

Shipping Review

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UNDERSTANDING THE DIFFERENCE BETWEEN INSTITUTE CARGO CLAUSES "A, B AND C" UNDER MARINE INSURANCE



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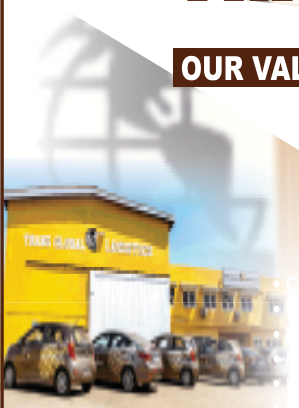
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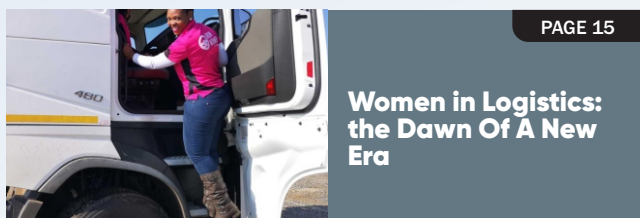


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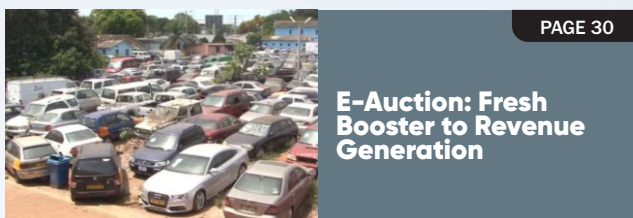
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UNDERSTANDING THE DIFFERENCE BETWEEN INSTITUTE CARGO CLAUSES "A, B AND C" UNDER MARINE INSURANCE

By Abdul Haki Bashiru-Dine, Ghana Shippers' Authority

Background

Marine cargo insurance is as old as marine trade and has existed in various forms dating back to 3000 BC. Early merchants trading on China's rivers practiced a form of loss control by deliberately spreading a given cargo among several vessels, thereby reducing potential loss.

It is in the ancient civilization of Babylon, however, that we find the earliest record of insurance in the form of "bottomry." The Code of Hammurabi (c. 2100 BC) sets bottomry (the advance of money on the security of a vessel to protect against the loss of the cargo by marine perils) at 20 percent. Traders, whose cargoes were advanced by merchants, were thus protected from debt if the cargo was lost. This practice continued throughout the Mediterranean region and was further emphasized in an edict by the Roman Emperor Justinian, who restricted the interest money advanced to bottomry to 12 percent.

Another marine insurance term found in ancient time is General Average. The Greek Indian and Phoenician traders are known to have used the concept, and a written reference to it is made in Rhodian Law (c. 700 BC). The law states, "Let that which has been jettisoned on behalf of all be restored by the contribution of all." It continues, "A collection of the contributions for jettison shall be made when the ship is saved."

Justinian also codifies the concept of General Average, taking it a step further to include the following: "When a ship is sunk or wrecked, whatever of his property each owner may have saved, he shall keep it for himself." This concept was widely used throughout early civilizations.

The next major development in marine insurance can be traced to the rise of the guilds throughout Europe in the 11th and 12th centuries. Danish navigators began forming guilds whose role was to indemnify its members against losses at sea.

The same era also finds the first use of premiums in marine insurance. The merchant cities of Lombardy, Venice and Florence were the centers of Mediterranean trade, and it was through these that written records began to emerge. By 1255, the Merchant State of Venice had embodied the principals of mutual insurance against the loss of pillage through contribution.



The oldest marine policy known to have been issued was on a vessel named Santa Clara, and the oldest policy document in existence was dated April 24, 1384, covering four bales of textiles on a journey from Pisa to Savona.

The Lombards brought these basic concepts of marine insurance to northern Europe and England in the 13th Century. By the 17th Century, London, with the emergence of the Lloyd's of London Association, had developed into a leading center for marine insurance.

The well-known Lloyd's of London traces its roots to a coffee shop founded by Samuel Lloyd in 1688, favoured as a meeting place for the transaction of insurance businesses among underwriters and merchants. By 1734, the official list of vessels and values known as the "Lloyd's List" was first published. More than 250 years later, it continues to serve as the leading shipping list in the marine insurance industry. In 1769, underwriters took their informal arrangement and founded the organization we know today as Lloyd's of London. Ten years later, the first standard policy wording was developed for use at Lloyd's.

Today, Lloyd's of London is still acknowledged as the largest meeting place for underwriters and shippers to transact marine insurance businesses. In 1906, the British Parliament enacted the Marine Insurance Act. This legislation continues to influence marine insurance policy wordings and conditions to this day.

Nature of Marine Insurance Contract

Marine cargo insurance covers the risks of loss, damage, expense, and liability to your goods during transportation of cargo. For example, from a factory located inland to the seaport and then across the seas to the address of the buyer of your goods abroad.

Section 1 of the Marine Insurance Act 1906 provides: "A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in a manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure."

The process of transportation includes airfreight, ocean freight and overland carriage. The marine cargo insurance is to indemnify the cargo owners



and/or the financiers such as banks against financial loss arising because of physical loss, damage, expenses incurred or liability from the transportation process.

Loss can arise from the perils of the sea such as rough weather, sinking, the ports or because of overturning, collision of and/or theft from overland transports.

Institute Cargo Clauses

These are standard terms in the international insurance market in the case of international sales where delivery occurs by ship in cargo. The Institute Cargo Clauses were introduced in 1982 by a joint working party from the Institute of London Underwriters and the Lloyd's Underwriters Association and have been updated in the current version which was published in 2009.

Before their introduction, the insurance market used several provisions attached to the Marine Insurance Act under English law, that were called SG policies, with S and G standing for Ships and Goods, respectively.

The SG policies were eliminated after a series of complaints from several international institutions, including the UNCTAD, due to their archaic language.

The Institute Cargo Clauses are thus divided into three types, (A), (B) and (C), with each clause providing for a different level of coverage. These Clauses are a component of marine insurance that was originally developed by the



[International Chamber of Commerce](#), a body governing businesses across the globe.

These clauses since their introduction in 1982, have altered considering changes in global business, risk and threat levels. These clauses are an integral part of cargo insurance and are important aspects that every shipping company needs to be familiar with.

The Purpose of Institute Cargo Clauses

Within the context of [marine insurance](#), Institute Cargo Clauses serve a specific purpose. This is to specify what is and is not covered when there is damage or loss to the shipment. Cover can include anything from the cargo to the container that holds it and even the transportation used to ship the said cargo. The difference in coverage is detailed by each different category of clause: A, B, and C. Clause C is the most restrictive of the three, with A being more open.

- Institute Cargo Clauses (A)

These are the most extensive of the three clauses, as it covers all risks with a few exclusions that range from clause 4 to 7 of the provision, the most important being:

- Misconduct
- Defective packing
- Inherent vice
- Wear and tear
- Weapon
- War
- Strike

As stated above, Institute Cargo Clause A is the widest coverage you can purchase, also known as an 'All Risks' Cargo insurance policy. For this reason, it is the most expensive of the three.



What exactly does it cover? Clause A covers [maximum risks](#). It can cover the cargo, container, and transportation, and any exclusions can be found in the General Exclusion Clauses.

- Institute Cargo Clause B

This clause is a more restrictive kind of coverage. For this reason, you should expect to pay a moderate premium. In the case of this clause, you might only request for the more valuable items in your cargo to be covered or for partial cargo coverage.

- Institute Cargo Clause C

This clause, as mentioned above, is the most restrictive of the three. It covers only very limited risks. Furthermore, most of the situations covered must happen during carriage. The main aspects of cover include:

- General average
- Fire / explosion
- Vessel grounding / capsizing
- Collision
- General average sacrifice

The Differences Between Institute Cargo Clauses A, B, and C

The main differences between the three levels of Institute Cargo Clauses are what they cover, and in what circumstances said items are covered. Each clause sets forth detailed parameters for what it does and does not cover. As a result of the differences in each cover, the premiums payable for each vary as well.

