

ISSUE NO.
45
JULY
2018



FONASBA



ECASBA

Inside this issue:

Membership News	2
Education	2
Quality Standard	3
Port Procedures Survey	3
Membership Surveys	4
Standard Document Update	4
Member Association Visits	5
Website and Social Media	5
FONASBA/ECASBA events	6
Relations with International Organisations	7
European Developments	8 to 11
SAILNET Programme	12
Young Members Update	12
Photo Pages	13 to 18

THE NEW HORIZON



THE FEDERATION OF NATIONAL ASSOCIATIONS OF SHIP BROKERS AND AGENTS

The Baltic Exchange, St Mary Axe, London EC3A 8BH Great Britain
Tel: + 44 20 7623 3113, e-mail: generalmanager@fonasba.com
website: www.fonasba.com

2017-18 YEAR END UPDATE

Dear Friends,

Once again it is time for our Annual Review. During the past year we have been as busy as ever promoting and protecting your interests and working to ensure that the international maritime industry can operate freely, and effectively, only constrained by appropriate, trade focussed regulation necessary for the common good. Certain developments over recent months and into the near future will affect the way our industry works, and our professions will once again have to adapt and change to meet those challenges. Our close and effective relationships with international maritime, customs, trade and legal regulators, the European Commission, our Club Members and colleague organisations, will ensure that we remain fully engaged with all the issues that affect our profession.

Our membership continues to grow, which is both a sign that our profile is steadily increasing and welcome recognition that ship agents and ship brokers, cognisant of the myriad issues that face them, value the collective power and influence that an organisation such as FONASBA provides. This is of course very welcome, particularly in terms of the resources we have available to service the needs of our Members and better promote and protect the interests of ship agents and ship brokers worldwide.

That said, we remain a small organisation and in trying to cover all the issues in adequate detail we do run into resource constraints. Some of those issues are extremely complex, customs and e-Maritime for example, and we rely on the support of Members generously allowing their experts to assist the Secretariat, and we thank them for doing so. We acknowledge, however, that those Members have first call on their experts and their local workload may prevent them from continuing to support FONASBA. I would therefore appeal to all Members to look at the issues we are addressing (covered in the following pages) and if you have an expert in your membership, please consider making them available to FONASBA. The more experts we can call on, the less pressure there is on any one individual's time and the more effectively we can cover the issues for the benefit of all. Your support will be very much appreciated. We also collaborate with other organisations on issues of mutual interest and this too works well in sharing the burden and spreading the knowledge.

In closing, I hope you find the contents of this Newsletter interesting and would encourage you to circulate it amongst all your association members and beyond, as you see fit. I look forward to seeing you all in Cancun for our 2018 Annual Meeting.

JOHN A. FOORD FICS — PRESIDENT

MEMBERSHIP NEWS (www.fonasba.com/fonasba-member/fonasba-membership-list)

FONASBA is pleased to have welcomed the following Members to the Federation over the past year:

Full Members: ASECOB (Spain), MANSA (India).

Associate Members: Transoceanic (Democratic Republic of Congo), Manica Freight Services (Mozambique), Galal Ismael (Sudan).

The election to membership of ASECOB, or more correctly, La Asociación Española de Consignatarios de Buques, came about as a result of a decision by the ship agent and terminal operator members of the joint Spanish association ANESCO to separate into individual sector organisations. Immediately upon their election, ASECOB very kindly offered to host the 2018 ECASBA seminar in Barcelona, details of which are reported on page 6.

MANSA, based in Mumbai, is the primary ship agents association for India.

Transoceanic, a ship agency company operating in Pointe Noir in the DR Congo, and Galal Ismael, from Port Sudan, were elected at the start of October last

year. and both members also attended the Dubai Annual Meeting, which gave them both the best and earliest possible introduction to FONASBA. Manica Freight Services of Maputo joined in January and increase FONASBA's coverage in the Portuguese speaking world.

All our new Members were very warmly welcomed to the Federation and we look forward to their enthusiastic participation in our activities and events.

Following the report in the last newsletter, we are also pleased to confirm that FONASBA's Consultative Membership of CMI was ratified at their Assembly Meeting in Genoa in September last year.

Our Regional Vice Presidents, supported by the President, Executive Committee members and the Secretariat, continue to seek new members worldwide in order that we can further expand the Federation's global coverage and ensure that we fully and accurately represent the views of the international ship agency and ship broking sectors.

EDUCATION (www.fonasba.com/education-and-training)

Six papers were received the 2017 Young Agent and Broker Award from entrants in Argentina, Brazil, Croatia, Germany and Kenya. After careful scrutiny by the Award Committee comprising Honorary Member and Past President Gunnar J. Heinonen, FONASBA Vice President for Education Capt. Jakov Karmelić and ITIC Marketing Director Charlotte Kirk FICS, the Award was granted to Niklas Soltow, a ship agent from Germany, for his paper "Opportunities and Challenges for Port Agents by the Increasing Digital Progress of the Maritime Sector".

Niklas received his prizes, again generously sponsored by BIMCO and ITIC, at the 2017 Annual Meeting in Dubai.

Katy Aldrick, from Kenya, was awarded a Highly Commended prize for her paper on "Threats and Opportunities Facing Independent Shipping Agents in East Africa".

