

**MINUTES OF THE  
CHARTERING & DOCUMENTARY PLENARY MEETING HELD AT  
THE JW MARRIOTT CANCÚN HOTEL, CANCÚN, MÉXICO  
AT 2.00 p.m. ON WEDNESDAY, 17<sup>th</sup> OCTOBER 2018**

**Present:**

Mr. F. Carlini FICS	Chairman
Mr. J. A. Foord FICS	President FONASBA
Mr. M. El Mezouar	Vice Chairman

**In Attendance:**

Mr. J.C. Williams FICS	General Manager
Miss. V.L. Mott FICS	Assistant General Manager

Mr. J. Dulce	Argentina	Mr. A. Mantrach	Morocco
Mr. G. Hernandez	Argentina	Mr. M. Tak	Netherlands
Mr. J. Delfino	Argentina	Mr. R. D'Orey	Portugal
Mr. R. Ravindu MICS	Bahrain	Mr. A. Belmar da Costa	Portugal
Mrs. H. Bruggeman	Belgium	Mr. F. Martins	Portugal
Mr. R. Troch	Belgium	Mr. E. Bandelj	Slovenia
Mr. G. Gordon Findlay	Brazil	Mr. J. Fernandez	Spain
Mr. W. Rocha jnr.	Brazil	Mrs. B. Blomqvist	Sweden
Mr. A. Zanin	Brazil	Mrs. M. Collins	USA
Mr. M. Neri	Brazil	Mr. P. Hirtle	USA
Capt. J. Karmelić	Croatia	Mrs. J. Cardona	USA
Mr. C.P. Papavassiliou	Cyprus	Mr. S. Larsen	BIMCO
Mrs. N. Nandkumar	Dubai	Ms. M. White	INTERTANKO
Mr. S. Gillie FICS	Great Britain	Mr. A. Jamieson	ITIC
Mr. R. Hill FICS	Great Britain		
Mr. B. Szalma	Hungary	<b>Observers:</b>	
Mrs. G. Reghellin Carlini FICS	Italy	Ms. Elsa Gamarra	CIANAM/Asmar
Ms. L. Tropia	Italy	Mr. A. Rudeke	Asonave
Mr. S. Carlini	Italy	Mr. A. Gonzalez	NAVE Costa Rica
Mr. T. Iigaki	Japan	Mr. A. Salas	NAVE Costa Rica
Mr. T. Saita	Japan	Mr. A. Durot	WWSA
Mr. Y. Dohi	Japan	Mr. K. Neumann	WWSA
Mrs. N. Becerra	Mexico	Mr. H. Brusaard	WWSA
Mr. C. Bennett Lira	Mexico	Mr. C. Mehrtens	WWSA
Mr. M. Andrade Gomez	Mexico	Mr. F. Angel Rios	WWSA
Mr. A. Antunez	Mexico	Mr. R. Anzola	WWSA

**Item**

**Action**

1. **President's Welcome, Chairman's Opening Address**  
The **President** and the **Chairman** welcomed all those present to the meeting. They both thanked AMANAC for having hosted the meeting and for the excellent organisation of the meetings and social events.
2. **Minutes of the Last Meeting held Dubai, 16<sup>th</sup> October 2017**  
With no comments having been received, the minutes **were approved.**
3. **Matters Arising**  
There were no matters arising that were not otherwise covered in the agendum.
4. **FONASBA Shipbrokers Facebook Page**  
Mr. **El Mezouar** reported that the first few months of operation of the closed, invitation only, Facebook page for shipbrokers had been very successful, with more than 100 brokers signed up

for access. He also reported that a LinkedIn page would also be established to run in parallel with the Facebook page. Further information would follow in due course.

MEM  
/FC

The **Chairman** advised that he would take the GENCON Revision Project (item 5) after the report on the work of the BIMCO Documentary Committee so moved to item 6.

## 6. **BIMCO and INTERTANKO Documentary Committee Reports**

At the invitation of the **Chairman**, Mr. **Larsen** and Ms. **White** made presentations to the meeting on the activities of their respective Documentary Committees.

After giving apologies for absence from Documentary Committee Chairman Francis Sarre, Mr. **Larsen** referred to:

- New contracts being developed including: BUNKERTERMS 2018, designed to protect bunker purchasers should the supplier cease trading, and DISMANTLECON for the removal of offshore structures.
- New clauses including: the LNG Bunkering Clause; an amended Sanctions Clause for time charterparties that will recognise the evolving nature of sanctions; a comprehensive Cyber security clause which should avoid the need for separate, specific clauses; revised Arrest Clauses for both time and voyage charters; a Hull Fouling Clause and the new Sulphur 2020 clauses, which will address both compliance and transition issues.

The **Chairman** asked Mr. **Larsen** if he thought that the introduction of ultra-low sulphur fuels would impact adversely on the agent. Mr. **Larsen** said he did not think it would, other than in their traditional role of advising ship owners and operators of the applicable legislation, providing data on supplies and loading facilities and similar information.

Turning to the issue of cyber security, the **Chairman** said that action by organisations such as BIMCO, INTERTANKO and ITIC was vital to ensure that adequate protections were in place and that regular updates on the fraudulent schemes operating in the market place were broadcast to those likely to be affected, agents and brokers included. Mr. **Larsen** reminded the meeting of the cyber security provisions in BIMCO documents, including the AAA and GAA forms.

The **Chairman** thanked Mr. Larsen for his presentation and then invited Ms. **White** to speak on behalf of INTERTANKO.

