower cost and therefore less well trained crews, leading to a degradation of performance.

Finally the panel discussed vetting, port state control and the role of the agent in ensuring owners are kept aware of, and best prepared to meet, the challenges these procedures bring. It was agreed that the role of the agent is to ensure that the owner is kept fully advised of the anticipated issues well in advance of the vessel's arrival and of course to provide every assistance possible should the vessel fall foul of the requirements. Of course the agent could not ensure the vessel would not fail a vetting or PSC inspection but by providing appropriate and accurate information the chances could be minimised.

At the conclusion of the panel, and on behalf of the delegates, the **Chairman** thanked messrs. Storrar, Sejr, **Jarlhammar** and Capt. **Hristov** for having participated in the discussion.

10. C&D Committee Future Work Programme

The **Chairman** said that this item had been discussed in some detail during the preceding agenda items and so there was no need to discuss it any further.

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 on Wednesday 14th October 2015 in Vitoria, Brazil,

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

JCW/04.2015