The 2018 Award is now underway, with five final submissions received. As in previous years, the winner will be announced in August and invited to participate in the Gala Dinner at the conclusion of the 2018 Annual Meeting in Cancun. Both ITIC and BIMCO are continuing their sponsorship of the prizes for this year and we are very grateful for their continued support of the Award.

The FONASBA Agent Diploma, developed in conjunction with our colleagues at ASBA in the USA, is now underway. As reported last year, this course is based on a scheme that ASBA have been successfully running for some years to provide an entry level study course and online examination for ship agents. For the FONASBA scheme, the course material and examination have been modified to make them more suited to an international student base.

To date approximately ninety students have registered and by the end of May, three had successfully completed the course and received their Diplomas. Our thanks go to all the associations that have encouraged students to enter the Diploma programme.

Full details of the scope and coverage of the Diploma, and how to register and enter students, can be downloaded from the FONASBA website at: www.fonasba.com/education-and-training/fonasba-agent-diploma

FONASBA's latest education initiative, the Ship Agents Interchange Learning (SAILNET) project was launched at the ECASBA seminar in Barcelona last month. Although initially being offered to students in Europe due to ease of movement amongst EU Member States, it is intended to expand the scheme worldwide in due course. See page 12.

QUALITY STANDARD (www.fonasba.com/fonasba-initiatives/fonasba-quality-standard)

Coverage of the Quality Standard continues to expand worldwide and by so doing provides a clear and unambiguous demonstration to legislators and regulators of the commitment of ship agents and ship brokers to the provision of high quality and professional services.

The Dubai Annual Meeting (see page 6) approved minor changes to the criteria, particularly for Associate Members applying by means of their ISO 9001 accreditation.

In the last year, the number of members covered by the Standard rose to 31 through the addition in late 2017 of Algeria and Egypt. The other countries accredited to the Standard are: Argentina, Australia, Belgium, Brazil, Croatia, Cyprus, Denmark, Dubai, Finland, France, Great Britain, Greece, Hungary, Israel, Italy, Japan, Kenya, Malta, Mexico, Morocco, the Netherlands, Peru, Portugal, Slovenia, Spain, Sweden, Tunisia, Uruguay and USA.

As this Newsletter is issued, the Lebanese Shipping Agents Syndicate has also been accredited to the Standard, taking the total number of members to 32.

The number of companies also continues to rise and at the end of May 2018, 475 have been accredited to the Standard, an increase of 14 companies over the year. The addition of Lebanese companies will of course push the total higher in the coming months.

Whilst having more than half our member countries covered by the Standard is encouraging, it remains vital for the success of the initiative that all FONASBA Members are covered. Also of welcome note is the confirmation by a number of applicant members that the value of the Standard to their members was a significant factor in encouraging the association to apply for FONASBA membership.

Securing and maintaining the Standard by a Member association or Associate Member company is relatively simple and does not require a complex or time consuming implementation process to be undertaken. Broadening the coverage of the Standard will of course also encourage more owners to use Quality Standard-approved agents, motivate more agents to secure approval and drive agents that are not currently members of the Association to join, to avoid losing business to their competitors with the FQS. The current minimum requirements for the Standard can be found on the website as above.

A further boost to recognition of the Standard amongst ship owners, operators and charterers came with the publication of the Agency Appointment (AAA) and General Agency (GAA) Agreements, (see the Standard Document Review report on the following page), both of which include a box on the cover page where approved agents can indicate that they hold the Standard.

PORT PROCEDURES SURVEY (www.fonasba.com/fonasba-initiatives/fonasba-port-procedure-survey)

The Port Procedures Survey now covers 254 ports in 45 countries, the same as last year. This is due in part to the removal from the survey of a number of ports in Nigeria following that association's resignation from FONASBA but even so, the initiative has stalled somewhat. We would therefore take this opportunity to encourage Members to revisit the Survey and input data on additional ports in their own country.

As mentioned previously, changes and enhancements made to the online data input and updating procedures have simplified and facilitated the adding of new ports and updating of existing entries. The facility to carry over information from one entry to another has also been streamlined and this will reduce some of the burden of repeatedly entering the same data.

As with the Quality Standard, ensuring a wider coverage of countries, ports and terminals is key to keeping the survey relevant, up to date, accurate and

useful for agents, ship owners and other port users. On the basis that incorrect data is worse than no data at all, Members should bear in mind, however, that in addition to adding new ports, data on ports currently in the survey should also be reviewed and updated where necessary.

Recognising that the burden of entering or updating the data often falls upon already stretched association secretariats, some Members have taken a different route and have invited a small number of agents to directly enter the information to the survey, instead of sending it back to the association for input. Clearly this means giving updaters access to the Members' Area but provided this is done in a careful, considered and controlled manner it should not pose a threat to website security.

By sharing the burden of inputting the data, a wider range of ports can be uploaded or reviewed than would otherwise be the case. Other associations may therefore wish to consider this option.

MEMBERSHIP SURVEYS (www.fonasba.com/member-survey)

Supporting fellow Members is fundamental to the way FONASBA operates and responding to surveys is a tangible and effective means of doing so. It is also a very clear and public commitment to our Federation's guiding principles.

Membership surveys are also a very useful and effective way of supporting individual Members who are facing specific issues in their own country and wish to seek guidance and data from other FONASBA associations to guide their local actions. Members are using the facility in increasing numbers and to date 61 have been undertaken in total, 36 across the entire FONASBA membership and 25 amongst ECASBA members only. The success of these surveys and their value to the member concerned is of course directly related to the level of responses received from across the membership. All Members will therefore appreciate that their active participation in these surveys will encourage others to do likewise, leading to a more comprehensive, open and detailed exchange of views that will enhance the volume and quality of information available to the membership.

