

SHIPPING REVIEW

GHANA'S AUTHORITATIVE QUARTERLY MARITIME JOURNAL

VOLUME 22 NO. 3, JULY - SEPTEMBER, 2020



THE PARADIGM SHIFT OF MARITIME CROSS- BORDER INSOLVENCY IN GHANA

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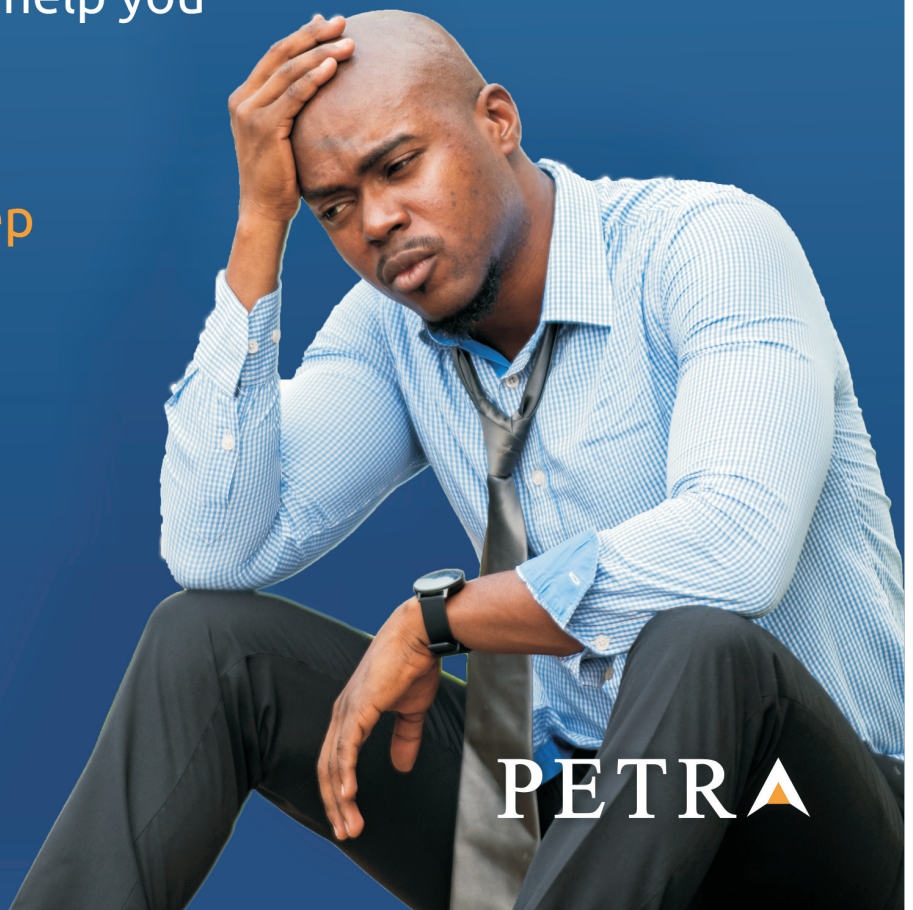
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In this Issue

Benefits of a National Maritime Fund in the post-COVID-19 era

In sum, Ghana recognizes the role played by the maritime industry and the impact it has had on economic growth and development. Nonetheless, inadequate funding in the maritime industry has impeded a smooth maritime system in Ghana and its rippling effect on economic growth are many.



A Review Of The International Labour Organisation Convention, 2007 (no. 188) On Decent Work In The Maritime Fishing Industry

In many countries, laws and regulations that address the conditions of work of seafarers at least partly also address conditions of work of marine fishers. However, the issues faced by fishers often differ from those faced by seafarers working on cargo or passenger ships.

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THE PARADIGM SHIFT OF MARITIME CROSS-BORDER INSOLVENCY IN GHANA

By Freda Marfo-Ahenkorah, Maritime and Transport Law Expert



Introduction

Cross-border insolvency is gaining traction in international commerce and it is a topical issue in recent times especially based on the anticipated projection of insolvency of companies in the wake of the COVID-19 pandemic. When cross-border insolvency involves shipping companies it raises interesting economic and legal implications.

The efficiency of resolving cross-border insolvencies depends on how well the laws of a State are structured to adequately cater for the occurrence of cross-border insolvencies. This essay explores the significance of the New Corporate Insolvency Act in relation to Cross-border insolvency of shipping companies. The essay also discusses the implications of Ghana's adoption of the United Nations Commission on International Trade Law (UNCITRAL) Model law on shipping companies undergoing cross-border insolvency.

What is Cross-border Insolvency?

Cross-border insolvency is the insolvency of companies that operate in more than one country. It is sometimes referred to as international insolvency. When a company has assets or creditors in more than one country, the company's insolvency raises conflict of laws issues that can be resolved by a uniform set of cross-border insolvency rules.

A uniform set of rules is necessary because the domestic insolvency laws of States are diverse and applied differently. Therefore, in the absence of a uniform set of rules for resolving cross-border insolvencies, unpredictable and uncertain outcomes are likely to occur.

UNCITRAL Model Law on Cross-Border Insolvency

The UNCITRAL Model Law on Cross-border insolvency was adopted to assist States to effectively resolve cross-border insolvencies. The Model law does

not impose substantive insolvency laws on States. It however resolves the conflict of laws issues that are present in Cross-border insolvencies as a result of the differences in the insolvency laws of States. It requires that States cooperate with each other in the resolution of cross-border insolvencies. The Model law anticipates that, through cooperation and coordination amongst States, the uncertainties that characterize most cross-border insolvencies will be minimized. The objects of the Model law are: to ensure cooperation between States, ensure legal certainty, ensure fair and efficient outcomes, maximize the value of debtor's assets and facilitate corporate rescue in resolving cross-border insolvencies.

Historical Development of Cross-border Insolvency in Ghana

Before the coming into force of the Corporate Insolvency Act, Ghana



practised the territorialist approach to cross-border insolvency. It meant that shipping companies who had commenced insolvency proceedings in their country of incorporation also needed to commence insolvency proceedings in Ghana to prevent their vessels from being arrested by creditors in Ghana.

This approach was particularly problematic for companies whose country of incorporation was outside Ghana. The territorialist approach however changed with the coming into force of the Corporate Insolvency Act, which adopts the UNCITRAL Model Law on Cross-border insolvency.

Under the current approach, the insolvent company can commence main insolvency proceedings in its country of incorporation and seek recognition of such proceedings in Ghana. Once the courts in Ghana recognize a foreign insolvency proceeding as foreign main or non-main, the recognition operates as a stay on proceedings including admiralty proceedings.

Why the Need for Cross-border insolvency legislation?

The complex nature of resolving cross-border insolvencies demands a pragmatic approach to its resolution to ensure efficiency in the entire insolvency process. The assets owned by shipping companies distinguish them from other companies. The peripatetic nature of ships, which tend to be the dominant assets of shipping companies, has necessitated maritime law to provide protection mechanisms for maritime creditors

such as ship arrest.

In effect, maritime claimants are permitted under maritime law to arrest vessels in satisfaction of their maritime claims. It therefore means that the vessel of an insolvent shipping company can be arrested at any port where she may be found. The case is however different with regards to insolvency law.

Insolvency law requires all the assets of the insolvent debtor to be centralized into one insolvency process.

The occurrence of multiple proceedings during the insolvency process means the limited assets of the insolvent company will be channeled into litigation expenses.

promotes a centralized insolvency process for maritime cross-border insolvency. All the assets of an insolvent shipping company become subject to the main insolvency proceeding irrespective of where the assets are located.

Paragraph 17 of the Corporate Insolvency Act, which adopts Article 20 of the Model Law on Cross-border Insolvency, augments the aim of attaining a centralized insolvency process. Under Paragraph 17, once the foreign proceeding is recognized in Ghana, the foreign representative is

Whenever there is a clash between maritime insolvency and cross-border insolvency which is the case for insolvent shipping companies, the assets of the insolvent shipping company are likely to be dissipated. This is because there is the tendency for multiple arrest proceedings, which come at a cost to shipping companies.

To avoid the possible dissipation of insolvent debtor-asset and uncertainties in cross-border insolvencies, States enact insolvency laws to eradicate or at least minimize inefficiencies in cross-border insolvencies. Ghana has taken the step to create more efficient outcomes by adopting the UNCITRAL Model Law on Cross-border Insolvency in its newly enacted Corporate Insolvency Act.

What does the Adoption of the Model law on Cross-border Insolvency mean for Shipping Companies in Ghana?

1. Centralized cross-border insolvency process for shipping companies: The adoption of the Model law

seized with control over all assets of the company located in Ghana.

