UN/CEFACT – ISC-PDA/T&L Ship Agent– P1088

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INTERNATIONAL SUPPLY CHAIN PROGRAMME DEVELOPMENT AREA
TRANSPORT AND LOGISTICS DOMAIN

RECOMMENDATION ON SHIP AGENT AND SHIP BROKER MINIMUM STANDARDS

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Part I: Recommendation No XXX: Minimum Standards for Ship Agents and Ship Brokers

Introduction

In 1988, the United Nations Conference on Trade Development issued the first version of Minimum Standards for Shipping Agents (UNCTAD/ST/SHIP/13) in response to a request from the UNCTAD Ad Hoc Intergovernmental Group to Consider Means of Combatting all Aspects of Maritime Fraud, including Piracy. These guidelines are non-mandatory in nature and serve as guidelines for national authorities and professional associations in establishing their own standards. This document was developed in close collaboration with UNCTAD.

Purpose and Scope

This current release of these standards aims to make the necessary amendments to ensure that they continue to provide appropriate and up-to-date guidance to national authorities and professional associations. This includes changes to operational practices in the ship agency profession since the first issue in 1988 and the increasing emphasis on quality service, as well as increased requirements, including in the context of the IMO FAL Convention, for the digital exchange of shipping information between ships and ports aiming to reduce the administrative burden and increase the efficiency of maritime trade and transport. These amendments also specifically reference ship brokers as being covered by this standard.

These guidelines can further assist countries who do not yet have ship agency or ship broking sectors to develop these professions.

The 1988 Minimum Standards recommendation provided a definition of Ship Agent which encompassed the activities of Ship Agents and of Ship Brokers. The current recommendation proposes to align the definition of Ship Agent to the IMO Convention on the Facilitation of International Maritime Traffic, 1965, as amended and in force from 1st January 2018 (henceforth the “IMO FAL Convention”). Ship Brokers are also invited to apply these Minimum Standards.

Benefits

Ship Agents can serve as the local representative for a ship owner or charterer (also called the Principal). Together with the port stakeholders, they can assist with all relevant services for the arrival, discharge, release and loading of vessels, ensuring that the Principal is aware and in accordance with the dispositions.

Ship Brokers act as intermediaries between the ship owner and the charterer in the establishment of contracts for the chartering of vessels and for the carriage of goods and passengers by sea. Ship Brokers also act as intermediaries for the sale and purchase of ships and other seagoing vessels.

Compliance by ship agents and ship brokers to the minimum standards set out in this document will contribute to the raising of standards of professional service delivery to ship owners, ship operators and other engaged parties and thereby enhance the efficiency and effectiveness of the maritime transport chain. These standards will also contribute to capacity building by providing guidance to companies and national authorities in the establishment of professional and well-founded ship agency and ship broking sectors.
International Standards

These guidelines have been developed in compliance with and to support the IMO FAL Convention.

Recommendation

UN/CEFACT, at its twenty-seventh Plenary session on XXX April 2021 in Geneva recommends the following:

a) Governments should consider endorsing the Ship Agency and Ship Broking professions in line with the minimum standards in Part II of this document.

b) Professionals who would like to practice the Ship Agency and Ship Broking professions should consider the minimum standards in Part II of this document as the base line best practices.
ARTICLE 1: Objectives

The objectives of these Minimum Standards are:

a) To uphold a high standard of business ethics and professional conduct among ship agents and ship brokers;

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 and ship brokers;

d) To actively contribute to combatting illicit trade and illicit maritime practices including but not limited to, maritime and customs fraud, corruption, the illicit movement of banned drugs and other illegal or restricted substances, counterfeits, endangered species and fraudulent ship registration, digital fraud and cyber-crime, by ensuring shipping agents are trained to the highest levels and if possible professionally qualified;

e) To provide guidelines for national authorities and or professional associations in establishing and maintaining a sound ship agency and ship broking system;

f) To encourage ship agents and ship brokers to gain and maintain an internationally recognised quality standard covering their ship agency and ship broking operations.

ARTICLE 2: Definitions

For the purpose of these Minimum Standards:

- **Ship Agent** means: 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 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.¹

- **Ship Broker** means: A party acting as an intermediary between parties (the Principals) engaged in negotiating and accomplishing the sale and purchase or hire of a ship. This may also include collection of freight and/or charter hire where appropriate and all related financial matters.

- **National Authority** means the body constituted under national law to implement legislation governing the licensing/registration of ship agents and ship brokers.