As all Members will now be aware, we record which associations reply to the surveys, although we now only assess the response rate by each member over the last twelve months. At present the response rate

across the surveys carried out over the last year (and weighted to allow for surveys restricted to certain areas, new Members joining and other mitigating factors) is 50% for FONASBA surveys and 67% for ECASBA only surveys.

Whilst these numbers are good, it is clear there is room for improvement. As well as recording the overall level of responses (and "Not Applicable" is a valid response), we also break them down by association and it is disappointing to note that there are a few Members whose response rate is less than 10%. At the same time congratulations go to Algeria, Brazil, Croatia, Cyprus, Denmark, Hungary, Israel, Japan, Malta, the Netherlands and Portugal on responding to every survey.

Given the number of surveys being carried out, we would also remind Members intending to request a survey to check the Port Procedures Survey and the list of surveys already published on the website (see the address above) before sending the request in case the information they require is already there. The FONASBA Secretariat also checks enquiries against the PPS and the summary and on a number of occasions the proposed survey has not been issued, or it has been modified to take account of information already published.

STANDARD DOCUMENT UPDATE (www.fonasba.com/documentation)

Following the launch of the new FONASBA/BIMCO Agency Appointment Agreement (AAA) form at the end of 2016, the joint FONASBA/BIMCO drafting group moved on to the rather more complex General Agency Agreement form, which like the AAA was intended to be another industry-standard document, albeit for the establishment of a longer term agency agreement covering a wide variety of trades including liner, bulk (dry and wet), breakbulk, project, short sea, offshore energy and others, whilst the AAA is only intended for single voyage or short duration agency agreements.

The GAA form was endorsed by FONASBA at the Dubai Meeting and BIMCO at its Documentary Committee meeting last November and launched in January 2018. It comprises a common core that covers all the main areas of the agreement and this will be supplemented by additional clauses that will allow the form to be further customised to reflect the trade specific elements of the overall agreement.

The GAA is also in BIMCO's well-known "box format" and will share a significant degree of commonality with the AAA form in terms of layout, definitions and

terminology in order to bring clarity and consistency to the process of appointing a ship agent.

Again similar to the AAA, the GAA was the subject of a webinar produced by BIMCO, in which FONASBA President John A. Foord FICS, Han van Blanken of BIMCO and Luis Bernat FICS of the Danish Shipbrokers' Association, discussed the new form in detail. A recording of the webinar can be viewed via the FONASBA website at the address above.

Work on drafting the additional clauses is now underway and input from experts in bulk agency sectors would be welcomed. Anyone wishing to put their name forward to review the GAA and propose trade-specific additional clauses is invited to contact the Secretariat.

In other documentary work, FONASBA is drafting a guidance note on the services an agent may provide (and the principal realistically expect) for the basic port agency fee. Our colleagues in CIANAM are also in the early stages of reviewing the UNCTAD Minimum Standards for Ship Agents, much of which FONASBA wrote on behalf of UNCTAD in the late 1980's.

VISITS TO MEMBER ASSOCIATIONS ... AND ELSEWHERE

As always, the President, members of the Executive Committee and the General Manager take every opportunity to visit Member associations and their own company members and so far as practicable or possible, every invitation to visit a Member country is accepted. Visits to potential members are also key to ensuring that FONASBA continues to expand its coverage and raise its profile. Some of those visits are summarised below.

Over the past year, therefore, FONASBA President John Foord has visited India, Singapore, Malaysia, Thailand and Vietnam to introduce FONASBA to potential new members. On his visits to the Far East he was accompanied by Regional Vice President for Asia, Takazo Iigaki. He was also invited to attend the Global Economic Summit conference in Mumbai in February, taking part in a panel discussion on global value chains. John also attended the June meeting of the Private Sector Consultative Group of the World Customs Organisation.

John also participated in the 2018 General Assembly of CIANAM, held in Costa Rica in April, an event that brought together colleagues from the FONASBA associations and other members of that association. The event was also graced by a visit from the Vice President of Costa Rica, Ms Ana Helena Chacón Echeverría. John also took the opportunity of a stopover in Miami on the way back to catch up with

former President Marygrace Collins and visit the hotel chosen for the 2019 Annual Meeting.

ECASBA Chairman and Regional Vice President for Europe Antonio Belmar da Costa and General Manager Jonathan C. Williams FICS met with board members from the newly formed Spanish association, ASECOB, in Barcelona in February.

Javier Dulce, Regional Vice President for the Americas also attended the CIANAM General Assembly and also paid a courtesy visit to ASAMAR, the Paraguayan association which is based in Asunción.

Regional Vice President for Africa and the Middle East, Aziz Mantrach travelled to Doha and Muscat in the United Arab Emirates to meet with potential new members in February.

General Manager Jonathan Williams was again a guest of the German Shipbrokers Association at the annual Eisbeisessen dinner in Hamburg in November, where he met the Chairman of the Shipping Federation of Canada, Mike Broad. He also visited the Maltese association during June.

Closer to home, Jonathan and Assistant General Manager Victoria Mott MICS also attended the annual INTERTANKO/INTERCARGO pre-Christmas Open House event and the Baltic Chairman's Cocktail Party in May.