Unless otherwise ordered by the courts, proceedings connected to the assets of the insolvent company cannot continue or be commenced. The operation of automatic stay on proceedings applies to admiralty proceedings. It means that maritime creditors, who prior to the adoption of the Model law had right to arrest vessels in satisfaction of their claims will have to partake in the main insolvency

proceedings to have their claims satisfied.

Therefore, the Model law safeguards the assets of insolvent shipping companies by minimizing the occurrence of arrest of vessels. This ensures that the value of the insolvent debtor's assets is maximized. It means that more creditors can have their claims settled.

The caveat is that, creditors (including maritime creditors) can apply to the courts to be exempted from the automatic stay. It is however not clear what condition will compel the courts to exempt a creditor from the automatic stay.

2. The adoption of the Model law also ensures equal treatment of all creditors irrespective of their status as maritime creditors or general creditors. This is because based on the fact that all debts are subject to the insolvency proceedings, maritime creditors cannot have their claims settled through admiralty proceedings at the expense of other creditors.

Undisputedly, the courts will respect priority rules in the payment of claims. However, respect for priority rules does not take the right of all creditors to equally partake in the insolvency proceedings and have their claims paid.

3. Continuous operation of Vessels during the insolvency process: The adoption of the Model law is also beneficial to insolvent shipping

companies undergoing rescue and restructuring. This is premised on the fact that, in the event that Ghanaian courts recognize foreign insolvency proceedings, the vessels of the insolvent shipping company can continue operations in Ghana. It means that a shipping company undergoing rehabilitation and restructuring can continue operation and will have a higher chance of paying its debts.

Unlike the previous approach, which prevented the operation of vessels upon arrest by maritime creditors, the current approach allows vessels to continue operation during the pendency of insolvency proceedings.

This is because all assets including vessels are under the control of the foreign representative upon the recognition of foreign proceedings by the court. Therefore, unless the court gives a contrary order, the vessels can continue operating unless doing so will jeopardize the rights of other interested persons.

4. Grant of provisional reliefs: The Model law permits foreign representatives to apply for provisional reliefs even before the court

recognizes foreign proceedings. Representatives of insolvent shipping companies can, upon showing to the court that a situation demands urgent attention, apply for the relief of automatic stay on proceedings.

The provisional relief may entitle the foreign representative to prevent the sale of an arrested vessel consequent upon the orders of an admiralty court. This will ensure that the limited assets of the insolvent shipping company are not dissipated.

Conclusion

The goal of the Model law is to ensure efficiency in cross-border insolvency of companies. Where there are wide disparities in the laws governing cross-border insolvencies, there will be unpredictable and uncertain outcomes. Therefore, Ghana's adoption of the Model law should be seen as a step towards the right direction.

It is arguably too early to concretely predict the success or otherwise of the adoption of the Model law in Ghana. However, the success or otherwise of the Model law is dependent on how States implement it. It is hoped that the Model law on Cross-border Insolvency will be applied in a manner that yields efficient results.





Federation of Associations of Ghanaian Exporters

Popularly called FAGE, the Federation of Associations of Ghanaian Exporters is an umbrella organisation of exporter and product associations, established in 1992. FAGE was a product of policy decision between the Government of Ghana and the United States Agency for Industrial Development (USAID) to grow the economy of Ghana through exports.

The Federation is registered under the Companies Code of Ghana (Act 179,1963) and operates as a not for profit organisation. FAGE promotes the expansion and diversification of Ghanaian exports to foreign markets by assisting member firms in developing and marketing their products and by improving the enabling environment for trade through government advocacy.

The association collaborates with exporter associations, producers, exporters, foreign buyers, financial institutions, government agencies and development partners to enhance the growth of the business of its members.

Membership

FAGE currently has twenty-two (22) member associations representing over two thousand five hundred (2,500) companies. It comprises Ghanaian

businesses in the agricultural and manufacturing industries, including exporters of crops, seafood, agricultural products, forest products, handicrafts and textiles.

Membership is accessible to all non-traditional export associations, exporting companies and service providers in the export value chain

Some of the members of FAGE include Sea freight Pineapple Exporters Association, Vegetable Exporters and Producers Association of Ghana, Ghana Root Crop and Tubers Exporters Union, National Fisheries Association of Ghana, Ghana Assorted Foodstuff Exporters Association, Ghana Handicraft Exporters Association, Continental Salt Exporters Association, SPINnet Textiles & Garment Cluster.

Products and Services

FAGE's portfolio of products and services aim at increasing the competitiveness of Ghanaian exports in the international marketplace.

Through advocacy, FAGE focuses on policy and business development initiatives and provides market and trade information.



The Federation also produces directories and market/technical publications for the benefit of its members and the trading public. These products provide exporting firms with in-depth market and technical information with business directories (importers of fresh produce in the EU, in-put supplies, etc.) and technical materials i.e. sources of agricultural information, grades and standards for export crops, post-harvest handling of crops, etc.

FAGE creates a platform for trade enquiries and matchmaking training workshops and seminars. These include orientation seminars and workshops on export planning/management and marketing; management seminars and workshops for the executives of export product associations; quality management seminars and workshops on topics such as Hazard Analysis Critical Control Point (HACCP), International Organisation Standardisation ISO and Global GAP and product specific seminars and workshops such as application of industrial design to create export i.e. handicrafts and fashion.

Other products and services include food safety /HACCP plans and development of export quality standards.

Success Stories

FAGE has been the main facilitator for Fruit Logistica Fair in Berlin Germany since 2007. The Fair is the most well-known global fair that brings together players in the agribusiness value chain. It has also firmly established Ghana's presence at the fair, supporting members in processing orders.



The Federation has also successfully conducted four (4) National Annual Mango Week events for mango farmers and exporters. It has also developed a horticulture project that grew the horticulture export sector and additionally built roads to facilitate transportation to the exit ports under the Millennium Development Authority (MIDA) 1 project.

Currently, FAGE is conducting training for exporters on value chain capacity building funded by the Skills Development Fund. Through the instrumentality of FAGE, Ghana hosted the GLOBAL G.A.P. Tour, an international event in 2001.

Partnerships

In line with its vision of partnering for export growth, FAGE has collaborated with various partners, locally and internationally.

The Federation works closely with government institutions such as the Ministry of Trade and Industry, Ministry of Food and Agriculture, Ministry of Foreign Affairs and Regional Integration, Ghana Export Promotion Authority, Ghana Shippers' Authority, Ghana Exim Bank, Ghana Investment Promotion Authority, among others.

FAGE has worked with international development partners such as GIZ-MOAP, COLEACP-Belgium, United Nations International Development Organisation (UNIDO), European Union, Import Promotion Desk (IPD)-Germany, ITC, among others.



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Benefits of a National Maritime Fund in the post-COVID-19 era

By Albert Fiatui And Bismark Ameyaw, Centre for International Maritime Affairs (CIMAG)

Introduction

The shock of coronavirus (COVID-19) pandemic has been a global concern due to its impacts on business activities, national output, economic growth and development. Since mid-January 2020, COVID-19-related issues have caused many changes in Ghana of which its impact on the transport and maritime industry cannot be underestimated. Marine-related business activities (MRBAs) play a key role in the transport and logistics industry and its importance to the Ghanaian economy can be reiterated.

According to the Ghana Maritime Authority (GMA), the nation depends heavily on the maritime industry for its socio-economic development. Evidence from the recent partial lockdown of Ghana has brought to bear the pivotal role of MRBAs in areas such as imports

of food supplies, COVID-19-related test kits and tools required for building a resilient economy.

It must be noted that MRBAs would equally be key in the post-COVID-19-contained era because marine-related services provide a chunk of services and commodities necessary for human survival. Hence, there must be a concerted effort to ensure that there is safety, security, efficiency and sustainability in MRBAs [including transporting goods, services and people through marine routes] and the marine sector.

This will help create viable conditions to protect Ghana's international seaborne trade and facilitate the exploration of marine resources such as oil and gas to ensure a vibrant and sustainable maritime sector. For this reason, the government has set up a

National Maritime Authority (NMA) with 'the sole purpose to regulate, monitor and co-ordinate activities of the maritime industry'. Though the maritime industry has achieved some success, there is still a lot to do due to the numerous challenges confronting it.

Despite the efforts and measures put in place by the government to promote growth of maritime activities, there are myriads of challenges faced by the marine industry in Ghana which hinder the ability to explore fully the benefits therein. The challenges include long waiting times, bad and or unavailability of infrastructure, insecurity, under-utilization of water ways, bad weather, low level of technology and high accidents.

