

United Nations (UNCTAD) Minimum Standards For Shipping Agents (1988)

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Introduction

The following Minimum Standards were prepared by the UNCTAD secretariat in close consultation with the organizations involved in shipping agency matters, in response to a request from the UNCTAD Ad hoc Intergovernmental Group to Consider Means of Combating all Aspects of Maritime Fraud, including Piracy. The Committee on Shipping at its thirteenth session in March 1988, having endorsed these Minimum Standards, recommended their use as appropriate. They are non-mandatory in nature and are to serve as guidelines for national authorities and professional associations in establishing their own standards.

Article 1 - Objectives

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;
- (c) To provide guidelines for national authorities/professional associations in establishing and maintaining a sound shipping agency system.

Article 2 - Definitions

For the purpose of these Minimum Standards:

“Shipping agent” means any person (natural or legal) engaged on behalf of the owner, charterer or operator of a ship, or of the owner of cargo, in providing shipping services including:

- (i) Negotiating and accomplishing the sale or purchase of a ship;
- (ii) Negotiating and supervising the charter of a ship;
- (iii) Collection of freight and/or charter hire where appropriate and all related financial matters;
- (iv) Arrangements for Customs and cargo documentation and forwarding of cargo;
- (v) Arrangements for procuring, processing the documentation and performing all ac-

tivities required related to dispatch of cargo;

(vi) Organizing arrival or departure arrangements for the ship; 19

(vii) Arranging for the supply of services to a ship while in port. 20

“National authority” means the body constituted under national law to implement the legislation governing the licensing/registration of shipping agents. 21

“Professional association” means an organization constituted for the purposes of: 22

(i) Providing a central organization for those engaged in the profession of shipping agents; 23

(ii) Establishing and upholding standards of conduct and practice for the profession; 24

(iii) Exercising supervision over the members and securing for them such professional standards as may assist them in the discharge of their duties. 25

“Professional examination” means an examination carried out on subjects specifically related to the profession in order to ensure adequate knowledge and expertise. 26

Article 3 - Professional qualifications 27

To be considered professionally qualified, the shipping agent must: 28

1. 29

(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; 30

(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 31

(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; 32

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. 33

Article 4 - Financial qualifications 34

To be considered financially sound a corporate entity and where relevant the shipping agent individually must: 35

(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 36

(ii) Have adequate liability insurance through an internationally recognized insurance 37

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. 38

Article 5 - Code of professional conduct 39

The shipping agent shall: 40

(i) Discharge his duties to his principal(s) with honesty, integrity and impartiality; 41

(ii) Apply a standard of competence in order to perform in a conscientious, diligent and efficient manner all services undertaken as shipping agent; 42

(iii) Observe all national laws and other regulations relevant to the duties he undertakes; 43

(iv) Exercise due diligence to guard against fraudulent practices; 44

(v) Exercise due care when handling monies on behalf of his principal(s). 45

Article 6 - Enforcement 46

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: 47

(i) Warnings; 48

(ii) A requirement for undertakings as to the shipping agent's future conduct; 49

(iii) Temporary suspension of membership from the relevant professional association; 50

(iv) Temporary suspension of authorization to operate as shipping agent, if/where granted by the relevant national authority; 51

(v) Expulsion of membership from the relevant professional association, 52

(vi) Cancellation of authorization to operate as shipping agent, if/where granted by the relevant national authority. 53

Article 7 - Compliance 54

Shipping agents already operating who do not meet the foregoing standards should be given reasonable time to conform with the requirements. 55

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