WEBSITE AND SOCIAL MEDIA (www.fonasba.com, www.facebook.com/fonasba, www.linkedin.com)

The FONASBA website is under constant review to ensure that it remains an effective tool for providing information to both Members, the wider shipping sector and the general public. It currently receives up to 6,000 hits per month.

The project to develop and introduce the 2nd Tier Members Area, for company members of national associations, is now being rolled out and associations will soon be receiving detailed instructions on how their member companies can obtain access to the site. As mentioned at the Dubai Annual Meeting, company members will register themselves for an initial period, rather than involving the association, although there will be a role for the secretariat in ensuring all the companies that do apply are bona fide members of the association. The e-Commerce module, to allow non-members to purchase copies of the AAA and GAA will also be introduced at the same time.

Initially, the 2nd Tier Members' Area will include the

FONASBA membership survey summaries and the Word versions of the AAA and GAA, to allow company members free access to these resources. Other resources will also be added in the future. Member associations will of course also retain full access rights to these and any papers, reports or similar that are subsequently uploaded to the site.

Our social media pages on Facebook and LinkedIn (the addresses are above) are an excellent means of publicising the activities of the Federation beyond the membership and of better promoting our Federation and its activities. There is also a separate private, invitation-only, Facebook page for shipbrokers, see page 6 for information on how to join.

Members are encouraged to provide material to post to these sites, to like our posts and link your social media sites to ours. Your contributions for our pages should be sent to Victoria: admin@fonasba.com

FONASBA/ECASBA EVENTS (www.fonasba.com/news-and-events/fonasba-events)

With the Annual Meeting being the only opportunity for all Members to come together and exchange views, it is important that the programme for each meeting is relevant and interesting and thus attracts as many associations as possible. The 2017 Dubai Annual Meeting, hosted by the Dubai Shipping Agents' Association was very well attended, with 88 delegates and partners representing 31 associations and 3 Club members present. Amongst those attending for the first time were our newly elected members from the Islamic Republic of Iran, the Republic of Congo and Sudan. The meeting also enjoyed the active participation of observers from the Arab Federation of Chambers of Shipping and potential members from Abu Dhabi, Bahrain, Kuwait, Oman, Saudi Arabia and Tanzania.

Prior to the start of the two plenary days, delegates were given presentations by the Dubai Maritime City Authority and the Emirates Maritime Arbitration Centre. Delegates also visited the DP World container terminal at Jebel Ali, where they enjoyed a tour of the port, lunch and a presentation on its current operations and future plans.

The ECASBA plenary meeting included presentations on recent developments in Brussels and on the activities of the Young Ecasbians (see page 12) but the main agenda item was a discussion on the proposal to appoint a Brussels representative. This is covered in more detail in the European report on page 8.

Amongst other topics, the Chartering & Documentary plenary meeting included the launch of a private Facebook page for shipbrokers, moderated by Committee Chairman Fulvio Carlini FICS and Vice Chairman Mohamed El Mezouar. Anyone interested in joining the group should contact either Fulvio Carlini (cdchair@fonasba.com) or Mohamed El Mezouar (mhcdvchair@fonasba.com) for further details as to how to do so.

The Liner & Port Agency Committee plenary, chaired for the first time by Waldemar Rocha jnr., included in its agenda the approval of the FONASBA/BIMCO General Agency Agreement (GAA) form (see page 4) and the endorsement of proposals to make some minor amendments the FQS criteria for the sake of clarity and consistency (see page 3).

In addition to the usual general meeting issues relating to finance, governance and similar, the Council Meeting saw the USA nominated as the host association for FONASBA's 50th anniversary annual meeting in 2019, the launch of the FONASBA Agent

Diploma (see page 2) and formal endorsement of Waldemar Rocha jnr.'s nomination as Chairman of the Liner & Port Agency Committee.

As always, copies of the agenda and minutes of the plenary and Council meetings can be downloaded from the Members' Area of the website.

The Gala Dinner was held jointly with the annual dinner of the Dubai association. More than 350 partners and invited guests attended and in the course of the evening the participants applauded the award of the 2017 FONASBA Young Agent and Broker Award to Niklas Soltow of Germany (*see page 2*).

The Meeting ended with a visit to the spectacular Sheikh Zayed Mosque in Abu Dhabi.

The 2018 Annual Meeting will take place in Cancun, Mexico hosted by the Asociación Mexicana de Agentes Navieros A.C. (AMANAC), with the plenary programme starting on Wednesday 17th October. Full details of the event, the delegate, partner and social programmes as well as online registration and accommodation booking facilities, will be available via the FONASBA website shortly.

FONASBA's other major event each year is the ECASBA seminar which alternates between Brussels or another European maritime city. This event brings ECASBA (and FONASBA) Members into direct contact with the European Commission and colleague European maritime associations to discuss relevant issues in a frank manner, with the private nature of the meeting ensuring confidentiality and openness. The 2018 meeting took place in Barcelona as guests of the Asociación Española de Consignatarios de Buques (ASECOB), FONASBA's member in Spain. As with previous seminars in member countries, the Barcelona seminar featured a section devoted to the impact of European regulation on the local shipping community, and this year was no exception. More details of the seminar are given in the European report which starts on page 9.

As with the FONASBA Annual Meeting, attendance at ECASBA seminars is not limited to official Member association representatives, nor indeed to European associations alone. Any member of FONASBA, at whatever level, is welcome to participate. Information on the 2019 ECASBA seminar will be circulated to Members and posted to the website later this year.