Many of these problems persist due to the lack of funds to carry out relevant activities. A national maritime fund would be beneficial



in many ways as explained as follows:

Thought-provoking research

Research and development are widely considered the backbone of sustained lucrative businesses. Despite efforts and progress made, Ghana's maritime sector is plunged in several inefficiencies. Long waiting times, unsolved security issues, constant under-utilization of water ways, inability to capture wholly and make provisions on bad weather, continual use of low level of technology and high accidents are among many inefficiencies in the maritime sector for which advanced scientific research would help solve.

Though such advanced research holds much promise, it requires funding. The establishment of a national maritime fund would be instrumental in financing the advanced researches necessary in developing sustainable solutions.

A combination of sufficient funding, result-oriented researchers and novel methodologies would result in solutions that would lead to drastic decrease in waiting times, solve security issues, maximize the utilization of water ways, capture and inculcate wholly weather-related determinants,

development and deployment of advanced technology and eliminate accidents.

Expansion of ports and harbors

The ports and harbors in Ghana are not large enough to be able to contain larger vessels and the high volumes of goods demanded and supplied. Therefore, setting up a national maritime fund would ensure that there are enough funds to undertake developmental projects tailored to expanding the capacity of the ports and harbors. This will help to increase trade competitiveness.

competitive standards that will increase capacity to transport and clear high volumes of goods without undue delays.

Most of the exports and imports in the country rely heavily on marine transport. Hence, investing in it [via funds drawn from a national maritime fund] to expand Ghana's ports and harbors to be able to accommodate huge vessels, irrespective of the number and size, is laudable. This can go a long way to reduce delays and congestion in our ports and harbors.

Acquisition of modern technology

The strength in marine transport depends heavily on the ability of Ghana to install essential and sophisticated technology and security equipment in all aspects of MRBAs. The provision and acquisition [with funds from a national maritime fund] of advanced technologies will enhance the adoption and corresponding implementation of high-level security measures and optimization of MRBA-related event logs. This will increase efficiency in MRBAs.

Many of these problems persist due to the lack of funds to carry out relevant activities . The unavailability of funds impedes on the smooth operations of the maritime industry. For the industry to unearth the full potential of the marine sector and benefits therein, it is paramount to set up a national maritime fund.

The pace of growth in international trade requires that goods and services must be transported to targeted destinations within the shortest possible time. To enhance trade competitiveness, there is a need to upgrade and expand ports and harbors in the country to

The use of modern and advanced technologies as well as high-security equipment would minimize piracy and pilfering in MRBAs, oil fields and illegal invasion on waters by both foreigners and citizens. This would help the government and GMA



monitor and coordinate all MRBAs as well as minimize security threats on marine-activity-induced water bodies. It also saves the country billions of cedis in revenue that hitherto could have been unaccounted for or misappropriated on MRBAs.

Expansion in modes of transport

Marine transport has been one of the oldest modes of long-distant transport for both freight and people. When proper measures [via the utilization of national maritime fund] are put in place, people can travel around, both within Ghana and to other neighboring countries through ships, boats and ferries at a minimal risk.

In recent times there are large and high-speed vessels that have made marine transport a better alternative to other transport modes due to their speed and ability to carry bulk and heavy cargo. It is considered one of the cheapest transport modes as compared to air and road transport. The establishment of a

national maritime fund would aid the development and utilization of well-coordinated marine transport system.

Employment

Investing in marine transport would open an avenue for expansion and high productivity in the maritime industry. This will attract more investors and create opportunity for employment in the marine industry. It could be used as an avenue to attract tourists and promote tourism in Ghana which is a way of creating more jobs. Aside creating employment, Ghana can increase its revenue by investing more in the maritime industry because many vital industries in the country depend heavily on marine services to run their routine activities.

Improve international relation and trade

Improved MRBAs made possible with the establishment and availability of a workable national maritime fund would help promote trade between Ghana and her trade partners. This will help to strengthen Ghana's relations with

the international community. It will attract other nationals and their MRBAs to Ghana's ports and harbors. The availability of sophisticated equipment [procured via the national maritime fund] in the country's harbors will attract MRBAs from neighboring countries which will help boost revenue from MRBAs for Ghana.

Sustainability

Finally, investing in maritime activities will help ensure sustainability, especially through the adoption of highly effective and efficient practices. Environmental sustainability has been a global concern and Ghana's ability to achieve highly sustainable maritime industry relies on her ability to invest in sustainable technologies and realizable policy-making. Therefore, setting up a national maritime fund will ensure that there are enough funds available to be used in ensuring highly sustainable activities in the marine industry.

In sum, Ghana recognizes the role played by the maritime industry and the impact it has had on economic growth and development. Nonetheless, inadequate funding in the maritime industry has impeded a smooth maritime system in Ghana and its rippling effect on economic growth are many.

The worst of it is the rippling effect it has on government revenue and the aggregate economy. This therefore, calls for government to set up a national maritime fund that will enable an efficient and effective maritime system in Ghana.



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STELLAR LOGISTICS - Your reliable logistics service provider

Originally called Technical Marine Services (TMS), incorporated in 1995 and operated in Takoradi, the company's name changed to Stellar Logistics when Stellar acquired it in 2007 as a strategic decision to support the energy sector in Ghana.

Stellar logistics provides key services such as consultancy in supply chain management and logistics, clearing and forwarding, transportation and warehousing. Located in Tema, Accra and Takoradi, the company has over 180 staff that deliver quality service at reasonable prices to its blue-chip clientele spanning across sectors in the oil and gas, mining, Fast Consumable and Moving Goods (FCMG), telecommunication, pharmaceutical and banking industries.

Achievements and Contributions

Appointed as Managing Director of Stellar Logistics in 2017 and having worked with the Stellar Group since 2008, Mr. Patrick McQuaid is diligently steering the affairs of the company with his supportive staff.

Since its operation, Stellar Logistics has been a backbone for logistics to the mining industry which is a critical component of Ghana's economy.

One major outstanding achievement of the company in the advent of the COVID-19 pandemic is its ability to continue to operate without any interruption by keeping its clientele base in business.

Stellar Logistics is a major promoter and consumer of local goods and services such as metal fabrication, IT services, spare parts, among others.

The company is the exclusive agent for DSV Global in Ghana, certified by Trace International and it is also certified by the International Cyanide Management Institute (ICMI) to transport cyanide.

MDA relations and Operational Challenges

Stellar Logistics has a good working relationship with Ministries, Departments and Agencies (MDAs) who have supervisory and regulatory functions over its



activities. This, according to Mr. McQuaid, the company's Managing Director, "has helped to position Stellar well on the global landscape of logistics delivery."

However, one of the key challenges facing the company in its operations to offer services to shippers is delays and other bottlenecks associated with the clearing process.

"The MDAs are working on improvements to their processes but we would like to see the ability to integrate our own logistics software with that of the MDAs so that we can have a seamless clearing process from point of origin to site delivery," he recommended.

Why do business with Stellar Logistics?

The company's partnership with DSV/Panalpina allows it to offer full door to door service from anywhere in the world direct to the doors of shippers in Ghana.

It has also incorporated an extensive health and safety programme into its operations which ensures cargoes are delivered safely and on time. This includes cargo visibility for its clients utilising its vehicle tracking system, in cab camera system monitoring driver behaviour and a team of safety officers that accompany its trucks en route to the site of shippers.

Stellar Logistics' reliability and integrity

to deliver results is not in doubt. Its expertise and concise business consultation in supply chain management is unquestionable. Most importantly, it offers clients value for money: commitment to high quality service at reasonable prices.

Corporate Social Responsibility (CSR)

As a socially responsible company, Stellar is committed to good business values and strategies that can help build healthy relationship with its partners in the community. The company's CSR activities are geared towards environmental sustainability, direct donations and ethical business practices.

On environmental sustainability, Stellar has subscribed to the Carbon Emissions programme and the recycling of tyres. The company has sponsored the activities of the Children's Heart Foundation of Ghana to support children with congenital heart diseases and also contributes to the running of non-governmental organisations (NGOs).

Stellar Logistics is committed to ethical business practices. Its operations are guided by strict adherence to the guidelines of the UK Bribery Act and the U.S. Foreign Corrupt Practices Act. It also ensures small independent suppliers whenever possible and encourages 3rd party vendors to adopt Health and Safety Executive (HSE) policies similar to its own standard.





THE CONCEPT OF REVERSE LOGISTICS

By Abdul-Karim Muhsin

INTRODUCTION

Reverse Logistics is an issue that has received growing attention, over the last decade, given the amalgamation of several situations. On the one hand, there is verifiable concern about environmental matters and sustainable development. It is in the light of these that several legal regulations have been passed in a number of countries, with Germany (with its taking-back packaging and electronic devices regulations) and the Netherlands (with its stringent automobile laws) being perhaps the pioneers. However, the effect has quickly spread out across Europe, USA and Japan, among others.