Conclusion

Cargo Insurance protects your investments and covers your goods for loss, damage, or delay. Without cargo insurance, all cargo is handled, stored, and carried at the shipper's, owner's, and/or consignee's risk. It is always best to check with your transport provider at the time you book your cargo, to discuss your options and determine what is right for you.



By Abdul Haki Bashiru-Dine,
Ghana Shippers' Authority

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Maximising AfCFTA Gains: Ghana Takes Front Lead

By: Maclean Kwofi

Official trading under the African Continental Free Trade Area (AfCFTA) commenced on October 7, 2022. This was after nearly 22 months of preparatory works and a maiden shipment by Kasapreko Company Limited and Ghandour Cosmetics Limited on January 1, 2021.

So far, seven African countries have successfully traded among themselves. The countries, which included Ghana, Cameroon, Kenya, Egypt, Mauritius, Rwanda and Tanzania traded in products like ceramics, palm oil, car batteries and coffee.



AfCFTA

This first step set in motion a huge ambition to create the largest free trade area in the world measured by the number of countries participating.

The pact connects 1.3 billion people across 55 countries with a combined gross domestic product (GDP) valued at US\$3.4 trillion.

According to the World Bank, the initiative has the potential to lift 30 million people out of extreme poverty, but achieving its full potential will depend on putting in place significant policy reforms and trade facilitation measures.

Creating a continent-wide market will require a determined effort to reduce all trade costs. African governments will also need to design policies to increase the readiness of their workforces to take advantage of new opportunities.

Institutional Framework

To take advantage of the initiative, the Government of Ghana (GoG) put in place an institutional

framework to help maximise the gains from the AfCFTA.

It includes the establishment of the AfCFTA inter-ministerial committee, national steering committee, and technical working groups on all the seven clusters for boosting intra-Africa trade.

Additionally, it has also designed the AfCFTA Policy Framework and Action Plan as well as the National Export Development Strategy (NEDS) meant to help revitalise the country's export development efforts with a strong focus on Africa's over 1.2 billion consumer market.

The action plan launched in August 2022 would provide the needed guidelines for mainstreaming the implementation of the agreement through value-addition to exports, development of capacities to effectively compete with imports and expansion of opportunities for job creation.

The former Minister for Trade and Industry, Mr Alan Kyerematen, in a media interview, indicated that the government had established the key national institutional structures to oversee the implementation of the AfCFTA initiative locally. That, he said, was to help Ghanaian businesses fully participate and explore opportunities under the agreement.

“For Ghana to benefit from the initiative, there is an urgent need to create awareness among regulatory authorities, including the Customs Division of the Ghana Revenue Authority (GRA), economic operators, producers and exporters, as well as the logistical sector,” he added.

Certifications of Origin

Towards achieving the set goals, the government was able to assist 30 Ghanaian firms secure certifications of origin in order to enable them start trading under the AfCFTA.

The certified firms were assisted through the (Ghana) National AfCFTA Coordination Office, which

serves as the liaison between Ghana and the AfCFTA Secretariat.

These firms are part of the 230 potential exporters identified to be guided through AfCFTA processes, procedures and protocols as they develop their products to be exported.

A certificate of origin is a document which attests that a product listed has met certain criteria to be considered as originating from a particular country.

It is issued by the Customs Division of the Ghana Revenue Authority (GRA) and the Ghana National Chamber of Commerce and Industry (GNCCI).

Ongoing Trade

The National Coordinator at the (Ghana) National AfCFTA Coordination Office, Dr Fareed Kwasi Arthur, said two out of the 30 firms had been exporting under AfCFTA since October this year.

The two — Benso Oil Palm Plantation Limited and KEDA Ghana Ceramics Company Limited — exported palm oil products to Kenya and ceramics to Cameroon, respectively.

He said the coordination office assisted the companies to meet the necessary protocol for the shipment of their consignments.

Purposeful Policy Intermediation

It is obvious that the opportunities offered will not manifest by themselves, unless through purposeful policy intermediation and active participation by all stakeholders.

As the host country for the AfCFTA secretariat, Ghana is uniquely positioned to become the commercial capital of Africa.

The country must therefore be determined to make the most of the agreement by leveraging on the trade and investment opportunities that the AfCFTA presents.

GoG has already started implementing several programmes that seek to increase economic self-reliance such as; the 10-point industrial transformation agenda, the Small and Medium Enterprise (SME) development initiative, the strategic anchor industries, the One District, One



Factory (1D1F) initiative, and the establishment of industrial parks across the country.

These programmes can help facilitate the transformation of the economy and enable Ghana to optimize its benefits from AfCFTA when well structured.

Way Forward

All regulatory agencies and trade institutions under the trade value chain such as the Ghana Export Promotion Authority (GEPA), Ghana Standards Authority, Ghana Shippers' Authority (GSA) and the Association of Ghana Industries (AGI), have a great responsibility to prepare the country to maximise its gains from the AfCFTA agreement.

A collective approach is required to inject a renewed and fresh hope into trade and industrialisation as these two key areas are necessary preconditions for strong socio-economic recovery.

With the advanced infrastructure connectivity, the AfCFTA initiative presents a great economic trade together with several other social advantages for Africa and her countries like Ghana.



By Maclean Kwofi



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More Exports, Less Imports for a Better Africa

By: Victoria Mensah, University of Ghana



Africa is a continent enriched with several natural resources and the second-largest continent in the world. It has minerals such as gold, diamond, bauxite, petroleum, and other commodities like cocoa, cashew, coffee tea and cola; yet, the continent continues to remain the least wealthy among the continents of the world. To put it in a sharper perspective, the continent accounts for only percent two (2%) of global trade despite all the resources it possesses.

Many factors account for Africa's current predicament, including poor governance and corruption, mismanagement of natural resources, infrastructure, unemployment, and a high illiteracy rate. However, over-reliance on external or foreign expertise and the export of these natural resources in their unprocessed state have been a major factor in its poor economic growth.

Over Reliance on External or Foreign Expertise

Africa depends so much on foreign goods and services. As a result, it tends to import more from Europe, America, and most Asian countries. A taste for foreign goods has been developed in Africa contributing to high imports. Consequently, imports exceed exports, thereby leading to little or no profit as all the foreign exchange earnings are reinvested into importations. The rate of importations is very high because locally produced goods are mostly more expensive than the imported options, which discourages buyers from patronizing them.

It is very unfortunate that Africa keeps importing these goods despite its ability to produce. Over 70% of goods used in Africa are imported, including

goods that can be produced locally, like chicken, beef, flour and vegetables, just to mention but a few. A typical example is the more affordable local rice which is less patronized compared to imported perfumed rice.

In 2018, Angola, South Africa, and Ghana were deemed the highest importers of chicken, accounting for up to 53% of total imports (IndexBox, 2020). The local industries mostly have no or little control of the prices due to the high cost of production, which eventually leads to the collapse of the industries. Measures should therefore be put in place to sustain local industries and enable them to thrive so as to promote socio-economic growth.

Raw Material Export

Most exported products from Africa are usually primary products with little to no value added, making them less competitive in the global market. Consequently, the prices of exported products such as cocoa and petroleum are determined by the buyers. Reports reveal that, in 2021, manufactured goods accounted for 68% of European Union (EU) exports to Africa whereas, primary goods such as food, drink, raw materials and energy accounted for 65% of African imports to the EU (Eurostat, 2022).

Gold in Tanzania and South Africa are exported in their raw states with no value added, likewise petroleum in Libya and Nigeria, which is processed and exported back to Africa at higher costs.

Over 70% of the world's cocoa is produced by West Africa, Ghana, Cameroon, Cote d'Ivoire and Nigeria. However, about 75% of the cocoa produce is exported in their raw state, with the remaining 25% left in the region to be processed for domestic consumption, thus, allowing a bigger percentage of the raw cocoa beans to be processed outside the region and brought back to it in such forms as chocolate bars, cocoa drinks and beverages, cocoa powder, amongst others.