Details of all the events FONASBA supports, including those organised by external bodies, are available from the website, the address is above.

RELATIONS WITH INTERNATIONAL ORGANISATIONS

FONASBA's relationships with other international and maritime industry organisations are vital to ensure that we have the means to influence policy, to raise the profile of the ship agency and ship broking communities and make our voice heard on matters of interest or concern to our Members. Actively expanding links with relevant organisations across a wide range of maritime-related fields is therefore of prime importance to our Federation.

As Members will be appreciate, our consultative status with the International Maritime Organisation (IMO) is the most important in terms of action on maritime affairs but FONASBA is also a member of the Private Sector Consultative Group (PSCG) of the World Customs Organisation, has consultative status with both UNCITRAL and UNCTAD and is working closely with the Maritime Anti-Corruption Network (MACN) and our Club members on issues of relevance to the membership. FONASBA is also a member of the Global Partnership for Sustainable Transport (see the last Newsletter) and is discussing formal relationships with the International Association of Ports and Harbours and the Women's International Shipping & Trading Association, WISTA. All these agreements allow FONASBA to play an active role in the organisations concerned and grant us the facility to make representations as and when the need or opportunity arises.

At IMO, the submission to the Maritime Safety Committee (MSC 99) in May 2018 of our final post-implementation survey into the impact of the container weighing regulation brought that issue to a close. By then, however, the main focus of our attention had moved on to e-Maritime and electronic ship reporting. In 2017, FONASBA, jointly with our Club member the International Port Community Systems Association (IPCSA) and the International Chamber of Shipping and the World Shipping Council, proposed that IMO should seek to introduce an internationally acceptable dataset as a first priority, after which other matters such as messaging formats can be addressed. IMO's FAL Committee agreed to this proposal and following the 41st meeting of the Committee (FAL 41) in 2017, agreed to consult with the World Customs Organisation on adapting their dataset for use in the maritime reporting environment. FONASBA has also contributed to the ongoing work on revising FAL.5/36, the Guidelines for Establishing a Maritime Single Window and on the Explanatory Notes for the revised FAL Convention.

FONASBA's relationship with MACN was enhanced

through their presentation to the 2016 London Annual Meeting and last year we were invited to join a cross-industry working group on maritime corruption. Comprising of MACN and a number of IMO consultative bodies, including the International Chamber, BIMCO, INTERTANKO and INTERCARGO, the group is supporting actions to raise awareness at IMO level of the issue of maritime corruption. The working group issued an information paper at FAL 42 and also made a presentation during the meeting. Both were very well-received by the delegates. FONASBA will continue to participate in the working group to take this issue forward. In addition, a proposal by FONASBA for mutual membership is also under discussion within MACN.

The Comité Maritime International invited FONASBA to support its actions to introduce an international convention on the judicial sale of ships, which in spite of being sold "free of all liens and encumbrances", often see the buyer pursued by creditors of the previous owner. As this can also impact on the broker who arranged the sale or purchase, FONASBA was pleased to give its support and this is now being manifested by inviting national authorities in major broking centres such as London and New York to support the campaign in UNCITRAL.

Good relations with port authorities are of course vital to the well-being of our members and the appointment of Dr. Patrick Verhoeven, (previously ECASBA's representative in Brussels and more recently Secretary General of both the European port authority and shipowners organisations), to a strategic development role within the International Association of Ports and Harbours has led to discussions on reciprocal membership. Dr. Verhoeven is also proposing the establishment of a small ad-hoc group of port related NGO's in IMO and FONASBA has confirmed its interest in joining.

Whilst FONASBA's record on promoting women within the organisation (one Past President as well as one Assistant General Manager and seven association secretaries) is very good, discussions are ongoing in relation to establishing a formal relationship with WISTA International, the worldwide membership organisation for women in the shipping and related fields. As part of that process, FONASBA's member organisations have also been encouraged to form close working relations with the local WISTA "chapters" in their own countries.

FONASBA's relations with European maritime industry bodies are covered on the following page.

EUROPEAN DEVELOPMENTS

The biggest topic of discussion within ECASBA over the past year has been the proposal to appoint a Brussels representative.

The decision to investigate the options was prompted in part by the decision of the United Kingdom to leave the European Union, but also by concerns at the ability of the ECASBA Chairman, General Manager and seconded colleagues from member associations to fully monitor and contribute to the development of all the initiatives coming out of the European Commission. A number of proposals were discussed within the ECASBA Advisory Panel, following which our colleagues at NAVES (Belgium) were asked to put forward costed proposals for the appointment of a part time representative. On the basis of the information provided, the ECASBA Chairman made a detailed presentation to the ECASBA Plenary Meeting in Dubai. A copy was also circulated to all ECASBA members, who were invited to consult internally and express their views in writing.

From the responses received, it became clear that whilst the concept of a Brussels representative was fully and enthusiastically supported by nearly all of the members, there were also varying degrees of concern at the impact on some associations, especially the smaller ones, of the additional fees that would require to be generated in order to cover the anticipated costs.

Whilst fully appreciating, and indeed agreeing with, the aspirations of the members to have a representative in Brussels, the Executive Committee concluded that to proceed with the project as initially envisaged could have a detrimental effect on some ECASBA member associations. That proposal was therefore set aside but the ECASBA Chairman was asked to continue investigating other possibilities to enhance ECASBA's Brussels representation, albeit without the significant financial impact. As soon as it is opportune to do so, further proposals will therefore be put to the members for consideration. In the meantime, ECASBA continues to play an active role in the development of European maritime policy.