On the other hand, economic reasons have also had their contribution in this increasing importance of Reverse Logistics. By means of the returned products, companies stand the possibility of recovering either constituent material, that no longer need to be purchased in the same quantities, or added-value. Whether the savings come only from materials purchasing costs or from materials, labour and overhead costs respectively, firms may be increasingly interested in being efficiently involved as market competition shrinks more and more the margins.

As international trade becomes more competitive and globalization gains more attention, there is the need for businesses, manufacturers, regulators and policy

makers to become more aware of the new concept of reverse logistics in the overall logistics and transport chain.

This write up could not have been more appropriate in this era of government's renewed urge towards industrialization with the 1D1F and the desire to see Ghana beyond aid.

In order to achieve these lofty ideas, manufacturers, business owners need to imbibe into the production flow the concept of reverse logistics. This article intends to elaborate on reverse logistics and its implication on industry and growth of business.

DEFINING THE CONCEPT OF REVERSE LOGISTICS

The European Working Group on Reverse Logistics (see De Brito and Dekker, 2004) puts forward the following definition: "The process of planning, implementing and controlling backward flows of raw materials, in-process inventory, packaging and finished goods, from a manufacturing, distribution or use point, to a point of recovery or point of proper disposal"

According to Stock (1998, p. 20), the term Reverse Logistics is used to refer to "the role of logistics in product returns, source reduction, recycling, material substitution, reuse of materials, waste disposal and refurbishing, repair and remanufacturing". Reverse

Logistics is a process whereby companies can become more environmentally efficient through recycling, reusing and reducing the amount of materials used.

Reverse logistics, an ostensibly new concept which emerged in the past two decades, comes with a lot of advantages including; improved customer satisfaction, reduction in storage and distribution cost.

Reasons for reverse logistics or product return/recall include but are not limited to the following;

- Customer unhappiness about a product meeting his demand
- Faulty or defective product
- Obsolete products/items
- Seasonal stock
- Goods not sold by distributors
- Refilling reusable containers

One of the problems of greatest interest to recent literature concerns, the management of products at the end of their useful life. EU legislation has highlighted the importance of product recovery and recycling. Between 1990 and 1995, the amount of waste generated in Europe increased by 10 per cent, and by 2020, the Organisation for Economic Cooperation and Development (OECD) estimates we could be generating 45 per cent more waste than 1995. About 67 per cent of end-of-life products is either burnt in incinerators, or dumped into landfill sites. Both of these methods create environmental damage, taking up more and more valuable land space, but it also causes air, water and soil pollution.

The scientific community has demonstrated a growing interest in the subject of green Supply Chain management and, specifically, in a relatively new structure of SC, reverse logistics have been designed to manage the recycling and recovery process of end-of-life products. The recovery process consists of several highly inter-related sub-processes: product

acquisition, reverse logistics, inspection and disposition, reconditioning and distribution.

IMPORTANCE OF REVERSE LOGISTICS

Reverse Logistics and Industrialization

To remain competitive and differentiated, organizations in the world are showing speed and reliability in service delivery such as;

1. Repairing of used products
2. Replacing defective goods
3. Refurbishing the returned products
4. Calling back sub-standard or harmful goods
5. Disposing off waste

Consumers are increasingly becoming aware of their rights and more so greater satisfaction and value for money. In furtherance to this, governments and countries have enacted laws and regulations to protect consumers. Reverse logistics, an appreciable new concept in academic circles mindful of such concerns, have been incorporated into the logistics chain. These services mentioned above add to the competitiveness of an organization operating in a regulated environment and creates customer value for money and clean environment without any additional cost to the customer.

To the Manufacturer and Industry

Managing the reverse travel of your product back into the supply chain can help you avoid making the same mistake twice and allow you to reutilize as many components of your product as possible.

Most supply chains will stop measuring the success of their goods once the product is shipped and is delivered on time. While this can be an accurate measurement of customer satisfaction and profit, it doesn't account for all cases.

- What if your customer receives an incomplete order? What if they feel the item, they ordered doesn't match the product description? Or what if the customer just changes their mind about their purchase? In all three of these likely scenarios, the return of your product qualifies as reverse logistics.
- Cost Reduction. By planning ahead for returns and making the return order right, you can reduce related costs like administration, shipping, transportation, technological support and Quality Assurance.

Think about the different phases a product return goes through at your company. These could include:

- The physical shipping of the returned product.
- Quality testing the returned product to replicate the error or identify the flaw.
- Documenting any problems with the returned item.



Fig. 1 the life cycle of a manufactured product



To the Consumer

Dealing with errors is just as important as making sales. If a customer had a bad experience with your product, you have to make it right. Fulfilment blunders can create opportunities. Learn how to keep your customers happy and engaged with your company - even after you have made a mistake. Faster service refers to the original shipping of goods and the return / reimbursement of goods. Quickly refunding or replacing goods can help restore a customer's faith in a brand

To the Environment

Reverse Logistics helps in creating "the Green Economy" which many countries and industries are aspiring to attain. By Green economy customer satisfaction is

measured on how much or to what extent the environment and the eco-system are maintained.

To the Governments and the Global Community

Management and recycling of waste have always been a national concern and even of international concern, recalling a diplomatic row between the governments of Malaysia and Philippines on one hand and regarding container loads of waste from Canada to their shores and its subsequent return to the country of origin, makes it refreshing for governments to see industries and manufacturers imbibing reverse logistics into their supply chain.

CONCLUSION

This write up cannot possibly exhaust all that needs to be said regarding reverse logistics. This therefore calls for further and exhaustive study of the concept and how beneficial it will be for industry and society.



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CHOCHO INDUSTRIES - The Chocho Cream maker, still going strong



Chocho Industries Limited was incorporated in 2006 as a limited liability company. The company rose to fame in the late 2000s due to the name of one of its products-Chocho Cream. Chocho Cream was very popular in every part of the country-villages were no exceptions.

The company produces twenty (20) different products. Some of the products include soaps, hair cream, hand and foot cream, herbal tea and shower gel. Others are skin toner cream, vegetable oil, aphrodisiac capsules for men and chocho balm.

Export and import activities

Even though most of its products can be found in certain parts of Africa and across the world, Chocho Industries is not engaged in any export activity, at least for now. However, wholesalers who buy its products export them to other countries. Their products are also sold locally in markets, malls, pharmacies and online platforms.

Chocho industries also depend heavily on the importation of aluminium tubes for creams, alcohol

calcium carbonate, caustic soda, salt, coconut oil and other raw materials for the manufacturing of its products.

On shipment related challenges, the company's General Manager, Mr Mensah Nyarko said they face no challenge in the port when importing raw materials for production.

Contribution to Ghana's economy

The operation of the company for the past thirteen (13) years has contributed greatly to the economy of Ghana.

It has employed over one hundred (100) people and several thousands (1,000s) of others whose businesses depend on their products. The company has also not reneged on its tax obligations to the Ghana Revenue Authority (GRA).

Support and CSR intervention

Led by its Chief Executive Officer (CEO), Alhaji Mustapha Oti Boateng, Chocho Industries have plans of expanding its factory to produce more to serve its market. The company wants loans with low interest rates from banks and technical support from the Association of Ghana Industries (AGI) and other government institutions to help improve the growth of its business.

Since its operations started in 2006, Chocho Industries has invested heavily in corporate social responsibility (CSR) activities as a socially responsible company. Some of the CSR projects include pavement of the entire Koforidua Central Hospital, scholarships to needy students at the tertiary level, construction of washrooms and toilet facilities for the Koforidua Prisons, among others.



BOMARTS FARMS - Exporters of dried and fresh fruits

Bomarts Farms Limited was established in 1985 and incorporated in 2001. It has vast experience in the production of fresh fruits such as mango and pineapple as well as dry processing of fruits. The company was registered under the Free Zones in November 2007.

The company started as a sole proprietorship with an acre of pineapple plantation by Mr. Anthony Botchway, its Chief Executive Officer (CEO). It currently boasts of three (3) key operations: a two thousand (2,000) acre landholding for pineapple plantation and field nursery at Nsuobri in the Ga South Municipal with a fruit packing facility, a four hundred (400) acre mango plantation at Tafi Abuife in the Afadzato South District, Volta Region, with packing facilities and a Modern Tissue Culture Facility and a plant for dry processing of fruits at Dobro in the Nsawam Adoagyiri Municipality.