Recommendations

The introduction of tax incentives such as tax holidays including reduction of taxes for local

industries will help to enhance the growth of these industries. For example, in Ghana, most industries enjoy about three (3) to five (5) years tax holidays. After the first five-years tax holiday period has been exhausted, businesses pay tax at a rate of one percent (1%). Agro-processing enterprises that primarily rely on locally produced agricultural raw materials continue to benefit from lower corporate tax rates based on where their manufacturing facilities are located. Also, Businesses that export non-traditional items such as horticultural products, processed and raw agricultural products cultivated in Ghana other than cocoa beans, timber products other than logs and lumber, handicrafts, and locally made goods benefit from an 8% tax rate reduction.

Another important measure that should be put in place is infrastructural development. These include structures, roads, bridges, airports, airways, electricity supply, water, sewage systems and telecommunications networks. The growth of most industries stagnates when these facilities do not function properly. Sub-Saharan Africa records a vast number of badly maintained roads, with about 53% of them being unpaved (The African Development Bank, 2014). The construction and maintenance of transport facilities including roads and railways for easy transportation of raw materials especially from rural areas at lower costs can help revive these industries and hence improve upon the economic growth of the continent in the long run.

Additionally, one other way to improve the growth of Small and Medium Enterprises (SMEs) in the Shipping and Logistics Industry is to encourage the patronage of locally made goods instead of imported options. Over the years, Africa has recorded the highest grade for low patronage of its locally made products, implying high import rates within the continent as goods and services are required on daily basis.

The Manufacturers Association of Nigeria (MAN) has published the 2019 half-year Executive Summary, revealing that the quantity of unsold goods has increased over the previous three years.

Unsold manufactured goods totalled N321.12 billion in 2017. This increased to N375.12 billion in 2018 by 17%. In 2019, it increased to N402.42 billion, an additional increase of 7%. The precept here is to reduce the importation of some of these consumer goods so as to boost local consumption.

Production

Lastly, value addition to the raw materials should be

encouraged in order to make them more attractive and convenient, alongside increasing their values in the international or global market. Agricultural produce such as cashew, cola, cocoa, and maize can be processed into finished or semi-finished goods before being exported. Oil drilling countries such as Nigeria, Libya, Algeria, and Angola could invest in the processing of the crude oil into fuels like diesel, gasoline and lubricating oils.

Local content development should be the topmost priority of African countries.

Conclusion

International trade allows countries to expand and gain access to goods which they cannot produce. The participation of African countries in international trade could go a long way to reduce poverty and improve their economies. Unfortunately, due to their balance of trade data which records more imports than exports, they are left in a position where very little is accumulated from export earnings, thus affecting their economic growth.



African countries need to invest more in the growth of SMEs in the Shipping and Logistics industry in order to be able to produce more and distribute them effectively for domestic consumption and exports. Raw materials should also be processed into finished or semi-finished products to increase their export value.





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THE BBNJ TREATY NEGOTIATIONS: A WAVE OF WESTERN IMPERIALISM OR SHARED ECONOMIC INTEREST ON THE HIGH SEAS?

By: Chief Obosu Mohammed, LL.M MA PGDPM ACI Arb LLB DPA

"...Some people still think they are powerful enough to think international waters should be theirs." UN Secretary-General António Guterres (Lisbon, June 2022)

Marine Biodiversity Beyond National Jurisdiction (BBNJ) refers to all living organisms in the high seas, including marine species, microorganisms, and plants. The high seas cover two-thirds of the ocean and are extraordinarily diverse in terms of biodiversity. According to The Guardian, barely 1.2% of the high seas are protected. There are pockets of laws that regulate the protection and sustainable use of marine biodiversity in Areas Beyond National Jurisdiction (ABNJ), namely the high seas, under the existing 1982 UN Convention on the Law of the Sea (UNCLOS). Article 192 of the 1982 UNCLOS is the most significant regulation of Marine Biodiversity Beyond National Jurisdiction (BBNJ). The article underscores the responsibility of all states to safeguard marine biodiversity on the high seas and ensure that it is neither depleted nor destroyed in any manner.

The UN has proposed a new International Legally Binding Instrument (ILBI) to address the gap in regulations under the 1982 UNCLOS and to provide more clarity to the regime of conservation and sustainable use of Marine Biodiversity Beyond

National Jurisdiction (BBNJ). The BBNJ treaty, also referred to by others as the "Treaty of the High Seas," is still undergoing negotiation processes by UN member states, anchored on four (4) main strategic pillars; thus, Marine Genetic Resources (MGRs) which involves benefit sharing, Area-Based Management Tools (like the Marine Protected Areas), Environmental Impact Assessments (EIAs), and Capacity Building and Technology Transfer.

The historical antecedents of the high seas cannot be overlooked when dealing with such a revolutionary international legal instrument that is manifestly undergoing intensive negotiations. These historical realities, along with the principle of equity, should serve as the blueprint for the development of the new legal rule.

In the early history of the law of the sea, the ocean was dominated by two prominent theories: Hugo Grotius' proposed *Mare Liberum*, which argued for the freedom of the high sea, so that all states, whether coastal or landlocked, had unfettered access to the high seas, particularly for navigation. The opposing theoretical position on the other hand was *Mare Clausum*, espoused by John Selden, who contended that the high seas were under the sovereignty of a state, therefore rendering them inaccessible to the other states. It should be



observed that proponents of the Mare Liberum theory were successful in cementing the concept of freedom on the high seas from the 17th to the 20th centuries.

After World War II, the maritime zones which consisted of 3 nautical miles of territorial waters of coastal states and the high seas were amended due to the economic and military interests of coastal states. Consequently, the territorial sea from the coastal baseline was codified into 12 nautical miles, while the Exclusive Economic Zones (EEZ) maintained 200 nautical miles from the coastal baseline from which the territorial sea was measured. The areas beyond the Exclusive Economic Zones (EEZ) formed the high seas.

The existing 1982 UNCLOS regime under Article 87 upholds the principle of freedom on the high seas. This implies that all states, whether coastal or landlocked, have the right to freely navigate, fish, overfly, undertake maritime scientific research, and install underwater cables and pipelines. These activities, however, must be conducted with due regard for the rights of other states and other applicable laws of the 1982 UNCLOS.

It is worth noting that before the 1960s, the high seas were associated with the seabed, ocean floor, and subsoil, which allowed all other states the opportunity to use them (the high seas) however way they deemed appropriate under the principle of freedom of the high seas. However, this principle left many developing states feeling disadvantaged in terms of economic inequality and technological imbalance, thereby influencing their demand for fairness and equality in seabed exploitation. These concerns were addressed in Article 136 of the 1982 UNCLOS which stipulates that the seabed and its resources within the Areas Beyond National Jurisdiction (ABNJ) are the Common Heritage of Mankind, implying that they belong to all states and must benefit all humanity.

This effectively was to end the monopoly of developed states and their huge private firms. It began a new era of shared gains of exploiting the seabed within the Areas Beyond National Jurisdiction (ABNJ) for the benefit of all humanity. Thus, the Seabed Authority was mandated to redistribute proceeds emanating from the exploitation of the seabed in the ABNJ to all states.

It is imperative to observe that, even though some

maritime experts believe in Marine Biodiversity Beyond National Jurisdiction (BBNJ) as a Common Heritage of Mankind, no particular expression has been found in the 1982 UNCLOS regime, therefore indicating that, Common Heritage of Mankind only applies to non-living organisms, such as seabeds within the Areas Beyond National Jurisdiction (ABNJ), as shown in the preceding paragraph. This is primarily due to the lack of information and technological know-how at the time the first UNCLOS was enacted.

Marine biodiversity in the high seas is a global common that must be protected for the sake of humanity. The high seas are beyond national jurisdiction, and there are currently no sufficient



international regulations in place to preserve and sustain living organisms in such areas. This means that developed states and private firms with adequate economic resources and technological capabilities may do whatever they want in the said area without any consequences for their businesses or profits. They may even decide to use destructive fishing methods, pollute, and endanger the marine environment, and exploit marine species without any repercussions.

The fifth (5th) of five sessions of the Inter-Governmental Conference (IGC5), convened in August 2022 at the UN Headquarters in New York to finalise the BBNJ Treaty, failed to achieve its goal, with no agreement signed into a treaty, owing primarily to the lack of concurrence among member states. The main protagonists in the impasse were the developed states, particularly from the US and EU, on one end, and the G77 (made up of developing states, including the African Group), on the other.

