



## **REASONABLE not COMPETITIVE**

"Competitive" Does Not Mean "Lowest" was the title of an article written by Patrick V. Martin, Counsel, for the Association of Ship Brokers & Agents (USA), Inc. (ASBA) for the December 2008 Edition of ASBA News. Many agency clauses found in standard charter parties contain wording such as "competitive in price and service". ASBA requested that INTERTANKO review the use of this phrase in their Agency Clause because member experience has been that "competitive" is practically interpreted as "lowest price available" and does not allow their principals to consider "quality" providers in the appointment. As an example, it is quite common that an owner's negotiated global agency fee is cited as a "competitive fee" for a single port call.

INTERTANKO amended the clause replacing "competitive in price and service" with "reasonable in price". INTERTANKO has been a strong supporter of ASBA's Certification process as well as Federation of National Associations of Ship Brokers and Agents' Quality Standard that identify "quality" agency companies.

### ***INTERTANKO Agency Clause – Revised 2009***

*"Where charterers under this charterparty have the right to nominate the vessel's agents at any port and they wish to exercise such right, they shall do so at the same time as the nomination of such port and they shall exercise due diligence to **nominate agents who are reliable, competent, reasonable in price and have ISO 9001 or substantially equivalent certification.** If charterers fail to nominate the agents at the time that the port is nominated then owners may reject any subsequent nomination of agents by charterers. The appointment of such agents is subject always to owners' right to appoint protective agents in any port if they so wish."*

**Here's the difficult part – Agency Clauses found in standard charter parties and rider clauses that now read "competitive in price" MUST be removed or revised to read "reasonable in price" in allow for the appointment of quality agents.**

Join INTERTANKO and other major charterers like Hess Corp. who recognize the fact the “quality” agents cannot be appointed at the “lowest available price”.