

UNECE

Minimum Standards for Ship Agents and Ship Brokers

Recommendation No. 45



**United Nations Centre for Trade Facilitation
and Electronic Business (UN/CEFACT)**



UNITED NATIONS

United Nations Economic Commission for Europe

United Nations Centre for Trade Facilitation and Electronic Business

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Ship Agents and Ship Brokers**



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Foreword

A ship agent's role is of vital importance in international maritime logistics and directly affects not only the economic success of a voyage, but the safety and wellbeing of the crew. A ship agent's primary responsibility is to represent the ship owner or charterer in port, clearing the vessel with authorities and managing any relevant services before, during and after port visits. Acting as an intermediary, the ship agent provides expertise and ensures that all the regulations and requirements are complied with - essentially being a conduit for all information exchanges and interactions between the ship and the port.

Increased digitalization presents opportunities for the profession and the shipping industry at large, as digital data sharing allows vessels to access up-to-date information to inform decision-making at all stages of the voyage. Ship agents will therefore continue to adapt to enhance the efficiency and effectiveness of the maritime transport chain and help translate these gains to contribute to achieving the United Nations 2030 Agenda for Sustainable Development.

This Recommendation is an update of the 1988 UNCTAD minimum standards for ship agents and a reflection of the changes in operational practices in the ship agency profession. It also recognizes, for the first time, the role of the ship broker in bringing the ship and cargo together. It aims to reconcile the effects of increased digitalization with the requirements for ship agents and ship brokers. It draws particular attention to the importance of upholding a high standard of business ethics and professional conduct and promoting a high level of professional qualifications and experience, necessary to combat maritime fraud and provide high-quality service.

In partnership with the IMO, the definitions in this Recommendation were brought closer in line with the Convention on the Facilitation of International Maritime Traffic, 1965, and amended in 2018 to include the digital exchange of shipping information between ships and ports, an area of UN/CEFACT's expertise. Since 2019, the FAL Convention requires all actors to exchange data electronically and strongly encourages the use of the Maritime Single Window, adapted from UN/CEFACT's recommendations and guidelines.

UN/CEFACT's mission is to improve the capacity of business, trade, and administrative organizations to trade effectively and reduce administrative burden. Given the vital role played by ship agents in ensuring that maritime transport continues to operate effectively and efficiently, the standards presented in this Recommendation contribute to this capacity building and underpin the wider work of the UNECE, particularly in the field of SDG 8 which promotes sustained, inclusive, and sustainable economic growth, full and productive employment and decent work for all.

The minimum standards outlined in this Recommendation also contribute to combatting illicit trade and piracy that greatly undermine our collective efforts to reach sustainability and equality. And just as this illegal activity transcends national borders, we must forge a joint response to help build the capacity of ship agents and brokers who are working on the front lines. I therefore invite all concerned actors to make an effective use of this Recommendation.



Olga Algayerova

United Nations Under-Secretary-General

Executive Secretary of the United Nations Economic Commission for Europe

Note

The designations employed and the presentation of the material in this publication do not imply the expression of any opinion whatsoever on the part of the Secretariat of the United Nations concerning the legal status of any country, territory, city or area, or of its authorities, or concerning the delimitation of its frontiers or boundaries.

The United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT)

Simple, Transparent and Effective Processes for Global Commerce

UN/CEFACT's mission is to improve the ability of business, trade and administrative organizations, from developed, developing and transitional economies, to exchange products and relevant services effectively. Its principal focus is on facilitating national and international transactions, through the simplification and harmonization of processes, procedures and information flows, and so contribute to the growth of global commerce.

Participation in UN/CEFACT is open to experts from United Nations Member States, Intergovernmental Organizations and Non-Governmental Organizations recognised by the United Nations Economic and Social Council (ECOSOC). Through this participation of government and business representatives from around the world, UN/CEFACT has developed a range of trade facilitation and e-business standards, recommendations and tools that are approved within a broad intergovernmental process and implemented globally.

UN/CEFACT is committed to ensuring that the gender dimension is reflected in norms, roles, procedures, and access to resources. Government and trade are encouraged to promote equal opportunities for women and men within the scope of Trade Facilitation activities. UN/CEFACT specifically encourages the collection, analysis, and monitoring of gender disaggregated data in order to better understand and support women's engagement in international trade and transport facilitation.

This Recommendation encourages governments, business communities, development partners, international organizations, and other policymakers to follow UN/CEFACT's commitment to ensure inclusiveness for women.

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I. Recommendation No. 45: Minimum Standards for Ship Agents and Ship Brokers

A. Introduction

1. In 1988, the United Nations Conference on Trade and Development (UNCTAD) 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 are non-mandatory in nature and are intended to assist national authorities and professional associations in establishing their own standards. This recommendation was developed in close collaboration with UNCTAD.