In terms of policy development, and as predicted in the previous Newsletter, the European Commission has undertaken formal reviews of the Reporting Formalities (RFD) and Port Reception Facilities (PRF) Directives. ECASBA was directly consulted on both, in the latter case as a co-opted member of the subgroup established by the European Sustainable Shipping Forum, but also by providing detailed responses to questionnaires and formal interviews.

One of the issues with the original versions of both the RFD and the PRF Directive was that they allowed individual Member States too much latitude, with the result that implementation was far too fragmented across the EU to achieve the levels of consistency and harmonisation expected by ship owners, agents and other stakeholders.

In the case of the RFD, this was addressed by designating the revised version a Regulation, which significantly restricts the ability of Member States to introduce variations. The new Reporting Formalities Regulation (RFR) proposal, published in May, therefore intends to ensure consistency and harmonisation through the central (i.e Commission) development of common user interfaces as well as the establishment of common reporting, ship and hazardous materials databases. At present it is envisaged that the IMO/WCO database could be used. In addition, Member States will be required to collect only those data elements detailed in the Regulation. There is a proposal that Member State authorities will be able to nominate additional data elements for inclusion, but only after a formal application and vetting process.

During its discussions with the Commission, ECASBA supported a two stage process towards ship reporting with the development of effective national single windows being implemented first, with a Europe-wide reporting environment following thereafter, a position that respected the view of our members but went against those of the major international ship owning groups who wanted the facility to lodge all their ship data in one place. Whilst it is tempting to claim credit for the RFR concentrating on establishing national single windows, that approach is probably also due to resistance by Member States as well as the cost and difficulty of establishing a fully-functioning European Single Window. In other good news for ship agents, the RFR envisages the continued use of existing national single windows and port community systems.

As may be expected, there are a number of areas of concern within the draft Regulation, including the use of macro-enabled spreadsheets as the primary means of inputting data, with all the security issues that would bring, the cost of using the IMO/WCO database and that customs and other reporting formalities remain excluded from the scope of the Regulation.

Continued on page 9

EUROPEAN DEVELOPMENTS/2

Continued from page 8

As stated, this proposal was only published at the end of May and it is clear that there will be a significant amount of further discussion and negotiation between the Commission and stakeholders, as well as with Member States, before it is finally adopted. ECASBA will of course remain closely engaged with those discussions, both bilaterally with DG-MOVE and also in concert with colleague associations.

The revised Port Reception Facilities (PRF) Directive proposal was also published in May. Again the aim was to enhance consistency and harmonization across Member States. The main issue here was the level of the “indirect charge” payable by all vessels, irrespective of whether they discharge waste or not. Inconsistent requirements for the type and quantity of waste being collected across Member States (and in some cases between ports) was the main issue and to a certain extent the new proposal addresses the problem, in part by clearly excluding cargo residues from the indirect charge.

Other changes see much more emphasis being put on preventing marine litter and discarded fishing gear and the inclusion of leisure craft over 2.5 m LOA in the Directive, albeit through a separate charging regime. As with the RFR, detailed discussions on the PRF have not yet started but again ECASBA will be closely engaged when they do, ensuring that no additional burdens are placed on the ship agent.

Discussions on customs developments continue to focus on the detail of the procedures and their impact on stakeholders. Amongst others, the need to retain the convention of “as agents only” in relation to the lodgment of customs entries is paramount, as is the consistent application of customs legislation across all Member States.

ECASBA recently reiterated to DG-TAXUD its concerns at the lack of a facility for the agent to state that they are acting “for and on behalf of” the principal when lodging entries electronically. The difficulties agents face in independently verifying the accuracy of the information provided and the actions of some customs administrations in holding the agent directly liable for any misdeclaration were once again also drawn to the attention of DG-TAXUD.

With this issue having been on our agenda for many years, it was interesting to receive the attached letter from our colleague Susanne Aigner, Head of Unit Customs Policy, at DG-TAXUD, in which she advised that the Union Customs Code actually contains

provisions that allow a ship agent (the declarant) to avoid liability for customs debts and penalties incurred should they make the declaration in utmost good faith. Clearly, as Aigner states, there is an obligation on the declarant to raise any concerns they may have as to the accuracy of the information they are lodging with the authorities at the earliest opportunity, but that is simply good and professional practice and we would expect any agent member of an ECASBA national association to do so without hesitation.

It is also comforting to note that the European Court of Justice has supported the concept of “utmost good faith” in finding in favour of declarants that have inadvertently made incorrect declarations. Unfortunately for some of our Members however, it is clear that in spite of these rulings, certain national authorities continue to take the view that agents and other declarants are liable.

Aigner’s reference to additional protections being available to agents and others that actively participate in the fight against customs fraud is another interesting development and one that is worthy of further investigation. In this regard ECASBA will be writing back to seek clarification of how the Commission would anticipate an agent could prove they are proactively working to prevent customs fraud. (Interestingly such actions are already referenced in both FONASBA’s Memorandum of Understanding with the World Customs Organization and also in our Code of Conduct but clearly those are aspirations, not firm commitments). We anticipate that some form of cooperation agreement between a national association and their customs authorities might be a good start and indeed this is something our Belgian colleagues have recently instituted with their customs service.

