



# **ANNUAL MEETING CANCÚN 2018**

**LINER & PORT AGENCY PLENARY MEETING  
18<sup>th</sup> OCTOBER 2017**

**UNCTAD MINIMUM STANDARDS REVIEW**

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# BACKGROUND



- Issued by UNCTAD, the United National Conference on Trade and Development, in 1988
- Provides a framework for the provision of professional ship agency services
- Not mandatory but “serve as guidelines for national authorities and professional associations in establishing their own standards”
- Developed in significant part by FONASBA

HAPPY  
BIRTHDAY



# BACKGROUND



Consists of seven Articles:

1. Objectives
2. Definitions
3. Professional Qualifications
4. Financial Qualifications
5. Code of Professional Conduct
6. Enforcement
7. Compliance

# ARTICLE BY ARTICLE/1



## 1. The objectives of these Minimum Standards are:

- (a) To uphold a high standard of business ethics and professional conduct among shipping agents;
- (b) To promote a high level of professional education and experience, essential to provide efficient services;
- (c) To encourage operation of financially sound and stable shipping agents;
- (d) To contribute to combating maritime fraud by ensuring improved services by better qualified shipping agents;
- (e) To provide guidelines for national authorities/professional associations in establishing and maintaining a sound shipping agency system.

# ARTICLE BY ARTICLE/2a



## 2. For the purpose of these Minimum Standards:

*"Shipping agent*  
charterer or op  
including:

- (i) Negotiating
- (ii) Negotiating
- (iii) Collection of
- matters;
- (iv) Arrangeme
- (v) Arrangeme
- performing all ;
- (vi) Organizing
- (vii) Arranging for the supply of services to a ship while in port.

**WRONG**

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ping services

lated financial  
of cargo;

# ARTICLE BY ARTICLE/2b



*“National authority”* means the body constituted under national law to implement the legislation governing the licensing/registration of shipping agents.

*“Professional association”* means an organization constituted for the purposes of:

- (i) Providing a central organization for those engaged in the profession of shipping agents;
- (ii) Establishing and upholding standards of conduct and practice for the profession;
- (iii) Exercizing supervision over the members and securing for them such professional standards as may assist them in the discharge of their duties.

*“Professional examination”* means an examination carried out on subjects specifically related to the profession in order to ensure adequate knowledge and expertise.

# ARTICLE BY ARTICLE/3



## 3. Professional qualifications

To be considered professionally qualified, the shipping agent must:

1. (a) Have obtained the necessary experience in the profession by working for at least three years in a responsible capacity with a qualified shipping agent;  
(b) Be of good standing and be able to demonstrate his good reputation and competence. For example by positive vetting and signified approval of at least two agents of good repute who are also in his business and his geographical area of activity; and  
(c) Have passed such professional examination(s) as required by the relevant national authorities/ professional associations. The scope and details of such examination(s) shall be determined by the said authorities/ professional associations;
2. In the case of a corporate entity, employ such persons professionally qualified as above to ensure the proper performance of the entity's functions as an agent.



# ARTICLE BY ARTICLE/4



## 4. Financial qualifications

To be considered financially sound a corporate entity and where relevant the shipping agent individually must:

- (i) Have financial resources adequate to its business evidenced by references from banks, financial institutes, auditors and reputable credit reference companies, to the satisfaction of the national authorities/professional associations; and
- (ii) Have adequate liability insurance through an internationally recognized insurance company or mutual club to cover all professional liabilities.

Measures must be taken to ensure that the above financial standards continue to be met. This could be achieved through annual scrutiny of shipping agents by the national authorities/professional associations.

# ARTICLE BY ARTICLE/5



## 5. Code of professional conduct

### The shipping agent shall:

- (i) Discharge his duties to his principal(s) with honesty, integrity and impartiality;
- (ii) Apply a standard of competence in order to perform in a conscientious, diligent and efficient manner all services undertaken as shipping agent;
- (iii) Observe all national laws and other regulations relevant to the duties he undertakes;
- (iv) Exercise due diligence to guard against fraudulent practices;
- (v) Exercise due care when handling monies on behalf of his principal(s).

# ARTICLE BY ARTICLE/6



## 6. Enforcement

National authorities/professional associations, as the case may be, should ensure that these rules are complied with. In proved cases of non-compliance they shall determine the appropriate disciplinary measures applicable. These may include:

- (i) Warnings;
- (ii) A requirement for undertakings as to the shipping agent's future conduct;
- (iii) Temporary suspension of membership from the relevant professional association;
- (iv) Temporary suspension of authorization to operate as shipping agent, if/where granted by the relevant national authority;
- (v) Expulsion of membership from the relevant professional association;
- (vi) Cancellation of authorization to operate as shipping agent, if/where granted by the relevant national authority.

# ARTICLE BY ARTICLE/7



## 7. Compliance

Shipping agents already operating who do not meet the foregoing standards should be given reasonable time to conform with the requirements.

# WHY THE REVIEW?



Relatively light-touch exercise to:

- Ensure the Standard reflects current ship agency practice
- Introduce recent guidance and definitions
- Reference the FONASBA Quality Standard as a relevant quality label and note provisions regarding insurance cover
- Clarify the scope and application of the Enforcement and Compliance measures
- Correct minor inaccuracies and modernise the language



# WHAT WILL WE DO?

- Establish a small working group under the L&PA Committee
  - Members: L&PA Chair, General Manager, Jeanne Cardona, Simone Carlini, 2/3 experts in liner and bulk shipping
- Operate by correspondence
- On completion present to UNCTAD or more likely UNCEFACT (the UN Centre for Trade Facilitation and Electronic Business) for review and (hopefully) approval

# AREAS FOR CONSIDERATION 1:



- Expand Article 1 to reference national authorities and associations that already comply with the Standards, expand the areas where agents can contribute to the fight against maritime fraud
- Review the definitions in Article 2 , particularly that of the ship agent:

“The party representing the ship's owner and/or charterer (the Principal) in port. If so instructed, the agent is responsible to the Principal for arranging, together with the port, a berth, all relevant port and husbandry services, tending to the requirements of the Master and crew, clearing the vessel ship with the port and other authorities (including preparation and submission of appropriate documentation) along with releasing or receiving cargo on behalf of the Principal”.

*IMO Revised FAL Convention 2018*

## AREAS FOR CONSIDERATION 2:



- Make reference to, and encourage the adoption of, existing quality standards such as ISO 9001, FONASBA Quality Standard, WCO/EU AEO programmes, perhaps through a new Article
- Recognise that not all agents have insurance
- Review the balance and scope of the document with reference to FONASBA Code of Conduct, MoU with WCO, current practice
- Other suggestions will be welcome, as will applicants to join the working group, names on a post card to the L&PA Chairman please!





Thank you.