The company has established a one hundred and twenty (120)-hectare organic drip irrigated mango farm near Akuse in the Eastern Region of Ghana. In collaboration with GIZ Ghana, Bomarts led the establishment of a model organic drip irrigated pineapple farm at Adeiso in the Eastern Region in 2018 with fifty (50) out-growers in a block farm. The plots are owned by smallholders who at the end of the project in two (2) years would be able to establish and run their own farms using principles and tools they are learning from their experience.

Source of fruits and export market

Noted for the export of dried fruits such as mango, coconut, pineapple, banana, papaya, Bomarts also exports fresh pineapples and mangoes. The company does an average of five thousand three hundred and seventy (5,370) metric tonnes (MT) of exports in a year- six hundred (600)MT and four thousand seven hundred and seventy (4,770)MT for dried and fresh fruits, respectively.

Mangoes for processing are sourced from Wenchi, Sunyani, Pamdu, Kintampo, Nkoranza, Tafi Abuife, Ho, Somanya and Asutsuare while the pineapples are transported from Pokrom, Sansam and Adeiso. Bomarts sources coconuts from Anyinaso and Bawjiase and bananas from Akuse. In total, about nine thousand one hundred and fifteen (9,115) MT of fruits are brought from these places and transported to the factory for processing.

The fruits are exported to Switzerland, France, Belgium, the United Kingdom, Germany and Lithuania in the European market. The rest include Lebanon, Israel, Morocco and Nigeria.

Some of the challenges the company faces with growing or having access to fruits for the factory include poor road network access, pests and disease prevalence leading to reduction in the shelf life of fruits, occasional unavailability of fruits, high pricing



Planting Fields - MD2 Pineapples Under Irrigation

of dried fruits due to cost of production, among others.

Achievements and contributions to the economy

Bomarts Farms is a key generator of foreign exchange to the economy of Ghana through its export volumes.

Through its agro-processing (value addition), the company buys over eight thousand five hundred (8,500) MT fresh fruits from farmers for processing. This helps to reduce post-harvest losses with its attendant benefit of contributing to food security.

The company has helped in creating jobs for over five hundred (500) people. This has contributed to improving the livelihoods of the workers and their dependents.

As part of the sustainability strategy of the company, it has facilitated the formation of farm-based co-operatives and continues to provide them with inputs and technical support to improve their productivity. Currently, about three (3) mango co-operatives have been formed with over five hundred (500) farmers at Somanya, Dodowa and Bono and Ahafo Regions.

Bomarts is also working with development agencies like SNV and GIZ to provide technical support in terms of training on agronomy and certification to over six hundred (600) farmers in the Bono and Ahafo Regions.

Shipment challenges and recommendations

Due to the recurrent system challenges of ICUMS, the new Customs management system in the Tema Port, Bomarts is not able ship its exports on time. "This is affecting our credibility with our customers to the extent of losing some of our customers due to consistent delays.", Mr. Botchway disclosed.

The problem is further compounded with the inadequate training on the ICUMS for agents and users of the system, late response from Customs after processing of entries for both import and export and several follow-ups for a transaction to be completed.

Other shipment challenges include failure of

scanners at the Meridian Port Services (MPS) affecting operations, unreliable movement of vessels causing postponements, delays through manifest matching which sometimes affects turnaround time leading to demurrages and delays in entry response when processed for both export and import.

On the way forward to resolving the shipment challenges, the Bomarts CEO calls for the enhancement of the ICUMS system to improve efficiency. He also recommended training for users of the system and frequent refresher trainings.

Installation of back-up scanners will also greatly help for continuous scanning of containers in the event of breakdowns. Efficient and effective management of vessel movement schedule by shipping lines and agents should also be encouraged to help shippers ship their cargo according to plan.

Corporate Social Responsibility activity?

According to Mr. Edward Botchway, a procurement, logistics and marketing officer at Bomarts, the company, through its corporate social responsibility (CSR), has supported the Ghana Police Service at Nsawam by renovating their vehicle garage, purchased desktop computer and printer for the Adeiso Police Station, supported the Nurses and Midwifery Association in Nsawam, Ghana Education Service at Nsawam, Obrachire SHS towards their weeks celebrations and as well as speech and prize giving day awards, among others.

Bomarts through its Fairtrade Foundation has built kindergarten blocks at Tafi Abuife in the Volta Region and Mmampehia in the Greater Region, renovated two (2) health posts at Tafi Agome and Oboom. It also provided educational materials to Akoteaku School, potable drinking water (boreholes) for the Aboasa community near Bawjiase and Oparekrom community near Nsawam and constructed 16-Seater WC toilet facilities at Dobro near Nsawam.

Bomarts, among others, has also made donations towards the construction of a maternity block at Notre Dame Clinic at Nsawam-Adoagyiri.



Dried Fruits - Pineapple-papaya -banana-coconut-mango



GHANA SHIPPERS' AUTHORITY



BACKGROUND

The Ghana Shippers' Authority (GSA) is a state agency operating under the auspices of the Ministry of Transport. It was established in 1974 by NRCD254 and has over the years collaborated with private and public organizations in the maritime industry to pursue its primary objective of protecting and promoting the interests of shippers in Ghana in relation to port, ship and inland transport problems in order to ensure safe, reliable and cost effective cargo handling.

SERVICES TO SHIPPERS

- Sensitising and empowering shippers and stakeholders in the shipping and logistics sector through programmes such as open fora for trade associations, annual seminars for journalists, biennial maritime law seminars for Judges, workshops for truck owners and drivers, etc.
- Establishment of Import/Export Shipper Committees across the country to enable shippers and shipping service providers interact regularly in order to resolve challenges confronting their businesses;
- Negotiation of freight and port charges of shipping service providers on behalf of shippers;
- Establishment of Shipper Complaints and Support Units at the country's entry points to provide real-time assistance to shippers engaged in cross-border trade.
- Negotiation and monitoring of service standards of shipping service providers;
- Conducting research on emerging issues in Ghana's maritime transport industry;
- Facilitation and promotion of the Transit Trade along Ghana's transit corridor;
- Advocacy in matters affecting shippers such as Implementation of IMO Sulphur Regulations 2020, Terminal Handling Charges, payment of VAT on transit services and levy on transit exports, etc;
- Intervening, investigating and finding solutions to recurrent shipment problems such as loss/damaged cargo, late arrival of shipping documents, cargo insurance claims, illegitimate charges, shortlanding of cargo, etc.
- Representation of the interests of shippers in the deliberations of international bodies such as IMO, WTO, UNCTAD, Global Shippers Forum, etc.
- Provision of infrastructure such as the Takoradi Logistics Platform project, Boankra Inland Port project, Akatekyiwa Freight Park project, Shippers Centres, etc to support the shipping and logistics sector.

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A REVIEW OF THE INTERNATIONAL LABOUR ORGANISATION CONVENTION, 2007 (No. 188) ON DECENT WORK IN THE MARITIME FISHING INDUSTRY

By Abdul Haki Bashiru-Dine (Ghana Shippers' Authority) and Nafula Wakoli (Kenya maritime Authority)

Overview¹

Over 58 million people around the world work in the fishing industry. Over 15 million others are working full-time on board fishing vessels. Those who earn a living from the sea are often exposed to challenging and risky conditions. The ILO's international labour standard for work on board fishing vessels is the Work in Fishing Convention, 2007 (No. 188). It aims to ensure decent conditions of work with regard to minimum requirements for work on board: conditions of service; accommodation and food;

occupational safety and health protection; medical care and social security.

The Convention is a valuable tool for addressing issues concerning migrant fishers and eliminating forced labour and child labour in the fishing sector. As of May 2019, 14 countries have ratified the Work in Fishing Convention: Angola, Argentina, Bosnia and Herzegovina, Congo, Estonia, France, Lithuania, Morocco, Namibia, Norway, Senegal, South Africa, Thailand and the United Kingdom. The Convention came

into force on 17 November 2017 once 10 States had ratified.

Ensuring fishers have decent conditions of work on board fishing vessels²

In many countries, laws and regulations that address the conditions of work of seafarers at least partly also address conditions of work of marine fishers. However, the issues faced by fishers often differ from those faced by seafarers working on cargo or passenger ships. For this reason, the ILO's Maritime Labour Convention, 2006, which concerns

¹The majority of the content of this pamphlet is taken verbatim from the footnoted ILO sources. Sources: International Labour Organisation (ILO), Fisheries, [website], <https://www.ilo.org/global/industries-and-sectors/shipping-ports-fisheries-inland-waterways/fisheries/lang-en/index.htm> (Accessed 2 April 2019); ILO Video, Ensuring decent work for fishers: ILO's Work in Fishing Convention, 2007 (N° 188), 29 May 2013, <https://www.youtube.com/watch?v=1UldDeugSyM#t=76> (Accessed 2 April 2019); and *Thailand Ratifies Work in Fishing Convention*, ILO Press Release, 30 January 2019, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_666581/lang-en/index.htm (Accessed 20 May 2019).

²Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Pages 2 and 7.



conditions of work on ships, excludes fishing vessels from its application. To ensure fishers, including fishers working in coastal and inland waters, have updated and comprehensive legal protection, States need to ratify the Work in Fishing Convention, 2007 (No. 188).

The Work in Fishing Convention was tailored to reflect the particular characteristics of the fishing industry and the situations fishers face during their day-to-day working lives. Fishers have conditions of work that are different from those experienced by workers in other sectors. Fishing is hazardous. The fatality rate of fishers is typically several times higher than other workers.

There is also, often, no clear separation between working time and personal time. Many fishers live as well as work in their vessels, in conditions that can be cramped and congested. There may be long periods away from home and very long working hours. Access to adequate food and drinking water

– as well as to recreational facilities when fishers are off-duty – can be an issue. Fatigue linked to long working hours has also been identified as a serious problem.

What is covered under Convention 188?

Application, eligibility, and scope³

The Convention applies to all fishers and all fishing vessels engaged in commercial fishing operations.⁴

The scope of the Convention thus does not cover fishers who are not working on fishing vessels. The Convention applies to all ships or boats used or intended to be used

for the purpose of commercial fishing, irrespective of the form of ownership.⁵ However, some provisions of the Convention apply only to vessels over 24 metres long or those that remain out at sea for three days or more. “Commercial fishing” means all fishing operations, including fishing operations on rivers, lakes or canals. Only subsistence fishing and recreational fishing are specifically excluded.⁶

Responsibilities of fishing vessel owners, skippers and fishers⁷

Article 8 of the Convention establishes the responsibilities of fishing vessel owners, skippers and fishers.

- The owner of the fishing vessel is ultimately responsible for conditions of work on board the vessel. The fishing vessel owner has the overall responsibility to ensure that the skipper is provided with the necessary resources and facilities to comply with the obligations of the Convention.

Fisher is defined in the Convention as “every person employed or engaged in any capacity or carrying out an occupation on board any fishing vessel, including persons working on board who are paid on the basis of a share of the catch but excluding pilots, naval personnel, other persons in the permanent

³Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Pages 3, 6, 8 and 9.

⁴Work in Fishing Convention, 2007 (No. 188), Article 2 (1).

⁵Article 1(e).

⁶Article 1(g).

⁷Article 1(a)) (See Appendix II for an ILO informal opinion concerning the meaning of “subsistence fishing”).

⁸Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Pages 8 and 9.

⁹Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention



- The skipper has responsibility for the safety of the fishers on board and the safe operation of the vessel.
- The fishers are responsible for complying with the lawful orders of the skipper and applicable safety and health measures.

Minimum age⁸

Article 9 of the Convention establishes a minimum age for work on board fishing vessels and requires special protection for young fishers.

- The minimum age for work on board a fishing vessel is sixteen (16) years.
- Fifteen (15) year olds are permitted to work as fishers in certain circumstances.
- In some situations, for example relating to safety and health concerns, fishers must be at least eighteen (18) to be assigned to certain activities.

Medical examinations⁹

Articles 10 to 12 of the Convention

address medical examinations. A certain level of fitness is needed on board fishing boats and medical examinations help protect not only the fisher who has undergone the examination but also other fishers on board.

- No fishers shall work on board a fishing vessel without a valid medical certificate attesting to fitness to perform their duty.
- The medical certificate requirement can in some circumstances be relaxed for fishers working on fishing vessels less than twenty four (24) metres in length or which remain at sea for less than three days.

Manning and hours of work¹⁰

Articles 13 and 14 of the Convention address the serious problem of fatigue, which results from long working hours and insufficient rest periods at sea.

- Fishing vessels are to be sufficiently and safely manned for the safe

navigation and operation of the vessel and under the control of a competent skipper. Large vessels are required to carry a sufficient number of qualified fishers.

- Fishers must be given regular periods of rest of sufficient length to ensure safety and health.
- More stringent requirements are set for vessels that remain at sea for longer periods. However, skippers are also allowed to require fishers to work extra hours for the immediate safety of the vessels, persons on board or the catch, or for helping other vessels in distress, as long as afterwards fishers receive more rest.
- Different arrangements of working hours, rest time and manning are allowed as long as representatives of fishing vessel owners and fishers are consulted and the arrangements do not undermine health and safety.

Crew lists and work agreements¹¹

Articles 15 to 20 and Annex II of the Convention set out the requirement for fishing vessels to have a crew list and fishers to have the protection of a signed work agreement setting out the terms of the work they are performing.

- Every fishing vessel must carry a crew list, and provide this information to authorized persons ashore.

188 Recommendation 199, Page 10.

¹⁰Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 11.

¹¹Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 12.

¹²Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 13.



- Fishers working on vessels must have a work agreement that is comprehensible to them and is consistent with the provisions of the Convention.

Wages

Articles 23 and 24 of the Convention address how fishers are to be paid.

- Fishers paid a wage must be paid in regular payments.
- All fishers working on board fishing vessels shall be given a means to transmit all of part of their payment received to their families at no cost.

Accommodation and food¹²

Articles 25 to 28 and Annex III of the Convention set out the standards for living accommodation and food on board.

- Fishing vessels must have sufficient room for the crew's living space.
- Issues such as ventilation, heating and cooling, lighting, and mitigation of excessive noise and vibration must be addressed.
- Fishers must have adequate sanitary facilities.

Proper accommodation has a

result of efforts to carry as much equipment and as many fish possible for the size of the vessel – can lead to unsustainable conditions on board. This can affect recruitment and retention of fishers.

The Convention does recognize that what is appropriate for large vessels will not be so relevant for smaller boats or those which do not stay at sea for long periods of time. The Convention therefore sets dimensions for such areas as sleeping rooms for large vessels, but is less specific for small boats. The requirements for specific dimensions of rooms apply to newly built vessels, but not those already in service.

- Food carried and served on board must be of a sufficient nutritional value, quality and quantity.
- Drinking water must be of sufficient quality and quantity.
- Food and water must be provided by the fishing vessel owner at no cost to the fisher. However, costs can be recovered as an operational cost in accordance with national laws and regulations if the collective agreement or fisher's work agreement so provides.

Safety and health¹³

Articles 29 to 33 and Articles 38 and 39 of the Convention establish

requirements for occupational safety and health, and a basic level of medical care on fishing vessels. Fishers face particular dangers as a consequence of their work. Fishers also suffer from special health problems due to the nature of their work. The Convention therefore aims to ensure that States have in place laws, regulations or other measures to address health and safety issues.

- Adequate instruction and training for fishers in such things as handling fishing gear is required.
- Accidents are to be reported and investigated.
- Fishing vessels are to carry medical equipment, and have at least one person on board trained in first aid.
- Fishers have the right to be taken ashore promptly for medical treatment when they suffer serious injuries and illnesses. There are additional measures for larger vessels and for those staying at sea for more than three days.
- Risk evaluation in relation to fishing shall be conducted, as appropriate, with the participation of fishers or their representatives.

Social security protection¹⁴

Articles 34 to 37 of the Convention cover social security protection. Fishers in many countries do not have the social security protection available to other workers because of the particular nature of their work. The Convention thus requires that States ensure that fishers ordinarily resident in its territory, and their dependents to the extent provided in national law, are entitled to benefit from social

¹³Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 14.

¹⁴Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 15.

¹⁵Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 16.



security protection under conditions no less favorable than those applicable to other workers.

Repatriation¹⁵

Article 21 of the Convention lays down the right of fishers to be repatriated when their agreements end, and for other reasons. Repatriation is normally to be at the expense of the fishing vessel owner. The flag State has the duty to intervene if the owner fails in his or her duties, and the State has the right to recover costs from the owner.

Why States should ratify Convention 188¹⁶

Fishing is one of the most hazardous occupations. Fishers face serious challenges to decent working conditions because of weather and seasonality and the generally hazardous nature of working in the marine environment.

Yet related laws and regulations are often non-existent or unclear. Gaps in labour laws can leave fishers unprotected. The Convention sets the standards for decent work on fishing vessels, standards that countries can enforce, including through inspections.

The Convention sets out binding requirements to address the main issues concerning work on board fishing vessels, including occupational safety and health and medical care at sea and ashore, rest periods, written work agreements, and social security protection at the same level as other workers. The Convention helps prevent unacceptable forms of work for all fishers, especially migrant fishers. It provides for regulation of the recruitment process and investigation of complaints by fishers.