In spite of previous advices to the contrary, a review of Directive 97/78, covering imports of cargoes of animal origin, is now anticipated. The layover times for transshipment cargo allowed in the Directive are a concern for some Members. If this review is undertaken, ECASBA will once again engage with DG-SANTE to reiterate its views that the period can safely be extended and that electronic copies of documents should be used for inspection purposes.

Whilst this report only skims over the main issues currently being discussed with the Commission, Members can be assured that ECASBA continues to monitor every relevant issue and take prompt and appropriate action whenever it is required.

EUROPEAN DEVELOPMENTS/3

 Ref. Ares(2018)2069390 - 18/04/2018



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
TAXATION AND CUSTOMS UNION
Customs
Customs Legislation

Brussels, 18/04/2018
TAXUD.A2(2018) SA/FM/ks
taxud.a.2(2018)2282082

ECASBA
The European Community Association
of Ship Brokers and Agents
St. Mary Axe
UK-London EC3A 8BH
e-mail: generalmanager@fonasba.com

Subject: Liability of Ship Agents for Customs Entries

Dear Mr Belmar da Costa,

Thank you for your letter of 19 March 2018.

It is the case that a ship agent acts as a customs representative when performing the customs related tasks under their responsibility in accordance with the requirements of Articles 18 and 19 of the Union Customs Code¹ (UCC).

It is also the case that the person primarily responsible for the accuracy of a declaration, under Article 15(2) of the UCC, is the person concerned by a submitted declaration, notification or application i.e. the declarant, the person notifying or the person who applies for a decision and to whom the decision is directed. Article 15 (2) also provides that these general responsibilities are applicable to the representative of the concerned person, as referred to in Article 18.

However there are also specific rules regarding responsibilities e.g. the holder of a decision is obliged to comply with the obligations resulting from that decision, in accordance with Article 23 of the UCC.

In particular there are specific rules regarding the obligation for payment of a customs debt, one being Article 79(3)(b) UCC where anyone who represented the person obliged to fulfil an obligation, or anyone who participated in the act which led to the non-fulfilment, can be considered the debtor if that person "was aware" or "should reasonably have been aware" that the obligation under the customs legislation was not fulfilled.

¹ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013

EUROPEAN DEVELOPMENTS/4

The Commission values the long-time relationship with ECASBA and other trade representatives and have no doubt that you are keeping your members informed of the legislation. We are confident also that your members act in a professional manner, to their best knowledge.

It is important for a ship agent or any other person involved in handling the goods to know that if he is aware that the acts conducted by him would lead to non-fulfilment and occurrence of a customs debt he could also be considered a debtor. The purpose of this is to protect the financial interests of the Union and its Member States. I note that you also acknowledge the need for a ship agent to raise with the customs authorities any suspicions they may have about the accuracy of the information they are being required to pass on.

The circumstances in which a ship agent, or any other person involved in handling goods, could be deemed to be aware, or reasonably to ought to have been aware, that an obligation under the customs legislation is not fulfilled are not further specified in the UCC or its implementing or delegated act. However, the European Court of Justice has in several rulings considered good faith as a guiding principle and those judgments inform the decisions taken by the authorities in the Member States. The UCC also allows for the possibility of extinguishing the customs debt with regard to the person whose behaviour did not involve any attempt at deception and who contributed to the fight against fraud, in accordance with article 124(7) UCC.

For the above reasons, the Commission considers that the legislation provides a balance between the protection of the financial interest of the EU and its Member States and the facilitation of trade and in particular of actors involved in the handling of goods. We do not, therefore, see the need at this time to propose an amendment to the UCC regarding the financial liability of persons such as ship agents but will continue to monitor the implementation of the UCC to ensure that it continues to maintain the above-mentioned proper balance.

Yours sincerely,

(e-signed)

Susanne Aigner

“SAILNET” EDUCATION AND EXCHANGE PROGRAMME (www.fonasba.com/education-and-training)

The original acronym, “SAIL” (“Ship Agent Interchange Learning”), neatly summarises the aims and objectives of this new education initiative which combines formal education with exchange visits, thereby giving ship agents the opportunity to spend time working with colleagues overseas.

The programme is being developed jointly between ECASBA and the Escola Europea Intermodal Transport in Barcelona and is aimed at middle management staff in ECASBA member countries. As mentioned on page 2, SAILNET will initially only be available in EU member states and neighbouring countries (to benefit from existing freedom of movement regulations) but it will later expand internationally.

The formal education element of the course will take place over two weeks. All the students (20 per course) will spend the first week in Barcelona and the following week will be hosted in groups of four in Spain, Portugal, Italy, Morocco and Tunisia. These sessions will cover all the subject areas relevant to the relationship between the agent, the port and the wider transport chain. Practical workshops and visits will also be organised.

In the exchange element, students will spend between one and three months in a ship agency office in another participating country, gaining direct practical experience of how the ship agency sector

functions in another country.

Initially, participation in the course will be limited to the associations mentioned above. Subsequently it will be open to all ECASBA members, but entry to the programme is dependent on the association agreeing to host students from other participating associations.

ECASBA will develop criteria for participating associations to ensure the safety and wellbeing of exchange students. Associations will also require to establish procedures to organise the arrival, stay and departure of exchange students and manage and oversee the work experience term.

It is anticipated that the first education course will be held in late November, with the exchange programme following at a later date.

