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**SHIP AGENT AND SHIPPING COMMUNITY INTERACTIONS
ACCORDING TO INTERNATIONAL AND UKRAINIAN RULES
AND TRADITIONS**

This article is devoted to the analysis of the modern interaction of the agency industry among the ship community at the international level. The market of services in the context of international associations existing at the present stage of development of the marine sector is considered.

Keywords: shipping agency, sea transport, FONASBA, transport logistics, ship call, merchant fleet, international transportation.

An agency service is one of the most common types of service in all ports of the world. Developing simultaneously with shipping, agency services for a long time were guided by the principles of "good maritime practice", based on maritime traditions, which later formed the basis of legislative acts, conventions and memorandums. As a separate type of business, ship agency services stood out at the beginning of the 14th century [1]. Nevertheless, a small number of international acts are devoted to settling the agency business. In the 19th century, international legislative agreements concerning shipping and related activities became widespread. And only by the middle of the 20th century the world maritime community adopted a number of important initiatives in the specific field of marine agency. Due to the international nature of shipping, the activity of ship agents in any country is foreign trade. It must meet the requirements of not only national legislation, but also take into account international laws and regulations, as well as the legislation of the country of the principal, all countries in which the vessel will enter. The formation of the European Union, efforts of its members to unify international activities contributed to the development of unified rules on agency services, requirements for agency companies, the emergence of international agency associations.

The scope of responsibilities of the marine agent is to represent the financial interests of the principal (usually a non-resident), including the search for information about the cost of hiring a third party, order and payment for services, both public and private organizations in the country ship entry. The agent defends the legitimate interests of the ship-owner in the national legal field, advises on local customs, national legislation, features of work in certain ports.

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At the same time, the agent has the right to a certain independence in his actions, acting on behalf of his principal, within certain time limits and within the limits of the powers granted to him.

Shipping companies flying around the world are constantly faced with the question of choosing the best agent. Basic requirements - the minimum agency fee for a high level of service. Large companies maintain their own statistics on ship calls, maintain a database of proven agents, and point out misses and shortcomings in their work. As a rule, such information is confidential and does not extend beyond the company. Small ship-owners, due to state limitations and lack of funds, do not engage in analytics and, when choosing, are guided by the results of negotiations with several agencies from the handbook of ports. Hiring an unscrupulous agent, an agent with low-skilled staff, insufficient experience means poor quality of the services provided and can lead to significant delays, material and image losses.

Finding a "cheap" agent is important, but it is much more important to cooperate with a reliable agent. The amount of the agency fee is incomparable to the damage that can be caused by non-professional actions of the agent. It is even more dangerous to become a victim of frank fraud [2], in which the actions of agents are aimed at deceiving ship-owners. The most common scheme in which fraudsters track vessels in spot positions and posing as a charterer's agent, offers ship operators cargoes that are ideal for transportation. The amount of cargo, the specific loading volume, the region of the vessel, the date of readiness for loading - all meet the requests of the ship-owner. As a rule, loading is negotiated on linear conditions. During the negotiation process, the charterer's broker insists on his agent at the port of loading, giving the ship-owner the right to choose the port of discharge. Trading time is calculated in such a way as to complete the transaction before the weekend. In hasty negotiations with the charterer's agent, the ship-owner negotiates the stevedoring rates, discusses the disruption. After agreeing the terms of the charter and signing electronic copies of the documents, the agent issues an invoice to the ship-owner. The account takes into account the amount of disbursement and stevedoring work. The ship-owner instructs his bank to urgently pay bills, given the coming weekend and the need to show proof of payment to agents and stevedores. The vessel is ordered to move to the port of loading, but upon arrival it is found that a readiness note cannot be submitted - all means of communication with the agent indicated in the voyage instruction do not respond. In practice, it happened that the shipowner in a hurry to contact another agent for fear of losing his job, believing that the communication failed. The ship was taken to the port, where it was found that the designated cargo was missing, the agent, on whom the charterer insisted, is unknown in the port, the stevedoring company, to which the agent referred, did not enter into any loading negotiations. By this time, the money has already been written off from the ship owner's accounts, and it is not possible to return them. One-day firms that are specially registered for the organization of fraudulent activities, offshore accounts opened for nominees, e-mail addresses and accounts are used as agency and brokerage companies. The dissemination of information about the problem fraudster company among the maritime community, its inclusion in the "black lists" does not make sense, the next time it will enter the market under different names and names.

