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Taslağı

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Sayın Üyemiz,

Gemi Brokerleri ve Acenteleri Ulusal Birlikleri Federasyonu'nun (FONASBA) 21 Temmuz 2020 tarihli ve bila sayılı yazısında, Birleşmiş Milletler Ticaret ve Kalkınma Konferansı tarafından hazırlanan "Gemi Brokerleri ve Acentelerin Tavsiye Edilen Asgari Standartları" taslak dokümanına yer verilmektedir.

Ek'te detayları sunulan bahse konu taslak dokümanın acenteler ve gemi brokerleri tarafından gözden geçirilerek, görüşlerin <https://bit.ly/2ONlzDG> linkinden erişim sağlanabilen bildirim formatına uygun olarak 21 Eylül 2020 tarihine kadar FONASBA Genel Müdürü Sayın Jonathan William'a (generalmanager@fonasba.com) iletilmesi istenmekte olup, görüş ve öneriler değerlendirilerek söz konusu standartların nihai şekline getirileceği bildirilmektedir.

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Saygılarımla,

*e-İmza*

İsmet SALİHOĞLU  
Genel Sekreter

**Ek:** Gemi Acenteleri ve Gemi Brokerleri Asgari Standartları Taslağı (7 sayfa)

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- ROFED (Kabotaj Hattı Ro-Ro ve Feribot İşletmecileri Derneği)
- İMEAK DTO 26,37,40,41,42,43 No'lu Meslek Grubu Üyeleri

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

UNITED NATIONS  
CENTRE FOR TRADE FACILITATION AND ELECTRONIC BUSINESS  
(UN/CEFACT)

INTERNATIONAL SUPPLY CHAIN PROGRAMME DEVELOPMENT AREA  
TRANSPORT AND LOGISTICS DOMAIN

RECOMMENDATION ON SHIP AGENT AND SHIP BROKER MINIMUM STANDARDS

**SOURCE:** Project Team  
**ACTION:** Public Review

**DATE:** 9<sup>th</sup> July 2020  
**STATUS:** **Version for Public Review**

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## 9 Part I: Recommendation No XXX: Minimum Standards for Ship Agents 10 and Ship Brokers

### 11 Introduction

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

### 18 Purpose and Scope

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

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

29 The 1988 Minimum Standards recommendation provided a definition of Ship Agent which encompassed  
30 the activities of Ship Agents and of Ship Brokers. The current recommendation proposes to align the  
31 definition of Ship Agent to the IMO Convention on the Facilitation of International Maritime Traffic,  
32 1965, as amended and in force from 1<sup>st</sup> January 2018 (henceforth the “IMO FAL Convention”). Ship  
33 Brokers are also invited to apply these Minimum Standards

### 34 Benefits

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

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

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

48 [International Standards](#)

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

50 [Recommendation](#)

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

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

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

57

## 58 Part II: Guidelines to Recommendation N°XXX: Minimum Standards for 59 Ship Agents and Ship Brokers

### 60 ARTICLE 1: Objectives

61 The objectives of these Minimum Standards are:

- 62 a) To uphold a high standard of business ethics and professional conduct among ship agents and  
63 ship brokers;
- 64 b) To promote a high level of professional education and experience, essential to provide efficient  
65 services;
- 66 c) To encourage operation of financially sound and stable shipping agents and ship brokers
- 67 d) To actively contribute to combatting illicit trade and illicit maritime practices including but not  
68 limited to, maritime and customs fraud, corruption, the illicit movement of banned drugs and  
69 other illegal or restricted substances, counterfeit goods, endangered species and fraudulent ship  
70 registration, digital fraud and cyber-crime, by ensuring shipping agents are trained to the  
71 highest levels and if possible professionally qualified
- 72 e) To provide guidelines for national authorities and or professional associations in establishing  
73 and maintaining a sound ship agency and ship broking system
- 74 f) To encourage ship agents and ship brokers to gain and maintain an internationally recognised  
75 quality standard covering their ship agency and ship broking operations.

### 76 ARTICLE 2: Definitions

77 For the purpose of these Minimum Standards:

- 78 • **Ship Agent** means: The party representing the ship's owner and/or charterer (the Principal) in  
79 port. If so instructed, the agent is responsible to the Principal for arranging, together with the  
80 port, a berth, all relevant port and husbandry services, tending to the requirements of the  
81 Master and crew, clearing the ship with the port and other authorities (including preparation  
82 and submission of appropriate documentation) along with releasing or receiving cargo on behalf  
83 of the Principal.<sup>1</sup>
- 84 • **Ship Broker** means: A party acting as an intermediary between parties (the Principals) engaged  
85 in negotiating and accomplishing the sale and purchase or hire of a ship. This may also include  
86 collection of freight and/or charter hire where appropriate and all related financial matters.
- 87 • **National Authority** means the body constituted under national law to implement legislation  
88 governing the licensing/registration of ship agents and ship brokers.
- 89 • **Professional association** means an organisation constituted for the purposes of:
  - 90 a) Providing a central organisation for those engaged in the professions of ship agents and  
91 ship brokers in the country concerned;
  - 92 b) Establishing and upholding standards of conduct and practice for those professions;
  - 93 c) Exercising supervision over the members and securing for them such professional  
94 standards as may assist them in the discharge of their duties
- 95 • **Examination** means an examination carried out on subjects specifically related to those  
96 professions in order to ensure adequate knowledge and expertise.