It aims to ensure that fishing vessels are constructed and maintained so that fishers have decent living conditions on board. The Convention also enhances dialogue among government, vessel owners and fishers. States ratifying the Convention commit to exercising control over fishing vessels, through inspection, reporting, monitoring, complaint procedures, penalties and corrective measures, and may then

also inspect foreign fishing vessels visiting their ports and take appropriate action. This also helps prevent abuses including forced labour and trafficking. Protecting fishers also supports sustainable use of oceans and fisheries.

How States can ratify Convention 188¹⁷

The first step towards ratification will be to conduct a detailed gap analysis of national laws, regulations and other measures that are intended to give effect to the provisions of the Convention to determine where changes are needed to amend or otherwise adjust national laws or regulations. This process will involve all of the relevant government agencies and those people most directly affected by the Convention, including employer and worker organizations, particularly the representative organizations of fishing vessel owners and the fishers themselves.

Flexible implementation¹⁸

The Convention is designed to be flexible to ensure the maximum number of States are able to ratify it. It takes into account the fact that

Though many fishing vessel owners treat their crews well, there are often informal work practices, and there are concerns worldwide about forced labour, human trafficking and the exploitation of migrant labour in fishing.

¹⁶Source: ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Page 13.

¹⁷(Video) *Convention on working conditions on fishing vessels enters into force*, https://www.youtube.com/watch?time_continue=52&v=Vxzw7XgyiPA (Accessed 17 May 2019) On ILO page: <http://bit.ly/2hxqtnX>; ILO News, *ILO Work in Fishing Convention No.188 (2007) enters into force*, 16 November 2017, https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_596898/lang-en/index.htm?utm_content=buffer76e83&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer (Accessed 17 May 2019).

¹⁸ILO, *Guideline to undertake a comparative analysis of the Work in Fishing Convention, 2007 (No. 188) and national laws, regulations or other measures*, https://www.ilo.org/wcmsp5/groups/public/-ed_dialogue/-sector/documents/publication/wcms_161223.pdf, (Accessed 2 April 2019), pages 1 and 2;



some States might have difficulty in implementing all of its requirements. Implementation can be through national laws and regulations, or through other measures, such as collective agreements.

The flexibility provisions are found in Article 3, Article 4, Article 5, Article 28 and some Articles covering specific issues (for example, medical examinations). Article 3 relates to “special problems of a substantial nature in the light of the particular conditions of service of the fishers or of the fishing vessel concerned.” Article 4 (1) allows States to implement some provisions of the Convention progressively, providing that member States, “owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions ... may, in accordance with a plan drawn up in consultation, progressively implement all or some of the following provisions...”. In Article 5, member States are permitted to choose the basis for measurement in relation to the

equivalences set out in Annex I. Article 28 (2) provides that “member States which are not in a position to implement Handbook for improving living and working conditions on board fishing vessels 16 the provisions of Annex III may, after consultation, adopt in its laws and regulations other measures which are substantially equivalent to the provisions set out in Annex III, with the exception of provisions related to Article 27 (food and water provisions).”

The flexibility clauses in the Convention allow States to adapt the Convention's provisions in a way that recognizes the wide range of types of fishing vessels and fishing operations and the differences among countries. Throughout the Convention there are provisions that apply only to larger vessels or for those at sea for long periods. Less demanding provisions are made for smaller vessels and for boats on short fishing trips. States can choose to initially exclude some types of boats or fishing craft (for example, those fishing in inland waters like lakes, rivers and canals).

The flexibility permitted in the Convention has limits. In all cases the flexibility offered must be determined after or in consultation with the representative organizations of employers and workers concerned, and in particular the representative organizations of fishing vessel owners and fishers.

Conclusion

Fishing is one of the most challenging and hazardous occupations in the world. Fishers need global standards that provide protection, reflect their special situation and allow for sufficient flexibility in order to account for the differences within the sector and among different ILO member States. Above all, standards must serve to improve the conditions of as many fishers as possible.

The Work in Fishing Convention sets out in a comprehensive manner the minimum international standards for living and working in the fishing sector. It covers a broad range of issues particular to the fishing industry with the objective of ensuring that fishers have decent conditions of work on board fishing vessels. The Convention provides flexibility with respect to certain Articles so that as many States as possible can ratify. By ratifying the Convention, States commit to ensuring acceptable living and working conditions for fishers working onboard fishing vessels, thereby contributing to the elimination of human rights abuse, forced labour and trafficking

¹⁹ILO, Decent Working Conditions, Safety and Social Protection, Work in Fishing Convention 188 Recommendation 199, Pages 17 and 18; ILO, *Handbook for improving living and working conditions onboard fishing vessels*, 2010, https://www.ilo.org/sector/Resources/publications/WCMS_162323/lang-en/index.htm, (Accessed 20 May 2019); ILO, *The flexibility clauses of the Work in Fishing Convention, 2007 (No. 188)*, https://www.ilo.org/wcmsp5/groups/public/-ed_dialogue/-sector/documents/publication/wcms_618563.pdf, Page 4 (Accessed 20 May 2019).

²⁰ILO, *Handbook for improving living and working conditions onboard fishing vessels*, 2010, https://www.ilo.org/sector/Resources/publications/WCMS_162323/lang-en/index.htm, (Accessed 20 May 2019).

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BAN ON SALVAGED CARS: The prospects, challenges and the missing question

By the Public Relations Department, Ghana Shippers' Authority

On 3rd March ,2020, Ghana's parliament passed the Customs (Amendment) Bill 2020, an amendment of the Customs Act,2015 (Act 891) following the adoption and approval of the report of the Joint Committees on Finance, Trade and Industry and Tourism. The amendment sought to provide incentives for automotive manufacturers and assemblers registered under the Ghana Automotive Manufacturing Development Programme (GAMDP) in a bid to make Ghana car manufacturing hub for the West African market.

The amended Act places a ban on the importation of salvaged motor vehicles comprising wrecked destroyed, or physically damaged by collision, fire, water or other occurrences as well as specified motor vehicles over ten (10) years of age into the country. Additionally, the Act imposes an increment in import duties of thirty five (35) per cent on specific motor vehicles in order to discourage their import as a move to encourage local manufacturing and assembly.

The enforcement of the ban was

supposed to take effect from 1st November, 2020, six months after President Nana Addo Dankwa Akufo-Addo signed the Act into law on 30th April. The government has, however, suspended the implementation of the ban until further notice for further consultations with stakeholders following widespread agitations.

Stakeholder Concerns

One of the key opponents to the law banning the importation of salvaged vehicles is the Vehicle and Asset Dealers Union of Ghana (VADUG) and the Coalition of Car and Spare Parts Dealers, Clearing Agents and Artisans. They contended that Act 891, in its current form, does not serve the interest of importers and users of salvaged cars. They made the following appeals:

- i. To amend section 151 of ACT 891 (2020) to redefine salvaged Vehicles to permit the importation of repairable, re-buildable, recoverable and legally exportable vehicles. These include impounded and

abandoned vehicles by security and other State Agencies; recovered vehicles from theft, hailstorm, vandalism and riots by insurance firms and recovered vehicles from minor accidents resulting in cracked tail/headlamps, cracked front and back windshields, bent fender, cracked bumpers, etc. by insurance firms. These types of vehicles are mainly imported by the dealers in salvaged cars.

- ii. To amend section 61 of the Customs ACT 891 (2020) to scrap the introduction of a Certificate of Conformance. They contended that the introduction of the Certificate of Conformance is a duplication of an already existing mechanism that checks the condition and state of imported cars. This system provides vehicle reports after physical inspection by Customs at the various



ports of entry. They fear the certificate of conformance will delay the clearing procedure, encourage extortion and increase cost for importers.

- iii. To amend section 58 of the passed Act to ban only non-repairable salvaged or junk titled vehicles.
- iv. To scrap the thirty five (35) per cent increment on import duties on motor vehicles not captured under the Ghana Automotive Manufacturing Development Policy (GAMDP) as per the amended chapter 87 section XXVII (17) of the first schedule to the Customs ACT 2020.

Prospects of the ban on salvaged cars.

Despite the concerns of some stakeholders on the implementation of the ban on the salvaged motor vehicles, the policy, for all its intended and unintended consequences, has some benefits that portends well for Ghana and the subregion.

i) Growth of the local automobile industry

Ghana's automobile industry has not seen any significant growth over the past thirty (30) years after the collapse of assembly plants by UAC Motors, Neoplan Ghana Limited, SCOA, among others. The good old rugged Bedford trucks with their "Who knows tomorrow?" and other popular Ghanaian

sayings written on their backs, were all proudly assembled locally. As far back as 1966, Auto Parts Vehicle Assembly Plant was set up to assemble Nissan vehicles with imported components from Japan.