The global maritime community, responding to the challenges of the time, offers various options for monitoring, regulating and formalizing the activities of marine agents.

One of the first initiatives is the creation of various kinds of "black lists" of companies seen in unauthorized activities – delays in payments, withholding information, working

for competitors [3]. Access to resources is usually paid; the inclusion of problem companies in the lists is also paid. The disadvantages of such a system include the difficulty of identifying companies - re-registration, change of name, details; location negates all efforts to identify unscrupulous agents. Reliability of information about problem companies also needs to be checked, which is usually difficult. There is a chance to use unverified, false information provided by unscrupulous competitors.

The most effective results are provided by government regulation and control of the activities of agency companies. The United States, Singapore, the Netherlands, China, and a number of other countries apply for these purposes licensing, certification, registration of agency companies with the issuance of appropriate permits. Agency companies must confirm their qualifications; meet the criteria for access to the implementation of this type of activity [4]. In most European countries, including Ukraine, state control over agency activity is limited to monitoring compliance with currency legislation and legislation in the field of foreign economic activity. At the same time, the observance of the principle of free competition is a priority.

The presence of the DIN EN ISO 9001: 2015 quality certificate from a marine agent is also encouraged by the international maritime community, as evidence of the seriousness of the company and its compliance with high standards. The disadvantages of this proposal include the lack of certification. The certification procedure and regular renewal of documents is carried out at the expense of agencies and costs a considerable amount. Certification is voluntary; the only advantage of a certified company is the official proof of the company's compliance with international requirements. It is assumed that in the competition the principal will give preference to certified companies.

Large ship-owners who plan long-term work with certain ports or regions often develop their requirements, conduct their own tenders and issue an internal certificate to selected agents with a certain period of validity. In this case, responsibility for the activities of the agent lies with these firms in the framework of bilateral relations.

In 2001, the private firm proposed the international electronic information platform DA DESK [5], which proposed a number of standard criteria, which facilitated the choice of an agency from the many, recommended ones. The company also offers an independent analysis of port costs, storage and processing of information, guarantees the transfer of funds. Using the platform allows you to reduce ship owner's own personnel, to attract professionals to the routine work of checking disbursements, correspondence, checking bills, paying balances. The payment for the services of DA DESK falls on the shoulders of ship-owners; the agents are only required to register on the portal. Proposed standards for design documentation, business correspondence. Platform participants have the opportunity to use the database, check the reputation of agents, their financial history. The company guarantees the verification of the calculation of disbursements and timely transfer of funds.

The rules of work and quality control of agency services by the organization FONASBA (The Federation of National Associations of Ship Brokers and Agents) [6] are most fully spelled out. This organization is designed to solve two main tasks - to protect the interests of agencies and provide a guarantee of quality and reliability of services. The association has a European branch (ECASBA) with similar tasks. Accession to the FONASBA statute is possible only for national associations, and not individual agency companies. Such an association was registered in Ukraine in 1993 [7]. The Association of Marine Agents of Ukraine (AMAU) currently unites about 30 agency organizations. AMAU played an important role in combating protectionist policies during the period of

the privatization of the agency market. The state-owned companies INFLOT and TRANSFLOT ceased to be monopolists and, trying to maintain their positions, lobbied for the introduction of licensing of agency activities at a high license cost. After the abolition of all limiting factors, the agency market was filled with a significant number of companies, often not meeting the requirements and not providing the proper level of service. Currently, AMAU positions have weakened, and it does not have a serious impact on the agency services market.

In 2015, in Odessa, at the initiative of the Ukrainian side, a meeting of representatives of FONASBA with the heads of agency and brokerage companies of Ukraine was held. They discussed the feasibility of entering the agency community of Ukraine in FONASBA, conditions, positive and negative points. The International Association has developed a system of qualification, financial and legal requirements for agency companies.