The African Group, along with the rest of the G77, were frontal in their demand concerning the marine



advocating for stricter regulations to protect the marine ecosystem in the BBNJ.

Western states are steadfast in their pursuit of economic self-interest over the common good of all humanity. Their spirited advocacy for high seas freedom and expanded provisions on Environmental Impact Assessment (EIA) as a foundation for the drafting of the BBNJ Treaty, is a means of securing unlimited access to the high seas to further their pillage. This is attributable to their technological advancement and financial muscle, which would provide them with the leverage to plunder the marine ecosystem in Areas Beyond National

Jurisdiction (ABNJ) and its reflection in the principle of the Common Heritage of Mankind. I suppose they were inspired by Article 136 of the 1982 UNCLOS, which underpins the principle of the Common Heritage of Mankind for non-living organisms in the ABNJ. However, counterparts from the US and EU member states, on the other hand, argued that the BBNJ Treaty should mirror the principle of freedom of the high seas. These seemingly parallel positions are fundamental to the architecture of the BBNJ Treaty.

Members of the G77, especially the African Group, must demonstrate the highest integrity and fidelity in the face of seeming imperialism by the West. The marine ecosystem in Areas Beyond National Jurisdiction is relatively unexplored, and therefore ceding to the whims and caprices of the West will likely have far-reaching consequences for the present and future generations. These are economic resources that may accelerate the growth of developing economies. Justice must be done, not merely seen to be done.

The US and EU member states through this argument decided to refrain from committing to the profit-sharing principle for Marine Genetic Resources (MGRs) with all their member states. However, in shifting slightly in position, they have now resolved to limit the requirements that the BBNJ Treaty may impose on them to share the benefits and profits that may accrue to them for the exploitation of the MGRs with all states. Marine Genetic Resources (MGRs) are a cash cow for developed states and their huge private firms, especially for those at the pharmaceutical and biotechnological industries.

The West seeks to safeguard its economic interests by any means necessary. The African Group and the other members of the G77 have taken strong exception to this inequality by the Western states and hence demanded equity and fairness in the benefits that will be derived from the Marine Genetic Resources (MGRs) together with capacity building and marine technology transfer to disadvantaged states as well.

The Common Heritage of Mankind's principle is the most formidable proposition that will guarantee the protection of marine biodiversity, ensure peace on the high seas, and equitable distribution of Marine Genetic Resources (MGRs) to all of humanity rather than just the developed few.

The collective ownership of ocean resources on the high seas should awaken the conscience of all UN member states as they work to resolve the impasse in their next cycle of Inter-Governmental negotiations.



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Women In Logistics: The Dawn of a New Era

By: Shirley Boama, MSc, CMILT



The industry is presented with a plethora of uncertainties, nevertheless, it has presented a unique opportunity worth taking advantage of to cause a rebrand of the situation; rebranding to make the industry more attractive and transparent in a bid to make it more appealing to younger generations.

The Organisation for Economic Cooperation and Development (OECD) and the International Transport Forum estimated that 90% of the world's traded goods are carried by sea. The World

One might look at the logistics and transport industry and assume it is all about moving goods from one place to another, which might be right! This is the central idea behind the industry. However, to efficiently carry out this simple concept, an essential part of the success of this story is people. Qualified, experienced, hands-on professionals are usually the determinants of the high success rates and survival of the entire supply chain (presently and in the future).

A real dichotomy exists now between the structural setup of many industries before and after COVID-19. Supply chains have become more complex because of global sourcing. The strained supply chains routes, inflation, looming global economic recession and labor shortages around the world have all been unforgiving yet, customers' demands for goods and other services remain unchanged.

Our first problem, being the adoption of such existing inventory systems as; First In, First Out (FIFO), Just-In-Time, "ABC", among others, have led to the failure and collapses of many businesses. Businesses have been left with empty shelves, coupled with increased costs of materials and high production outputs. This case is no different in the Ghanaian setting considering the economy's heavy reliance on imports, high costs in clearing goods at the port, increased taxes and the overall aftermath of the pandemic.

Bank's Vice President for Western and Central Africa, Ousmane Daigana, also estimated Africa's exports contribution at just 3% earlier this year in Accra. He suggested that it was high time that Africa expanded her thinking capacities beyond traditional approaches and traditional markets in order to in time, play an active role in international trade. "Furthermore, I would like to expand on the existing organizational culture that tends to uphold negative stereotypes and misconceptions in our societies that have seeped into work life" he added.

Women in Businesses in Ghana

Ghanaian women possess a long history of resilience and tenacity in facing challenges since the nation's independence 65 years ago, and even decades before. To mention a few, the **National Council of Ghana Women (NCGW)**, an organization set up in 1960 to admit businesswomen across a wide array of business environments, spearheaded and participated in several protests for civil and women's rights, etc. in the 1960s when it fought tirelessly for women's diverse interests.

However, after the overthrow of Dr. Kwame Nkrumah, the leaders of the 1966 military coup had the group disbanded. Again, in the early 1990's, prior to the ushering in of Ghana's 4th Republic, **the 31st December Women's Movement** came into

existence. A fierce, strong-willed set of women with the aim of empowering women in all areas for national development, introduced the agenda in an attempt to alleviate women from poverty.

A recent report by the MasterCard Index of Women Entrepreneurs in 2018 ranked Ghana 1st ahead of Uganda (3rd place) and United States (23rd place) with 46% of its businesses led and owned by women. Although most of these businesses operate at the informal, micro-medium levels such as the manufacturing, agricultural and service-rendering sectors of the economy, the vital contributions women have made in any establishment cannot be downplayed.

The stereotype that women are less dedicated to project deliverables, unwilling to commit long hours to particular jobs, and/or simply cannot work to meet deadlines, is a lie: a misconception that needs uprooting completely because these traits simply contradict the abilities of Ghanaian women.

Women In Maritime Industry

There is ample evidence that investing in women is one of the most effective ways of uplifting communities, companies and countries at large. The International Maritime Organization (IMO) acknowledged a 2021 report by the Global Seafarer Workforce which indicated that women represent a measly 1.2% of the total workforce. In this century, such a result is deemed appalling, disgraceful and unacceptable, especially considering that measures are underway to achieve the UN's 2030 Agenda for



Sustainable Development particularly Goal 5, which is to “Achieve gender equality and empower all women and girls”.

It is also interesting to note that according to this same report, there appears to be an expected shortage in the total supply of qualified, trained personnel by 2030. For example, if there is an increase in demand at *Standards of Training, Certification and Watchkeeping* for Seafarers (STCW) for certified officers, an additional 90,000 professionals would be required to operate merchant fleets worldwide.

Ghana, on the other hand, is up to the task. “The remarkable success of some women in the port and maritime industry is a testament of the need to eliminate all forms of discrimination and gender inequalities in the industry,” said Mrs. Linda Vasanani, Chief Operating Officer at Consolidated Shipping Agencies Ghana when she visited the Tema Port.

To meet the demand in the industry, it is vital to actively promote careers at sea and enhance maritime education and training worldwide.

“Obi nnim a, obi kyere,”

The Adinkra symbol “Nea Onnim” literally translates as “if one does not know, another teaches”. Acquiring knowledge is instrumental to being able to thrive in any industry. It is imperative that women actively seek avenues that would broaden their knowledge in the Maritime industry by attending networking events, taking up opportunities to participate in mentoring schemes or adopting a “go-



getter” attitude (where they would reach out to individuals that they believe can help in that regard).

The Chartered Institute of Logistics and Transport Ghana has an academic structure that enrolls prospective students onto courses through affiliated universities and institutions, where relevant programs are offered with either international certificates, diplomas and/or advanced diplomas administered at the end of the program.



Women must arm themselves with knowledge on the laws, STCW guides, regulations and procedures, INCOTERMS, etc. concerned with the maritime industry. In the able words of Dr. Maya Angelou, “we may encounter many defeats, but we must not be defeated”.

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By: Shirley Boama, MSc, CMILT



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-Unknown.*

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GSA, BoG Sensitize Over 1,000 Exporters on LoC

Introduction

The Letter of Commitment (LoC) regime was introduced by the Bank of Ghana (BoG) in 2016 to enable it to monitor all exports leaving the shores of Ghana and to repatriate the export proceeds into the country.