In her presentation, Ms. **White** gave an overview of recent developments within INTERTANKO before summarising the clauses under development including:

- A Worldscale Costs Clause
- The Mass Flow Meter Clause
- Anti-Fouling and Storage Clauses
- Use of LNG as Fuel
- Revised Ballast Water Management Clauses
- INTERTANKO's Bunker 2020 clauses

She also gave an overview of new INTERTANKO publications including a guide to LNG chartering; bunker supply terms; freight payment models and a commentary on the SHELLTIME 4 charterparty.

She also acknowledged the participation of the **Chairman** in INTERTANKO's Tanker Event in Rome.

The **Chairman** thanked Ms. **White** for her presentation and asked whether she saw any issues for agents as a result of the sulphur 2020 provisions. She fully endorsed the comments made previously by Mr. **Larsen** and added that agents should also be alert to, and ready to assist in tackling, unreasonable demands being made to owners and operators.

Copies of both presentations are also available for download from the Members' Area.

## 5. **GENCON '94 Revision Project**

The **Chairman** updated the meeting on the project to revise the GENCON '94 form, the most widely used voyage charter party form in the world. He said BIMCO had realised that the form was now subject to so many user amendments that a full rewrite was necessary. To assist in the process, a sub-committee had been assembled and FONASBA was pleased to have been invited to take part. The sub-committee had, by October 2018, held three meetings and good progress had been made. To support the revision work, FONASBA had formed its own sub-committee and this would feed views, comments and suggestions to BIMCO via the **Chairman**.

Mr. **Larsen** added that BIMCO was extremely grateful for FONASBA's input to the revision committee and, similar to the AA/GAA projects, was looking forward to further close and effective collaboration on the GENCON revision.

## 7. **ITIC Claims Review**

Mr. **Jamieson** gave another of his interesting and insightful presentations about the issues currently giving rise to claims against ship brokers and ship agents. These included:

- The failure to forward demurrage claims within the period specified in the charterparty remains the commonest claim against tanker brokers. Claims are often subject to a 90 day time limit and owners will seek settlement from the broker if the claim is not presented in good time.
- Notable claims against ship agents in the last year included one against an agent who failed to request free pratique. When this failure was realised the ship had already departed and so was not delayed. If the vessel had been delayed the agent would have been liable for the owner's losses. As it was the agent was fined for the breach of regulations.
- Agents are increasingly facing claims from authorities even if they cannot influence what is being done. A New Zealand environmental authority issued abatement orders to the stevedores, port authority and the agent due to vessels discharging dusty cargo in winds exceeding the regulations. The stevedore controls the discharge and the port and stevedore in consultation decide when discharge must cease. The agent has no role in the decision. In two separate cases the legal costs for the agent reached about NZ\$ 20,000 each. In both cases the agent was not found to be at fault and no further action was taken but the agents still had to pay their legal costs.
- Agents are increasingly pursued by port authorities for the costs of repairing damage caused by the ship. A number of cases involved claims for dock damage being raised after the vessel has sailed. In such cases the owner may refuse to settle the claim, or may seek to secure a reduction which is subsequently rejected, leaving the agent liable for the entire claim or the shortfall. Mr Jamieson said ITIC had arrested a number of vessels to secure funds to cover the liability of the agent to the port authority.
- He also reiterated his previous advices regarding the failure of principals to pay commission without a signed charterparty. He said this was particularly unethical given that the principals had already received the freights, also without a signed charterparty.
- Concluding his presentation, Mr. **Jamieson** reminded delegates to be alert to the possibility of forgery. ITIC had seen fake crew changes, fake email releases of cargo and forged bills of lading

The **Chairman** thanked Mr. **Jamieson** for yet another excellent presentation, a copy of which is also available for download from the Members' Area of the website.

## 8. **ICC Clauses 2020**

The **Chairman** reminded the meeting that the International Chamber of Commerce (ICC) was undertaking a thorough revision of the INCOTERMS and this could have a significant impact on shipbrokers and ship agents. He said that it was becoming increasingly clear that principals were often not aware of the exact terms on which they were fixing business and there was a corresponding need for agents and brokers to be able to plug the knowledge gap and ensure that their principals did not suffer through a lack of understanding.

Part of the review process may see some older and less commonly used terms disappear and others may be significantly modified as a result of changing patterns of trade. It was therefore necessary

to maintain a close watch on developments. He said FONASBA would update members as appropriate.

**9. Shipbrokers – Now And In The Future**

The **Chairman** addressed delegates on the future of the shipbroker in maritime trade. He said that at the INTERTANKO Tanker event in Rome (see above), a poll of delegates had shown that a significant majority of tanker ship owners (65%) supported the use of shipbrokers in negotiating business. This was particularly encouraging as the tanker market is dominated by a small number of very large players, giving plenty of scope to work directly with the major suppliers and charterers. It was therefore reassuring that tanker owners, at least, valued the knowledge, experience and abilities of ship brokers and wished to continue using their services. Further supporting evidence was also provided by the limited impact of online trading platforms on the market. Whilst the number of broking firms may be slowly reducing over time, ship owners still acknowledged the added value brokers can bring to the negotiation.

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

The **Chairman** thanked all those present for their contributions to an excellent and productive meeting. He then advised that the next Plenary Meeting of the Chartering & Documentary Committee would take place on Tuesday, 1<sup>st</sup> October 2019 in Miami.

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

**JCW/02.2019**