The plant had an annual capacity to produce six hundred (600) Nissan cars, six hundred (600) buses, pick-ups and trucks. Until the signing of Memorandum of Agreement between the Government of Ghana and officials of VW, Toyota and others in recent times to build assembly plants in the country, only Katanka Motors, a Ghanaian owned company has been making strides, albeit with difficulty, in the manufacturing of vehicles.

"Renault, Suzuki, Nissan and Toyota are some of the brands that have expressed interest to come in and start production. There's also SinoTruck from China that is already assembling here for the market, while discussions are ongoing with Honda to also begin production," said Yofi Grant, the CEO of the Ghana Investment Promotion Council (GIPC) after VW outdoored six (6) models of its vehicles in August 2020 as part of its US\$ 10.5 million first phase car assembly project in Ghana. The

second phase which is expected to produce an average of ten thousand (10,000) to twenty thousand (20,000) cars annually is valued at twenty two million (US\$ 22) million.

ii) Rise in use of new cars

Focus2Move, a globally recognised platform for the source of new car sales in eleven (11) regions and 159 countries, analysed the market trend of new car sales in Ghana from 2013 to 2019.

"Ghanaian vehicles market fell down to 5,347 units in 2015 – after hitting 11,788 sales in 2013 – due to effects of the economic recession. However, the market registered a robust recovery in the following years, when in 2017 sales ended with registrations at 9,150. In 2018, the market was hit by another strong sales' decline (-21.4%) selling 7,193 units.

"In 2019, light vehicles sales kept crumbling. Indeed, the full year ended with 5,702 registrations, down 20.8% from the previous year. Brand wise, Nissan and Toyota were

The coming on board of these international automobile giants bode well for the revival of the local automobile industry to serve the Ghanaian and West African markets to give impetus to the country's drive on the path of industrialisation.

fighting for the market lead. However, the former outpaced the latter by less than two hundred (200) units, holding over twenty per cent (20%) of share.", it revealed.

More than half of the vehicles plying roads across Ghana are second hand imported. In 2018, about twelve and half per cent (12.5) percent of the country's total import bill estimated at US\$ 12 billion represented the total value of imported second hand cars.



Even though Fitch forecasts new vehicle registrations in Ghana will expand at an average annual rate of just one and a half (1.5) per cent from 2019 to 2028, the increase in import duties on new and used cars to thirty five (35) per cent from the current five (5) per cent to twenty (20) per cent under the new law, may serve as an incentive to increase the sale and use of locally assembled new cars in the country.

The high cost of brand-new cars also discourages many from buying them due to low income levels of many Ghanaians. Prices of assembled brand new cars are expected to reduce drastically because duties are exempted on the imported vehicle components of the various automobile giants under the new Customs Act 2020.

Even though the cost per unit of new vehicles will still be higher than used vehicles, it will still give more people access to acquire new cars. This will increase the lifespan of cars on our roads, reduce accidents and other associated benefits.

iii) Employment and transfer of technology

The revitalisation of the automobile industry under the Ghana Automotive Manufacturing Development Policy will also provide jobs for many people. Beyond the companies directly employing skilled and unskilled labour, an arrangement can also be made between the manufacturers and spare parts dealers to supply the latter with spare parts in designated shops across the country to replace locally

assembled car parts in the event of accidents or other physical defects. Equally important is the transfer of technology in car manufacturing from the automobile giants to Ghana. Locals working with these companies stand to improve their skills and knowledge in the manufacturing process which can later be leveraged on to build indigenous cars.

Implementation of Act 2020 - The Challenges

Despite the above-mentioned prospects the placing of the ban on salvaged motor vehicles bring to the Ghanaian economy, the implementation of the policy will

Apart from the over 10,000 dealers in home used cars who have garages dotted across the country and whose daily survival is dependent on this business, there are many other 1,000s of people whose businesses are tied to the industry.

equally carry in its wake some challenges in the short to medium term. The challenges discussed below are not exhaustive.

i) Loss of jobs

There is no gainsaying about the many jobs that will be lost when the implementation of the policy is implemented in its current form. One can assess and appreciate the scale and impact of the unemployment situation when analysing the fact that second hand cars alone control about seventy

(70) per cent of Ghana's annual imports.

Clearing agents, spare parts dealers in Abossey Okai, Suame Magazine and other places, operators and drivers of car carrier trailers, sprayers, air condition repairers, auto electricians, benders and others along the value chain will be hugely affected with the ban.

ii) Loss of revenue

Per Parliamentary records, Ghana is set to lose about GH 820.3 million in customs duties and taxes for the first three years of implementation of the new policy. Even though the state intends to partially set aside this loss in revenue with the increment in import duties on clean titled cars not covered under the Act, this target may not be realised if imports drop due to the high cost of clearing cars at the port.

Other shipping service providers whose businesses thrive on the second-hand car market in Ghana

may also suffer a dip in their revenue baskets. Clearing agents, terminal operators and shipping lines and agents, among others will feel the brunt of the new law when it is implemented.

iii) Black market for second hand cars

The demand for second-hand vehicles will not stop with the implementation of the ban. People who cannot afford brand new cars due to their economic status and other considerations may be forced



to illegally import the second-hand cars into the country. The likelihood of an underground black market emerging to facilitate the trade is very high.

South Africa is currently grappling with a cartel of second-hand car dealers operating in its market after a ban was placed on the importation of second-hand cars, a few years ago, to protect its local automobile industry.

“Our fiscus loses about forty per cent (40%) of the value of a new vehicle sale each time an illegal vehicle remains in the country. If the average vehicle sales value is R200,000, then the state loses R80,000 if a new vehicle sale is lost as a vehicle has replaced it in the country” said Lee Dutton, Executive Director at International Vehicle Identification Desk Southern Africa as quoted by Independent Online, a leading news and information website in South Africa

“The loss to the fiscus based on four thousand (4,000) vehicles per annum would be R320million.”

The used cars are imported into South Africa under the guise of being transited into neighbouring countries but are illegally resold in the country. Ghana may face a similar or worse challenge if a robust system is not put in place to check any illegal import of used vehicles. The nation may end up losing millions of cedis.

The Missing Carbon Emission Factor

With all the alluring effects of the revival of Ghana's automobile industry under Ghana Automotive Manufacturing Development Policy (GAMDP), what is conspicuously missing in the debate is the green house pollution from cars. The global automobile industry is moving into the manufacture of electric vehicles with zero emissions and gradually moving away from the manufacture of vehicles with Internal Combustion Engines (ICE) that rely on petrol, biofuels or natural gas. The governments of the United Kingdom (UK) and Scotland, for instance, have set very bold targets to become net-zero carbon economies by 2050 and 2045, respectively. All these policy shifts are geared towards the realisation of Climate Change objectives.

It would be important for policy makers in Ghana to factor the zero emission policy into the revival of the country's automobile industry as these automobile giants flock in to set up their manufacturing and assembly plants. We must not be left behind with the zero emission debate; we must be intentional to ensuring that ICEs are gradually phased out as we welcome zero emission vehicles in the future.

Strict compliance to global certification standards must be enforced by the Ghana Standards Authority (GSA) in the importation of the components of the new

vehicles to ensure that they meet appropriate emission standards.

Ghana risks being the dumping ground of obsolete models that do not pass the emission test to be sold as new vehicles at expensive prices if enforcement is relaxed.

Conclusion

The ban placed on the importation of salvaged vehicles remains a very delicate and contentious issue which requires government to address concerns of stakeholders whose businesses would be hugely affected by its implementation.

With an average of forty thousand (40,000) salvaged cars imported annually into Ghana, the complete takeover of the automobile space by the VWs, Toyotas, Nissans, among others may present a deficit in the supply of vehicles since the manufacturers are not fully set to produce at their maximum capacities. VW, the only manufacturer that has started assembling its models in the country will only produce one thousand (1,000) units annually before increasing production in the second phase of its investment which may take some few more years.

Again, consumer choice and preference for specific brand of vehicles must be considered in the restrictions placed on people to only buy newly-assembled cars of particular brands or be forced to import preferred brands at exorbitant prices with the associated increment in import duties by thirty five (35) per cent.

The demand by stakeholders in the used vehicle industry for government to amend section 151 of ACT 891 (2020) to redefine salvaged vehicles to permit the importation of repairable, rebuildable, recoverable and legally exportable vehicles must be reconsidered. Therein lies the crux of the matter.

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