Over the summer, additional information will be provided to member associations directly, through a dedicated website: www.sailnetprogramme.com, and via the main FONASBA site.



FONASBA YOUNG MEMBERS

As reported last year, the ECASBA Young Members' Group, the “Young Ecasbians”, was established under the chairmanship of Simone Carlini MICS, of the Grupo Giovani FEDERAGENTI. Its first event took place ahead of the 2017 Hamburg Youngster Shipbroker event in June last year, see the previous Newsletter.

The next formal event of the Group will be held in conjunction with Naples Shipping Week in September and further detailed information will follow in due course.

In addition to the “Young Ecasbians” initiative, it was agreed earlier this year that FONASBA would establish a database of young members (40 years of age and younger) with a view to enhancing communication between the various groups and developing closer links between them.

Assistant General Manager Victoria Mott MICS, who is coordinating young member activities across FONASBA, has recently circulated all associations to request contact details for the Chairs and Secretaries

of FONASBA young member groups as well as information on any events they may be organising at which representatives from other young member groups would be welcome. It is also hoped that Victoria's email will serve as encouragement, if required, to associations to establish a such a group where they do not currently exist.

Once the database is in place, it is intended to use it to enhance communication between the groups and to exchange information on activities and other developments of interest to our younger members. It will also be useful for circulating information on education initiatives of interest to young members, such as the Young Ship Agent or Ship Broker Award, SAILNET and the FONASBA Agent Diploma.

Victoria has already received a good number of replies from associations, but those that have not yet done so are asked to provide her with the requested information in early course.

PHOTO PAGES: FOR MORE PICTURES GO TO OUR FACEBOOK PAGE (WWW.FACEBOOK.COM/FONASBA)



Delegates at the Annual Meeting in Dubai, October 2017



Left: John A. Foord FICS, FONASBA President, addresses the Dubai Gala Dinner. Right, Dubai Shipping Agents Association Chairman Saadi Rais presents a memento of the event to FONASBA President John Foord



President John Foord presents the Young Ship Agent or Ship Broker Award to the 2017 winner, Niklas Soltow of Germany

PHOTO PAGES/2: FOR MORE PICTURES GO TO OUR FACEBOOK PAGE (WWW.FACEBOOK.COM/FONASBA)



FONASBA delegates and representatives of DP World during the tour of the Jebel Ali Container Terminal, Dubai, October 2017



FONASBA President John A. Foord FICS, (second left) with ECASBA Advisory Panel members (left to right) Nikola Hristov, Chairman Antonio Belmar da Costa, Vice Chairman Marco Tak and Jean-Pascal Bidoire with Assistant General Manager Victoria Mott MICS at IMO in London during the World Maritime Day 2017 event, October 2017

PHOTO PAGES/3: FOR MORE PICTURES GO TO OUR FACEBOOK PAGE (WWW.FACEBOOK.COM/FONASBA)



FONASBA is honoured to have been recognised as the “Best Maritime Organisation” at the 2018 SHIPTEK International Maritime Awards event held in Dubai on 1st May 2018.

Left, Nayana Nandkumar, Deputy Regional Vice President for Africa and the Middle East and Manager of the Dubai Shipping Agents Association receives the Award from Dr. Rashid Alleem – Chairman, the Sharjah Electricity and Water Authority (SEWA).

Javier Dulce, FONASBA Regional Vice President for the Americas (left) and Centro de Navegación President Guillermo Hernandez (right) visited ASAMAR, the Paraguayan agents’ association in Asunción in February 2018. Pictured left, Javier Dulce and Guillermo Hernandez with ASAMAR Past President and Board member Elsa Gamarra and current President María Ines Lacout.



Fulvio Carlini FICS, Chairman of the Chartering & Documentary Committee (left) with Francis Sarre, Chairman of the BIMCO Documentary Committee in Copenhagen, November 2017, following approval of the FONASBA/ BIMCO General Agency Agreement.

PHOTO PAGES/4: FOR MORE PICTURES GO TO OUR FACEBOOK PAGE (WWW.FACEBOOK.COM/FONASBA)



FONASBA President John Foord, fifth left, with delegates and colleagues at the 2018 CIANAM General Assembly in Costa Rica, February 2018. CIANAM President Mike Ogle (USA) is second left.



General Manager Jonathan Williams, left, with Council members of the Grupo Giovani FEDERAGENTI during their visit to the Baltic Exchange, London, March 2018

PHOTO PAGES/5: FOR MORE PICTURES GO TO OUR FACEBOOK PAGE (WWW.FACEBOOK.COM/FONASBA)



Left: FONASBA President John Foord presents the Vice President for Education, Capt. Jakov Karmelić with his Certificate of Appointment as an IMO Ambassador, Barcelona, June 2018.

Right, the Certificate of Appointment signed by IMO Secretary General Kitack Lim



FONASBA President John Foord and General Manager Jonathan Williams (left) were present at IMO Headquarters in the presence of Her Majesty Queen Elizabeth II on the occasion of the 70th anniversary of the founding of IMO, London, March 2018

Above: Her Majesty unveils the commemorative plaque, accompanied by IMO Secretary General Kitack Lim (Photograph courtesy of IMO)

PHOTO PAGES/6: FOR MORE PICTURES GO TO OUR FACEBOOK PAGE (WWW.FACEBOOK.COM/FONASBA)



A series of photographs from the 2018 ECASBA seminar, Barcelona, June 2018