The LoC is a web-based export document generated by exporters from the Integrated Customs Management System (ICUMS)' portal to accompany all exports from Ghana.

The Bank of Ghana thus incorporated the LoC into the electronic export monitoring platform to track export proceeds.

Challenges

During the implementation of the LoC, the Ghana Shippers' Authority (GSA) received complaints from exporters regarding the challenges they faced. These challenges included inadequate time allocated for the repatriation of export proceeds, delays in accessing repatriated proceeds from commercial banks, low exchange rates offered by the banks and blocking of subsequent export transactions for non-repatriation of proceeds beyond 60 days.

The GSA then engaged the BoG over the concerns, resulting in the formation of an intersectoral committee consisting of representatives from the GSA, Ghana Revenue Authority-Customs Division, Ghana Link Network Services Limited (ICUMS), Bank of Ghana and the Ghana Association of Banks.

The committee recommended a nationwide sensitization of exporters on the LoC after it was realized that most of the challenges were as a result of lack of education.

Nationwide Sensitization

More than one thousand (1,000) exporters participated in the nationwide sensitization. The event piggy-backed on the GSA's Regional Shipper Committees' meetings which comprise importers, exporters and other stakeholders in the shipping and logistics sector.

The first in the series of the nationwide sensitization on the LOC was on 9th August 2022 at Sunyani for exporters in the Bono, Bono East and Ahafo Regions. The team of facilitators replicated the workshop at

eight (8) other venues; Kumasi, Bolgatanga, Tamale, Cape-Coast, Koforidua, Wa, Takoradi and the Aflao border.

A major feature in the nationwide sensitization was the Question and Answer (Q & A) session, where participants took turns to ask questions and seek clarification on pertinent issues concerning the implementation of the LOC.

The Participants, who were largely exporters, rendered positive reviews on the program and expressed confidence in the efforts by the GSA and the BoG to provide adequate solutions to the challenges associated with the repatriation of export proceeds.

One of such persons was the Chairman of the Northern Regional Shipper Committee, Mr. Husein Alhassan, who commended the GSA and its partners for engaging exporters in the region on the LoC saying "it has helped to address some of the challenges confronting members". He added that exporters in the region are now well informed and will be able to tackle some recurrent challenges.

Resource Persons

Personnel from the Bank of Ghana, Ghana Shippers Authority, Ghana Revenue Authority-Customs Division, Ghana Link Network Services Limited (ICUMS), Ghana Association of Banks and the Ghana Insurers Association made presentations to the exporters at the various locations. The representatives of the organizations were as follows;

- Mr. Eric Hammond, Head of Foreign Operations-BOG
- Mrs. Monica Josiah, Head of Shipper Services and Trade Facilitation Department-GSA
- Mr. Lipton Baffour Nsoah, Deputy Operations Manager- Ghana Link Network Services
- Mr. Musah Abdul-Rahman, a Representative of the Association of Bankers,
- Branch Managers of the GSA.

Conclusion

Many exporters in Ghana belong to a group or an association. It is therefore expected that the participants of the seminars would serve as goodwill ambassadors that would carry the message across to other exporters.



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LOC VOLTA REGION



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Invest More in the Processing of Shea Butter for Export

The Story of Asheba Company Limited



businesses in the northern parts of the country; one being the Asheba Company Limited. Asheba Company Limited is a privately-owned medium-scale agribusiness that specializes in the processing of shea nuts into shea butter and shea butter-based products such as body, hair and baby creams/pomades, bar soaps (Black Soap) among others for local and international markets, mainly in the USA and Europe.

The Founder and CEO of Asheba Company Limited, Ms. Ayisha Fuseini is an advocate for the export of processed shea butter. She said, “the Government should empower local shea producers to process shea into butter for export rather than exporting the raw shea nuts to other countries”

There appears to be a shift in Ghana's narrative for being known as one of the biggest exporters of raw or unrefined shea butter to one that exports the product in a processed or refined state.

Data from the Global Shea Alliance estimated that about 300,000 metric tonnes of shea was exported into Europe from Africa in 2020. Out of the four (4) major producers of shea nut; Nigeria, Uganda, Mali and Ghana, Ghana has been considered the largest exporter of unrefined shea butter on the continent, with approximately 94,000,000 shea trees producing up to 60,000 metric tonnes of shea nuts every year.

In recent times however, an appreciable number of exporters of shea butter have become determined to invest resources into processing the shea into butter before exporting. It is no surprise that the UK Centre for the Promotion of Imports from developing countries (CBI) classifies Ghana as the country with the most developed shea processing sector compared to other countries on the continent.

Ghana thus owes this milestone to the many shea butter processing

Asheba – Processing Centers

The company has two (2) separate processing centers at Sorugu and Malishagu for their Shea butter production activities. Aside adding value to the shea butter for locals, the processing centers produce for the export market as well. Ms. Ayisha Fuseini is of the belief that the beneficiary communities will have a continuous avenue to earn income from the jobs created especially for the women in such areas. “I constructed the processing center to help reduce the man-power being put into the making of the butter and also reduce the time being put into it”, she added.



While explaining her production processes, she said, “I sometimes buy the nuts for the women and they do the processing or I buy the shea butter already prepared from them. After the butter is prepared, it is packaged and exported.”

Asheba Company Limited runs a continuous programme that recruits nearly one hundred (100) women per year in its two processing centers. They intend to expand their export capacity and by that create more jobs.

How it Started

As the third child in a family of ten (10), Ayisha Fuseini encountered financial challenges during her education as she witnessed her mother, who was then at the bottom of the supply chain of the shea butter business, earn very little money from processing shea butter. Through trainings received, including the little assistance she offered her mother in the shea butter production process, Ayisha was able to amass enough knowledge from her experiences, and these influenced her to come up with a business idea that would change the economic dynamics of her community in the long run.

After receiving glowing reviews and recommendations from family and friends that admired the quality of her products and packaging, Ms. Ayisha Fuseini was inspired to go into exportation fully. She said “Asheba Company Limited started exporting its 100% natural shea in 2014; and this was when a local retailer, through one of my customers referred to me that the

packaging of my product was what attracted her (the retailer) to purchase it”.

The customer who was in the business herself, shared a story of how she used to export shea butter in calabashes stuffed in sacks and which ended up



melting and made a mess in the shipping container upon arrival in Europe. She revealed how she ended up losing more than half of the shea butter as well as incurring extra costs for the mess the butter made in the Shipping container. Ms. Ayisha Fuseini disclosed how she was inspired to invest more into the packaging of her products, and how that investment has gone a long way to increase her customer base both locally and internationally.

Asheba Company Limited has grown from just a profit-making entity into a Corporate Social Responsibility (CSR)-driven organization contributing to reducing poverty among women. The company, also focuses on empowering women through the shea butter trade because, it believes that women in such rural areas have the potential to contribute to sustainable economic growth through the increased job avenues and higher incomes it provides. This is complemented by the training in production and customer service.

Achievements

Asheba Company Limited has performed well since it began its journey in export in 2014. The company's financial footing for exports was made possible after it received funding and mentorship from Engine Ghana to support its business plan. The following year, Asheba Company Limited was selected out of a pool of 1,000 participants to receive a loan under the Youth Enterprise Support Program. These contributed to the company's financial ability to commence the journey in the export of its processed shea butter and shea butter products, for which the company remains grateful.



THE NEED FOR REGULATIONS ON THE BUNKERS CONVENTION IN THE LEGISLATION OF THE REPUBLIC OF GHANA

The International Convention on Civil Liability for Bunker Oil Pollution Damage 2001 into Ghana's Legislation

By Kojo Frimpong , Ghana Shippers' Authority



An ongoing oil spill clean-up exercise

The oil spills at sea caused by the ships "Torrey Canyon," "Amoco Cadiz," "Exxon Valdez," and "Erika," among others, influenced the development of the International Convention on Civil Liability for Oil Pollution Damage, adopted in Brussels in 1969, and the International Convention on the Creation of a Fund for Compensation for Oil Pollution Damage, adopted in Brussels in 1971; both modified by the protocols of 1976 and 1977.