B. Purpose and scope

2. This recommendation 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 reflects (i) changes to operational practices in the ship agency profession since the first issue in 1988; (ii) the increasing emphasis on quality service; (iii) as well as increased requirements, including in the context of the International Maritime Organization (IMO) *Convention on the Facilitation of International Maritime Traffic*, 1965, as amended and in force from 1st January 2018 (henceforth 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. The recommendation expressly references ship brokers as being covered by these standards.

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

4. The 1988 Minimum Standards recommendation provided a definition of a 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.

C. Benefits

5. 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.

6. 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.

7. 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 for 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.

D. International standards

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

E. Recommendation

9. The United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), at its twenty-seventh Plenary session on 19-20 April 2021 in Geneva, recommends the following:

- (a) National authorities and professional associations should consider the minimum standards in Part II of this document as guidelines when establishing their own standards.
- (b) Professionals who would like to practice in the ship agency and ship broking professions should consider the minimum standards in Part II of this document as the baseline for best practices.

II. Guidelines to Recommendation No. 45: Minimum Standards for Ship Agents and Ship Brokers

A. Objectives

10. The objectives of these minimum standards are as follows:
- (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 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, other illegal or restricted substances, counterfeit goods and endangered species; fraudulent ship registration; digital fraud and cybercrime) 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 sound ship agency and ship broking systems; and
 - (f) To encourage ship agents and ship brokers to gain and maintain an internationally recognized quality standard covering their ship agency and ship broking operations.

B. Definitions

11. For the purposes of these minimum standards the following definitions apply:
- **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.

¹ International Maritime Organization, *Convention on Facilitation of International Maritime Traffic, 1965, as amended, 2017 edition* (IMO FAL).

See <https://www.imo.org/en/OurWork/Facilitation/Pages/FALConvention-Default.aspx>

- **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 organization constituted for the purposes of:
 - providing a central organization for those engaged in the professions of ship agent and ship broking in the country concerned,
 - establishing and upholding standards of conduct and practice for those professions, and
 - 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.
- **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 program** means a program established by a recognized 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.

C. Qualifications

12. To be deemed qualified, the ship agent or ship broker must:
- (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) as 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.

D. Education and training

13. 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 reasonably be

expected to undertake. It should be reviewed regularly and, where necessary, updated or expanded. Training could 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.

E. Financial qualifications

14. 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:

- have financial resources adequate to maintain its business, as evidenced by references from banks, financial institutions, auditors, and reputable credit reference companies to the satisfaction of the national authorities/professional associations; and
- as evidence of best practice, have in place adequate and appropriate² insurance coverage, provided, where possible, by an internationally recognized mutual club or insurance company, in respect of professional indemnity risks and/or errors and omissions by the company³; and
- maintain appropriate accounting policies and controls, ensuring that principals' funds are counted separately from those of the company or individual itself.⁴

15. 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 national authorities or professional organizations.

F. Code of professional conduct⁵

16. The ship agent or ship broker shall:

- discharge their duties to their principal(s) with honesty, integrity and impartiality;
- 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;
- observe and effectively execute all national laws and regulations relevant to the duties they undertake;
- operate from a permanent address with all the necessary facilities and equipment in the port of call, or being represented in the port of call, or in the country of port of call, to conduct business in an efficient and timely manner;

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

³ Criteria and wording derived from FONASBA Quality Standard Eligibility Criteria, FONASBA, October 2017. Available at <https://www.fonasba.com/wp-content/uploads/2017/10/QUALITY-STANDARD-CRITERIA-v7-COUNCIL-APPROVED-OCTOBER-2017.pdf>. (Accessed 8 January 2021)

⁴ Ibid.

⁵ Items in this section are aligned with various criteria found in the The FONASBA Code of Conduct, 1998 (revised 2008). Available at <https://www.fonasba.com/fonasba-member/code-of-conduct>. (Accessed 8 January 2021)

- exercise due diligence to guard against fraudulent practices; and
- exercise due care when handling monies on behalf of their principal(s).

G. Accreditation in a recognized quality program

17. 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 through a relevant quality program, administered by a recognized provider.⁶

H. Enforcement

18. 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 should determine the appropriate disciplinary measures applicable. These may include the following:

- Warnings;
- A requirement for undertakings as to the ship agent's or ship broker's future conduct;
- Temporary suspension of authorization to operate as a ship agent or ship broker if/where granted by the relevant authority;
- Temporary suspension of membership from the relevant professional association;
- Temporary suspension of accreditation in a quality program;
- Cancellation of authorization to operate as ship agent or ship broker, if/where granted by the relevant national authority;
- Revocation of membership by the relevant professional association; and
- Revocation of accreditation with a quality program.

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

⁶ For example, through a national authorized economic operator (AEO) schema (detailed in the World Customs Organization's SAFE Framework of Standards (available at http://www.wcoomd.org/en/topics/facilitation/instrument-and-tools/frameworks-of-standards/safe_package.aspx); the FONASBA Quality Standard; or ISO 9001 on quality management (available at <https://www.iso.org/iso-9001-quality-management.html>).



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