- **Professional association** means an organisation constituted for the purposes of:
  a) Providing a central organisation for those engaged in the professions of ship agents and ship brokers in the country concerned;
  b) Establishing and upholding standards of conduct and practice for those professions;
  c) Exercising supervision over the members and securing for them such professional standards as may assist them in the discharge of their duties.

- **Examination** means an examination carried out on subjects specifically related to those professions in order to ensure adequate knowledge and expertise.

¹ International Maritime Organization, Convention on Facilitation of International Maritime Traffic, 1965, as amended, 2017 edition (IMO FAL), see, as of July 2020:
Adequately and appropriately trained means that individuals employed by a ship agent or ship broker should receive full and regular training such that they can carry out all their expected duties to a high standard.

Quality Programme means a programme established by a recognised quality assurance provider with the aim of ensuring that ship agencies and ship brokers accredited thereto meet clearly set minimum standards for professional qualifications, adequate and appropriate training and financial qualifications.

ARTICLE 3: Qualifications

To be deemed qualified, the ship agent or ship broker should:

a) As an individual, be of good standing and be able to demonstrate their good reputation and competence and:
   i. Have obtained the necessary expertise in the profession by working for a significant period of time in a responsible capacity with a qualified ship agent or ship broker and
   ii. Have passed such examination(s) or assessment(s) where required or recognized by the national authorities, or professional associations. The scope and details of such examination(s) shall be determined by the said authorities/professional associations.

b) As a corporate entity: Employ such persons qualified as above to ensure the proper performance of the entity’s function as a ship agent or ship broker.

ARTICLE 4: Education and Training

A ship agency or ship broking company should ensure that all employees are adequately qualified or trained in order to ensure the provision of a high level of service to its customers. Such training should cover all the duties the employees would be reasonably expected to undertake, should be reviewed regularly and where necessary updated or expanded. Training can be provided by the company itself, national associations, commercial training providers and other suitably qualified bodies. Ship agents or ship brokers in partnership or acting as a sole trader should also undertake such training or education as may be necessary to ensure the maintenance of a high level of service provision to their Principals.

ARTICLE 5: Financial Qualifications

To be considered financially sound, a corporate entity, and where they provide such services in partnership or as a sole trader, a ship agent or ship broker must:

a) Have financial resources adequate to its business evidenced by references from banks, financial institutions, auditors and reputable credit reference companies to the satisfaction of the national authorities/professional associations; and

b) As evidence of best practice should have in place adequate and appropriate insurance cover, where possible provided by an internationally recognised mutual club or insurance company, in respect of professional indemnity risks and/or errors and omissions by the company.  

2 Adequate shall mean at or above any minimum limits of cover set by the association or national authorities and appropriate shall mean that the cover extends to all aspects of the company’s activities

c) Maintain appropriate accounting policies and controls, ensuring that principals’ funds are accounted separately from those of the company or individual itself.⁴

Measures must be taken to ensure that the above financial standards continue to be met. This could be achieved through regular scrutiny of ship agents and ship brokers by the national authorities or professional organisations.

ARTICLE 6: Code of Professional Conduct

The ship agent or ship broker shall:

a) Discharge their duties to their principal(s) with honesty, integrity and impartiality
b) Apply a standard of competence in order to perform in a conscientious, diligent and efficient manner all services undertaken as a ship agent or ship broker;
c) Observe all national laws and regulations relevant to the duties they undertake;
d) Operate from a permanent address with all the necessary facilities and equipment to conduct business in an efficient and timely manner⁵;
e) Exercise due diligence to guard against fraudulent practices;
f) Exercise due care when handling monies on behalf of their principal(s)

ARTICLE 7: Accreditation to a Recognised Quality Programme

As further evidence of their commitment to the provision of a high standard of professionalism in the delivery of services to their principals, ship agencies and ship brokers should seek accreditation to a relevant quality programme administered by a recognised provider.⁶

ARTICLE 8: Enforcement

National authorities and/or professional associations charged with overseeing ship agency and ship broking services should ensure that these minimum standards are complied with. In proven cases of non-compliance, they shall determine the appropriate disciplinary measures applicable. These may include:

a) Warnings;
b) A requirement for undertakings as to the ship agent or ship broker’s future conduct;
c) Temporary suspension of authorisation to operate as a ship agent or ship broker if/where granted by the relevant authority;
d) Temporary suspension of membership from the relevant professional association;
e) Temporary suspension of accreditation to a quality programme;
f) Cancellation of authorisation to operate as ship agent or ship broker, if/where granted by the relevant national authority;
g) Expulsion from membership of the relevant professional association;
h) Expulsion from accreditation to a quality programme.

Ship agents and ship brokers already operating who do not meet the foregoing standards should be given reasonable time to conform to the requirements.