INTRODUCTION

Ghana currently lacks a law governing bunker oil spills in its waters. Only vessels engaged in the bunkering trade inside Ghana's seas are issued operational permits by the Ghana Maritime Authority.

Ghana's oil potential and increasing production capacity, together with its economic growth is likely to lead to increased shipping activities as more ships call at the country's ports and offshore installations. This has raised concerns about the country's lack of legislation on oil spills in territorial waters.

The International Maritime Organization (IMO) lists and administers the Bunkers Convention, which was signed in London on March 23, 2001, and

later enforced on November 21, 2008. The Convention was designed to address the final large loophole in the international regime for paying victims of ship-related oil disasters; and while ratified by 87 countries, it has accounted for up to 92.57 percent of global tonnage. It is worth mentioning that, prior to the establishment of the Bunkers Convention, existing international frameworks exclusively dealt with pollution caused by ship oil spills.

The Bunkers Convention's goal is to create a standard worldwide mechanism that would see to the availability and payment of adequate, quick, and effective compensation to people that have been affected by the pollution caused by a ship's escape or discharge of bunker oil.

Ghana accepted both Conventions, as well as their respective amendment protocols, with Law N° 16.820 of April 23, 1997.²

It is however important to note that these conventions form a part of an international system meant to compensate for damages caused by persistent oil spills from tankers, which cover two levels of obligation thus;

- The CLC 69 / PROT 92 system, being the first level that focuses on the shipowner's obligation, and
- The FUND 71 / PROT 92 system, the second level, which oversees the International Fund of 1992's payout.

²<https://cdn.intechopen.com/pdfs/38092/InTech_Oil_pollution_and_international_marine_environmental_law.pdf> accessed 4 December 2021

NB: Ghana has not ratified the third supplementary level, which oversees the 2003 Fund.

The CLC 92 and the FUND 92 Conventions do not regulate the liability for bunker oil that causes pollution damage by ships other than tankers; as no international rules have been put in place to deal with such spillages even though it was for this that the Bunkers Convention was originally created to address. The IMO developed the Bunkers Convention to govern such liability and ensure the need for the registered owner of a vessel to maintain compulsory insurance cover.

Another important component is the potential of direct action, which would allow a claim for environmental damage compensation to be brought against an insurer directly. The Convention requires ships with a gross tonnage of more than 1,000 gross tons to maintain insurance or other financial security, such as a bank or similar financial institution's guarantee, to cover the registered owner's liability for pollution damage in an amount equal to the applicable national or international limitation regime's limits of liability, but not exceeding an amount calculated in accordance with the Convention on Limitation of Liability for Maritime Damage.³

This Convention does not however, apply to warships or other vessels owned or operated by a State and used for the time being for Government non-commercial service. Even with such vessels, they are not required to carry any insurance.

Instead, they are expected to carry a certificate issued by the appropriate authority of the State of their registry indicating that the ship's liability under the Convention is covered.⁴

Ghana is not a party to the Bunkers Convention. Therefore, to be able to incorporate the Convention into Ghanaian law, it would be required to accede to the Convention and deposit the instrument of accession with the IMO Secretary-General.

THE BUNKERS CONVENTION

The Bunkers Convention must be widely ratified and implemented, not least because bunker oil spills account for nearly half of all pollution claims, and bunker oil spills are typically more difficult and expensive to clean as

included the CLC 1992 and the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (as amended by the 2010 Protocol thereto).⁵

The Bunkers Convention is a clear and simple Convention that consists of only 19 articles, highlighted as follows:

- **SCOPE OF APPLICATION**

In accordance with Article 2, the Bunkers Convention applies to pollution damage caused in the territory, including the territorial sea, and the Exclusive Economic Zone of a State Party, as well as to preventive measures, wherever taken, to prevent or minimize such damages. In this light, in a



An oil spill scene

compared to crude oil spills due to their high viscosity and persistent nature.

Furthermore, the Bunkers Convention completed the international legal framework on pollution liability and compensation, which previously

bid to identify the scope of application of the Convention, it would be necessary to understand what is meant by pollution damage and preventive measures.⁶

Article 1(9) defines "Pollution damage" as:

³ibid

⁴ibid

⁵Norman Martínez Gutiérrez, 'THE BUNKERS CONVENTION 2001: CHALLENGES FOR ITS IMPLEMENTATION' (Portorož, Slovenia., 2011).

⁶ibid

- a. loss or damage caused outside the ship by contamination resulting from the escape or discharge of bunker oil from the ship, wherever such escape or discharge may occur, provided that compensation for impairment of the environment other than loss of profit from such impairment shall be limited to costs of reasonable measures of reinstatement actually undertaken or to be undertaken; and
- b. the costs of preventive measures and further loss or damage caused by preventive measures.

Article 1(1) "Ship" Any seagoing vessel and seaborne craft, of any type whatsoever".

This definition is very wide and is applicable to all types of ships except as provided in article 4(2). Here, the Convention excludes the applicability of its provisions to warships, naval auxiliary or other ships owned or operated by State and used, for the time being, only on Government non-commercial services.

Article 1(7) "Preventive measures" refers to any reasonable steps taken after a pollution incident to prevent or reduce pollution damage."⁷

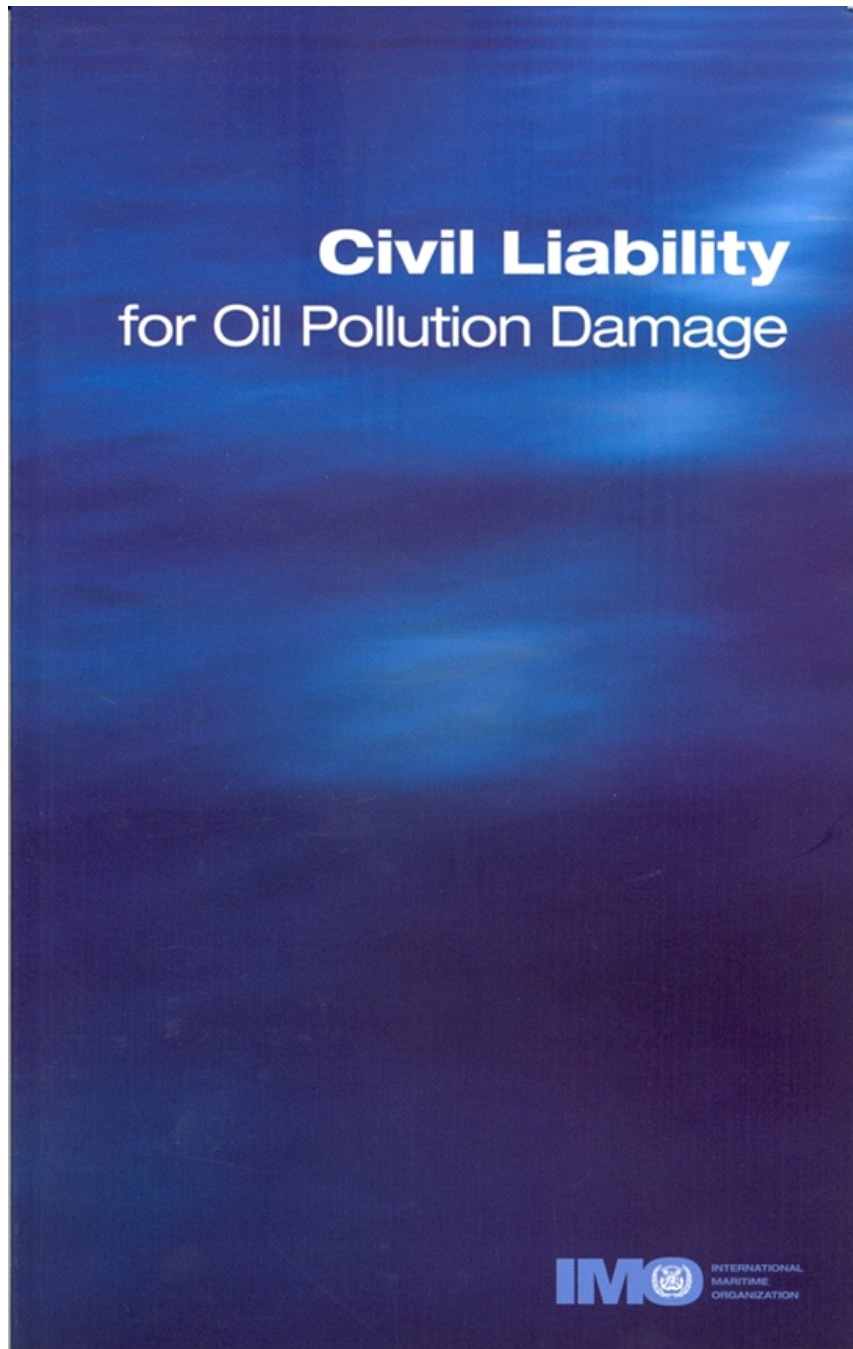
Article 1 (8) "Incident" refers to any occurrence or series of occurrences that produce pollution harm or pose a serious and imminent threat of producing such damage."⁸

In the current definition, there are two points that should be highlighted;

- The first being that, though a series of distinct events may occur, if the events share a common origin, they would have to be treated as a single

event for the purposes of claim limitations.