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<sup>1</sup> International Maritime Organization, Convention on Facilitation of International Maritime Traffic, 1965, as amended, 2017 edition (IMO FAL), see, as of July 2020:  
<http://www.imo.org/en/OurWork/Facilitation/ConventionsCodesGuidelines/Pages/Default.aspx>

- 97 • **Adequately and appropriately trained** means that individuals employed by a ship agent or ship  
98 broker should receive full and regular training such that they can carry out all their expected  
99 duties to a high standard.
- 100 • **Quality Programme** means a programme established by a recognised quality assurance provider  
101 with the aim of ensuring that ship agencies and ship brokers accredited thereto meet clearly set  
102 minimum standards for professional qualifications, adequate and appropriate training and  
103 financial qualifications.

#### 104 ARTICLE 3: Qualifications

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

- 106 a) As an individual, be of good standing and be able to demonstrate their good reputation and  
107 competence and:
- 108 i. Have obtained the necessary expertise in the profession by working for a significant  
109 period of time in a responsible capacity with a qualified ship agent or ship broker and  
110 ii. Have passed such examination(s) or assessment(s) where required or recognized by the  
111 national authorities, or professional associations. The scope and details of such  
112 examination(s) shall be determined by the said authorities/professional associations.
- 113 b) As a corporate entity: Employ such persons qualified as above to ensure the proper  
114 performance of the entity's function as a ship agent or ship broker.

#### 115 ARTICLE 4: Education and Training

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

#### 123 ARTICLE 5: Financial Qualifications

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

- 126 a) Have financial resources adequate to its business evidenced by references from banks, financial  
127 institutions, auditors and reputable credit reference companies to the satisfaction of the  
128 national authorities/professional associations; and
- 129 b) As evidence of best practice should have in place adequate and appropriate<sup>2</sup> insurance cover,  
130 where possible provided by an internationally recognised mutual club or insurance company, in  
131 respect of professional indemnity risks and/or errors and omissions by the company.<sup>3</sup>

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<sup>2</sup> 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

<sup>3</sup> See for example, FONASBA Quality Standard Eligibility Criteria, FONASBA, October 2017, available as of July 2020 at: <https://www.fonasba.com/wp-content/uploads/2017/10/QUALITY-STANDARD-CRITERIA-v7-COUNCIL-APPROVED-OCTOBER-2017.pdf>

132 c) Maintain appropriate accounting policies and controls, ensuring that principals' funds are  
133 accounted separately from those of the company or individual itself.<sup>4</sup>

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

## 137 ARTICLE 6: Code of Professional Conduct

138 The ship agent or ship broker shall:

- 139 a) Discharge their duties to their principal(s) with honesty, integrity and impartiality
- 140 b) Apply a standard of competence in order to perform in a conscientious, diligent and efficient  
141 manner all services undertaken as a ship agent or ship broker;
- 142 c) Observe all national laws and regulations relevant to the duties they undertake;
- 143 d) Operate from a permanent address with all the necessary facilities and equipment to conduct  
144 business in an efficient and timely manner<sup>5</sup>;
- 145 e) Exercise due diligence to guard against fraudulent practices;
- 146 f) Exercise due care when handling monies on behalf of their principal(s)

## 147 ARTICLE 7: Accreditation to a Recognised Quality Programme

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

## 151 ARTICLE 8: Enforcement

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

- 156 a) Warnings;
- 157 b) A requirement for undertakings as to the ship agent or ship broker's future conduct;
- 158 c) Temporary suspension of authorisation to operate as a ship agent or ship broker if/where  
159 granted by the relevant authority;
- 160 d) Temporary suspension of membership from the relevant professional association;
- 161 e) Temporary suspension of accreditation to a quality programme;
- 162 f) Cancellation of authorisation to operate as ship agent or ship broker, if/where granted by the  
163 relevant national authority;
- 164 g) Expulsion from membership of the relevant professional association;
- 165 h) Expulsion from accreditation to a quality programme.

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<sup>4</sup> Op.Cit.

<sup>5</sup> FONASBA Code of Conduct, 1998 revised 2008, available as of July 2020 at: <https://www.fonasba.com/fonasba-member/code-of-conduct>

<sup>6</sup> For example, a national Authorized Economic Operator schema (as foreseen in the World Customs SAFE Framework of Standards, see, as of July 2020: [http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe\\_package.aspx](http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe_package.aspx)), the FONASBA Quality Standard (Op. Cit.) or ISO 9001 on Quality Management (see, as of July 2020: <https://www.iso.org/iso-9001-quality-management.html>)

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