In accordance with these requirements, in addition to voluntary certification for compliance with ISO 9001, the agency undertakes to insure responsibility for personnel errors, to confirm the level of qualification of employees by the presence of relevant diplomas, to provide the necessary level of knowledge of the English language, to conduct regular staff development. It is also necessary to undergo an external financial audit, to confirm the legality of the movement of funds in settlements, to ensure the separate use of funds of each principal. Inclusion in the list of companies recommended by FONASBA is made for a period of one year, with the possibility of subsequent prolongation. The lists are open, are published in social networks and are available to any shipowner. Membership in FONASBA becomes an additional advantage, a proof of the high level of professionalism of the company. To inform customers, lists of national associations, as well as national, governmental and international standards that meet or exceed FONASBA requirements are published annually.

To become a member of FONASBA, a company has to:

- to be a full member of a national association that is already a member of FONASBA or is a candidate member.
- to be guided and constantly comply with the norms and rules of professional activity of FONASBA
 - meet the FONASBA quality criteria at the time of membership.
 - have the minimum necessary insurance coverage to compensate for the risks of professional activities and / or mistakes and omissions of the company's employees in a first-class international insurance society
 - show a high level of professional activity, comply with applicable national laws and regulations:
 - to pursue a financial policy that ensures the separate movement of funds of the company and each principal.
 - ensure the proper educational level of employees; encourage training and certification of employees in relevant international and national professional organizations.
 - to control the compliance of the company's professional activities with pleasant standards.

If any inconsistencies are identified with any of the listed conditions, they should be eliminated within a month with the submission of a report on actions taken to the representation of the national association. In the absence of actions after this period, the

national association sends a report to the executive committee of FONASBA for a decision on the withdrawal of membership.

The above conditions are mainly aimed at protecting the rights and interests of consumers of services, ship-owners and charterers. The authority of the FONASBA federation and the maximum protection of the interests of the principal are positive factors of the proposed scheme. The charterer does not need to check the company for reliability, it is enough to choose one from the list of recommended ones. Currently, a fundamental change has taken place in the sphere of legislation of Ukraine's agency: the tariff regulation of the cost of agency services has been abolished [8]. Against the background of toughening competition, membership in FONASBA is considered as an additional advantage when deciding on the choice of agent.

The disadvantages include the high costs of agencies to ensure compliance with the requirements of the association and the "one-sidedness" of the requirements. Obligations of the principal towards agents are practically not spelled out.

Conclusion. Currently, there is not a single company in the Ukrainian agency market fully complying with modern international rules. For fully complying with all requirements, companies will need to attract significant material resources, additional training of staff, review of relations with AMAU, conclusion of additional contracts, certification of the company and employees. During prevailing in our country, the economic situation, taking into account the decline in business activity in the field of maritime business in the world, the question of membership in the European agency associations in the near future will not rise.

To streamline the activities of ship agents and improve the quality of services provided, it is necessary to attract government initiatives. Documents regulating agency activities should take into account not only interests of principals, but also agency companies. The international maritime community needs to pay attention to the increased availability of results of monitoring the performance of maritime companies and databases.

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**ВЗАЄМОДІЯ СУДНОВОГО АГЕНТА І СУДНОВОЇ СПІЛЬНОТИ
ВІДПОВІДНО ДО МІЖНАРОДНИХ ТА УКРАЇНСЬКИХ ПРАВИЛ
І ТРАДИЦІЙ**

Дана стаття присвячена аналізу сучасного взаємодії агентської галузі в середовищі суднової спільноти на міжнародному рівні. Розглянуто ринок послуг в розрізі міжнародних асоціацій, існуючих на сучасному етапі розвитку морегосподарського комплексу.

Ключові слова: агентування суден, морський транспорт, ФОНАСБА, транспортна логістика, суднозахід, торговий флот, міжнародні перевезення.

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**ВЗАИМОДЕЙСТВИЕ СУДОВОГО АГЕНТА И СУДОВОГО
СООБЩЕСТВА В СООТВЕТСТВИИ С МЕЖДУНАРОДНЫМИ
И УКРАИНСКИМИ ПРАВИЛАМИ И ТРАДИЦИЯМИ**

Данная статья посвящена анализу современного взаимодействия агентской отрасли в среде судового сообщества на международном уровне. Рассмотрен рынок услуг в разрезе международных ассоциаций, существующих на современном этапе развития морехозяйственного комплекса.

Ключевые слова: агентирование судов, морской транспорт, ФОНАСБА, транспортная логистика, судозаход, торговый флот, международные перевозки.