- The second, addresses that the expense of preventive measures can be reimbursed in the event of an event occurring prior to a bunker escape.



⁷Ibid

⁸Ibid

⁹International Convention on Civil Liability for Bunker Oil Pollution Damage 2001

¹⁰Maritime Zones Delimitation Law, 1986 (P.N.D.CL 159) 1986.p V-3752

TERRITORIAL APPLICATION

Article 2(a) of the Bunkers Convention stipulates that the Convention applies exclusively to pollution damage “caused in the territory, including the territorial sea of a State Party, and in the exclusive economic zone [...]”⁹

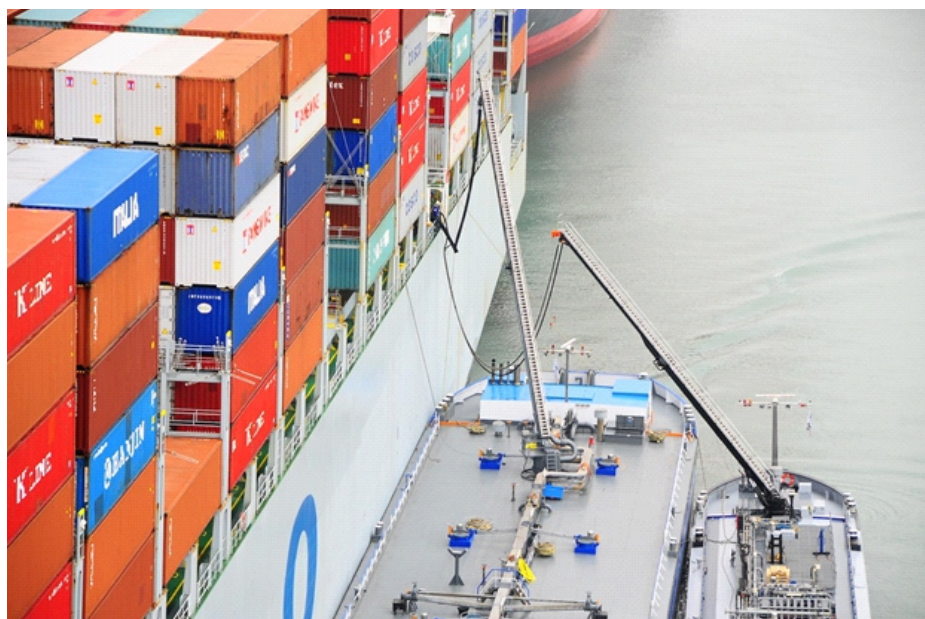
“Exclusive Economic Zone” refers to an area beyond and adjacent to the territorial sea and extending not more than 200 nautical miles from the baselines from which the breadth of the territorial sea is measured as declared under the Maritime Zones Delimitation Law, 1986 (P.N.D.CL 159).¹⁰

It is important to understand that the event that gives rise to the damage caused by contamination can occur anywhere, so in a similar way, preventive measures to protect the territory of a State Party can also be taken anywhere.

LIABILITY OF THE SHIPOWNER

Article 3(1) of the Bunker Convention places liability for any pollution damage caused by bunker oil on the shipowner.

Except as provided in paragraphs 3 and 4, the shipowner at the time of an incident shall be liable for pollution damage caused by any bunker oil on board or originating from the ship, provided that, if an incident consists of a series of occurrences having the same origin, the liability shall be attached to the shipowner at the



time of the first of such occurrences.¹¹

Liability under the Bunkers Convention is thus strict. However, the shipowner's liability is not absolute as he will not be liable for pollution damage if he proves that:¹²

- a. the damage resulted from an act of war, hostilities, civil war, insurrection, or a natural phenomenon of an exceptional, inevitable, and irresistible character; or
- b. the damage was wholly caused by an act or omission done with the intent to cause damage by a third party; or
- c. the damage was wholly caused by the negligence or other wrongful act of any Government or other authority responsible for the maintenance of lights or other navigational aids

in the exercise of that function.¹³

Liability is joint and several when more than one person is liable for the damage. In this regard, the Convention allows the shipowner to seek compensation from the other parties responsible for the damage, as it expressly specifies that it does not affect the shipowner's right of recourse that exists independently of the Convention.

It's worth noting also that if the shipowner can prove that the pollution damage was caused wholly or partially by the person who incurred the harm, or by that person's negligence, the shipowner may be exonerated entirely or partially from any duty to that person.

LIMITATION OF LIABILITY

Article 6 states that:

“Nothing in this Convention shall affect the right of the shipowner and the person or persons providing insurance or other

⁹Ibid

¹⁰Ibid

¹¹Article 3(1).

¹²Norman A. Martínez Gutiérrez, Paper presented at the roundtable „EU Maritime Policy and the (Northern) Adriatic“ p 6.

¹³Article 3(3).

¹⁴Article 6

financial security to limit liability under any applicable national or international regime, such as the Convention on Limitation of Liability for Maritime Claims, 1976, as amended.¹⁴

The Bunkers Convention's Article 6 fails to establish a specific limitation regime. Under national or international frameworks, claims for bunker pollution are subject to statutes of limitations.

The international regime will be the LLMC Convention, either in its original 1976 version or as amended by the Protocol thereto adopted in 1996.

The shipowner's responsibility will be established by the national law of the country wherein the pollution happened. It is worth noting that the Bunkers Convention's relationship with the applicable national and international regimes tends to spur some form of ambiguity. The extent of the restriction will be determined by the state in which the pollution incident occurred.

The LLMC Convention, its 1996 Protocol, and any other limitation-of-liability convention are not signed by Ghana. As a result, liability limits will have to be included in national legislation. If this is not done, and the Bunker Convention is ratified and integrated into domestic law, the shipowner's obligations under the Convention will be strict and unlimited.

COMPULSORY INSURANCE

Article 7(1) of the Bunkers Convention requires the

registered owner of a ship with a gross tonnage beyond 1,000 to have insurance or other financial security, such as a bank or comparable financial institution's guarantee, to cover any liability for environmental damage. The State Party registering the ship must give a certificate showing that the ship is covered by insurance.

The limits of liability mentioned in the article under consideration are understood to correspond to the limits set by the State Party that issues the certificate mentioned in the second article of the convention. However, it is worth mentioning that the article also sets a maximum limit that will be determined in compliance with the 1996 Convention.

NB: though insurance is not mandatory for vessels under 1,000 GRT, the rest of the Convention still applies to them.

TIME LIMITS

The rights to compensation will be lost unless a claim is lodged

under the Bunkers Convention "within three years of the date of the incident," according to Article 8. However, no action may be taken once the incident that caused the damage has occurred for more than six years. Article 1(8) classifies an "incident" as any occurrence or series of occurrences with the same source that causes pollution harm or poses a significant and immediate threat of causing such harm.

Furthermore, in the case of a series of events, Article 8 states that the six-year period begins on the first of such occurrence. This clause was principally based on the fact that, in certain situations, oil pollution does not appear for a long period after an incident. As a result, the drafters of the Bunker Convention decided that it was important to provide a date beyond which no claims could be lodged.

