

## GUIDANCE ON APPOINTMENTS TO IACS' INDEPENDENT APPEAL BOARD AND COMPOSITION OF CASE PANELS

### 1. IACS' CHARTER

#### 1.1 Point 5.1 of IACS' new Charter reads:

*"The Independent Appeal Board shall comprise a Chairman (the "IAB Chairman") and a panel of at least 10 adjudicators, all of whom shall be appointed for a period of 5 years, have relevant technical and/or legal expertise[5] and be independent[6] of IACS Members, the Permanent Secretariat and any organisation which has been an IACS Member or "Associate" of IACS or which has ever applied for membership of IACS" [emphasis added].*

"Technical expertise" is defined in footnote 5 of IACS' Charter as:

*"In this context, technical expertise shall mean proven knowledge of and expertise in the shipping sector, acquired in a professional capacity" [emphasis added].*

The Charter defines the term "independence" in footnote 6:

*"In this context, independence shall mean the absence of any business, personal or family links to any such entity or organisation" [emphasis added].*

### 2. EXPERTISE

2.1 Technical expertise is defined in footnote 5, quoted above.

2.2 Members of the IAB need not have both legal and technical expertise. Nor does the IAB have to have any members with legal expertise.

### 3. INDEPENDENCE

3.1 Consistently with the Charter, IACS follows the guidance set out below in selecting members of the IAB.

3.2 For the purpose of this guidance, a "Relevant Organisation" means IACS, an IACS Member, the Permanent Secretariat (including IACS Ltd), any organisation which has been an IACS Member or "Associate Member" of IACS or which has ever applied for membership of IACS.

3.3 No individual shall be eligible for appointment to the IAB where:

- (a) At any time in the 2 years prior to the appointment to the IAB, the candidate has had an employment or consultancy relationship with a Relevant Organisation.
- (b) At any time in the 2 years prior to the appointment to the IAB, the candidate has been an executive or non-executive officer of the management or governance boards (including board of directors,

executive board, executive committee, management committee or supervisory board) of a Relevant Organisation.

- (c) The candidate holds shares or any other financial interest in a Relevant Organisation (other than through a blind trust).
- (d) The candidate has a family member<sup>1</sup> who has any of the links listed above with a Relevant Organisation.

3.4 For the avoidance of doubt, in the absence of any links covered in paragraph 3.3 of this guidance, an individual shall in principle remain eligible for appointment to the IAB where the candidate:

- (a) is a member of a committee of a Relevant Organisation, where (i) the scope of the committee's activities is limited to technical and non-commercial/non-corporate matters, and (ii) the function of the candidate as a member of that committee is to give independent and non-binding advice to the Relevant Organisation;
- (b) receives from a Relevant Organisation payment or reimbursement for any expenses incurred by the candidate in connection with the provision of services referred to in paragraphs 3.4(a);
- (c) receives payment from a Relevant Organisation for work or services provided prior to the 2 year period referred to in paragraph 3.3(a) and (b) above, such as a pension or dividends; and/or
- (d) has a past or present affiliation with any organisation which is not a Relevant Organisation, such as a ship-owner, ship operator, ship-builder or national or supra-national governmental or other authority.

3.5 Prior to appointment to the IAB, IACS shall request any prospective appointee to provide it with all information and confirmations necessary to enable IACS to determine whether the appointment of the individual concerned is compatible with this guidance.

3.6 The payment of fees by IACS to the Chairman and members of the IAB in respect of the performance of their tasks shall not be incompatible with their continuing obligation to act impartially.

#### **4. SELECTION OF CHAIRMAN AND MEMBERS OF CASE PANEL**

4.1 IACS Council shall designate a Chairman of the IAB. In order to enable an Appellant to nominate an alternative Chairman, IACS shall nominate two additional Appeal Board Members as deputy Chairmen.

4.2 The names and biographical information of the Chairman, the two deputy Chairmen and the Appeal Board Members shall be published on the IACS website.

4.3 Unless the Appellant has requested that the Chairman be replaced by one of the deputy Chairmen in accordance with paragraph 4.5 below, the Chairman shall act as Chairman in relation to each appeal brought before the IAB.<sup>2</sup>

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<sup>1</sup> This would include partners, spouses, parents, siblings and/or children.

<sup>2</sup> This provision shall be without prejudice to the ability of the so appointed Chairman to select any adjudicator of the IAB to hear alone (and act as Chairman) appeals covered by paragraph 4.3 of Annex 2 of the IACS Charter.

- 4.4 At the time of lodging an appeal, an Appellant shall be entitled to ask any of the Chairman, deputy Chairmen and Appeal Board Members to provide it with information (such as that responsive to the items listed in paragraph 3.3 above) to enable the Appellant to assess their expertise and independence.
- 4.5 Where the Appellant requests one of the deputy Chairmen to act as Chairman in the appeal, such request to be made promptly after lodging the appeal, the deputy Chairman requested by the Appellant shall act as Chairman for the purposes of the appeal in question and shall have the powers set out in the Appeal Board Rules of Procedure.
- 4.6 Where the Appellant raises substantiated concerns as to the independence of the Case Panel member nominated by the Respondent in accordance with Rule 4.2 of the Appeal Board Rules of Procedure, the Respondent shall nominate an alternative Case Panel member from within the Appeal Board Members.
- 4.7 Where any of the Chairman, deputy Chairmen or any Appeal Board Member considers that the appointment to the Case Panel hearing an appeal could give rise to an appearance of bias, the individual shall recuse himself from the case forthwith.

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