The Bunkers Convention's Articles 9 and 10 emphasize jurisdiction, as well as the right of



¹⁵ Article 9, Bunker Convention.

¹⁶ Michael Riby-Williams, 'Ghana Ports & Harbours Authority :: Port Highlights' (Ghanaports.gov.gh, 2022) <<https://www.ghanaports.gov.gh/page/index/6/SQ5ZKDP8/Port-Highlights->> accessed 28 March 2022.



courts within a State Party's jurisdiction to enforce judgments and the obligation of other States Parties to recognize and enforce a judgment issued by a competent court in another State Party without revisiting the case's merits.¹⁵

WHY DOES GHANA NEED THE BUNKERS CONVENTION?

Ghana's geographic location, along with the discovery and drilling of oil on the main east Atlantic trade route since 2010, with its attendant heavy maritime traffic, makes her particularly vulnerable, and the probability of a ship causing pollution damage to her coastline in catastrophic proportions need not be emphasized.

Pollution from accidental, operational, and deliberate discharges endangers the aforementioned maritime interests due to the strong reliance on petroleum imports. Over the past decade, the Port Authority has expanded its existing port, built new terminals, upgraded IT systems, and widened operational partnerships and networks.

This has been reflected by the port's ability to handle increasing volumes of traffic from 7.3 million tonnes in 2003 to 24.6 million

tonnes in 2019 with the potential for further growth based on the foregoing.¹⁶ As a result of the foregoing, vessel traffic through ports is extremely high, posing a major risk of bunker fuel contamination in the event of an accident.

Also, as a coastal State, sensitive areas such as mangrove occurrence are limited to three primary places: surrounding Elmina, west of Cape Coast, and the Volta Delta, all of which are affected by tidal flushing. The mangroves serve as fish breeding grounds for the lagoons nearby. The lagoon fisheries are a vital aspect of the economy of coastal fishing villages all along the coast. This is understandable, given that most lagoons are also significant nurseries for marine species such as snappers and mullets.

Ghana stands to profit as well, as the Convention will contribute significantly to the protection of the maritime environment, while improving coastal communities and recompensing victims of bunker oil spills.

In view of the foregoing, Ghana needs to accede to the Bunkers Convention and provide for its adequate implementation in domestic legislation.

CONCLUSION

The Merchant Shipping Act of 1963 (Act 183) as amended featured a number of outdated and archaic clauses that did not serve Ghana's maritime interests properly. The law was modernized and replaced by the Ghana Shipping Act 2003. The Ghana Shipping Act 2003, is a set of laws that govern shipping in Ghana. It covers a wide range of topics, despite the fact that it is primarily concerned with public law.

Except for pilotage, marine pollution, oil pollution liability and compensation for oil pollution damage, maritime security, and other areas of commercial shipping like sea freight and maritime insurance, the Ghana Shipping Act 2003 covers practically all aspects of merchant shipping.¹⁷

The Ghana Shipping Act 2003, however, has no provision for mandatory insurance certificates and financial security options, which are a requisite for the implementation of the Bunkers Convention.

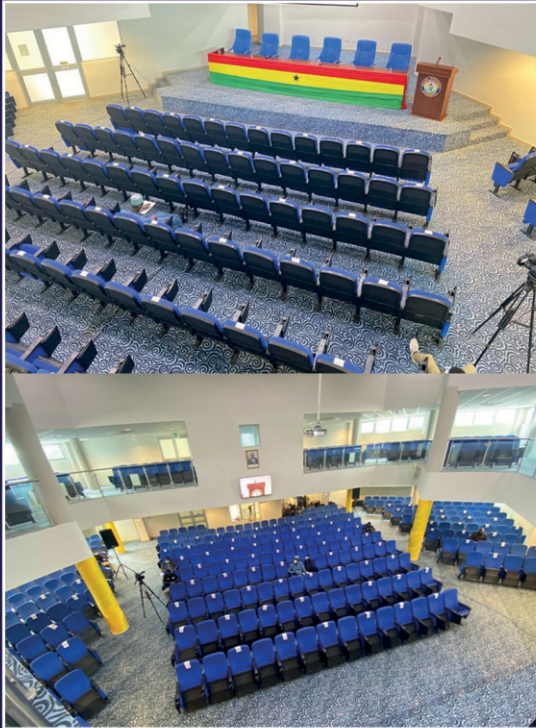
The above exposition of the salient provisions of the Ghana Shipping Act supports the need for the Regulations to incorporate the Bunkers Convention into the Legislation of the Republic of Ghana.



By Kojo Frimpong,
Ghana Shippers' Authority



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E-Auction: Fresh Booster to Revenue Generation

By Maclean Kwofi

Introduction

Participating in public auctions by the Ghana Revenue Authority (GRA) in the past was very daunting because of the corrupt and unfair practices associated with the process.

This is because the manual auction process held for many years was often saddled with scores of people claiming political affiliation, asking for favours and advantages to bid for items.



That was one of the many reasons that forced some well-meaning Ghanaians to lose interest in public auction, particularly, ones by the GRA-Customs Division.

It was against this that the GRA in October 2022, as part of its desire to increase revenue, eliminate fraud, ensure fairness and reduce risks associated with the manual auction process, made a commitment to automate public auctions.

The E-auction initiative is part of efforts by the GRA to eliminate the negative practices that characterised the manual auction system, increase its revenue generation capacity, as well as provide equal opportunities to all Ghanaians in the seamless disposal of seized/condemned and overtime/abandoned cargoes.

Gains Made

Since its inception, the initiative has yielded positive results because the Ghana Revenue Authority has reported an improvement in its revenue target for auction sales.

It said that the introduction of the electronic auction platform boosted auction sale revenue by 30.8 per cent for general goods and 10.2 per cent for vehicles as at the first week of November this year.

Revenue projected to be generated from the auction of general goods increased from GH¢142,640 to GH¢186,640, while revenue expected to be realised from vehicle sales jumped from GH¢1.93 million to GH¢2.13 million for the online auction that ended on November 4, 2022.

The E-auction is an addition to the Integrated Customs Management System (ICUMS), a single window platform in deployment for cargo clearance at the country's ports.

ICUMS is a product of the CUIA, a professional trade facilitation solution provider offered by the Korean Customs Service and Ghana Link Network Services Ltd as its technical

partner in the country.

Significant Improvement

Addressing a delegation from the Customs Uni-Pass International Agency (CUIA) in Accra, the Commissioner-General of the GRA, Rev. Dr Ammishaddai Owusu-Amoah, said the GRA had started seeing a significant improvement in its auction processes with results received from successful E-auction exercises.

“We have executed two successful auction sales and we are expecting the third soon. For the pilot, we got above the reserved price, with an increase of 6.8 per cent, while the main auction for general goods and vehicles jumped to 30.8 and 10.2 per cent, respectively,” he said.

Dr Owusu-Amoah explained that the E-auction was a project under the GRA's transformational agenda and its aim was to consolidate all processes, leading to the disposal of confiscated goods in an online system.



He said the objective of the project was to increase revenue through an online auction or sale, eliminate fraud related issues associated with auctioning, ensure fairness in the auctioning process by making it open to the public, and reducing or eliminating risks linked with the manual process.

E-auction Goes Live

The pilot auctioning of some selected vehicles by the Ghana Revenue Authority went live in October 2022.

The platform - <http://auction.icums.gov.gh> - requires users to request for the creation of an account using their National Identification Numbers.

The platform offers the option of receiving login details through SMS or email.

After logging in, users can view multiple pictures and place bids on the advertised vehicles.

Challenges

Like other initiatives, the electronic auction platform has come with its own challenges that would need to be addressed.

- Lack of sensitisation among stakeholders during piloting of the platform - Some of the stakeholders pointed out that the initiative was rushed and there was very little time for sensitisation and training.

“Stakeholder engagements were seriously rushed or in-adequate. Similarly, key players in the implementation were to a large extent deficient in the understanding of the required processes.”

Measures, are therefore needed to be put in place to surmount these challenges to ensure that the E-auction is fully functional to consolidate all

processes leading to disposal of confiscated goods in an online system.

Way Forward

To sustain the initiative, there is the need to ensure that GRA officers and their assigns, together with all owners of seized items, are excluded from participating in the electronic auction.

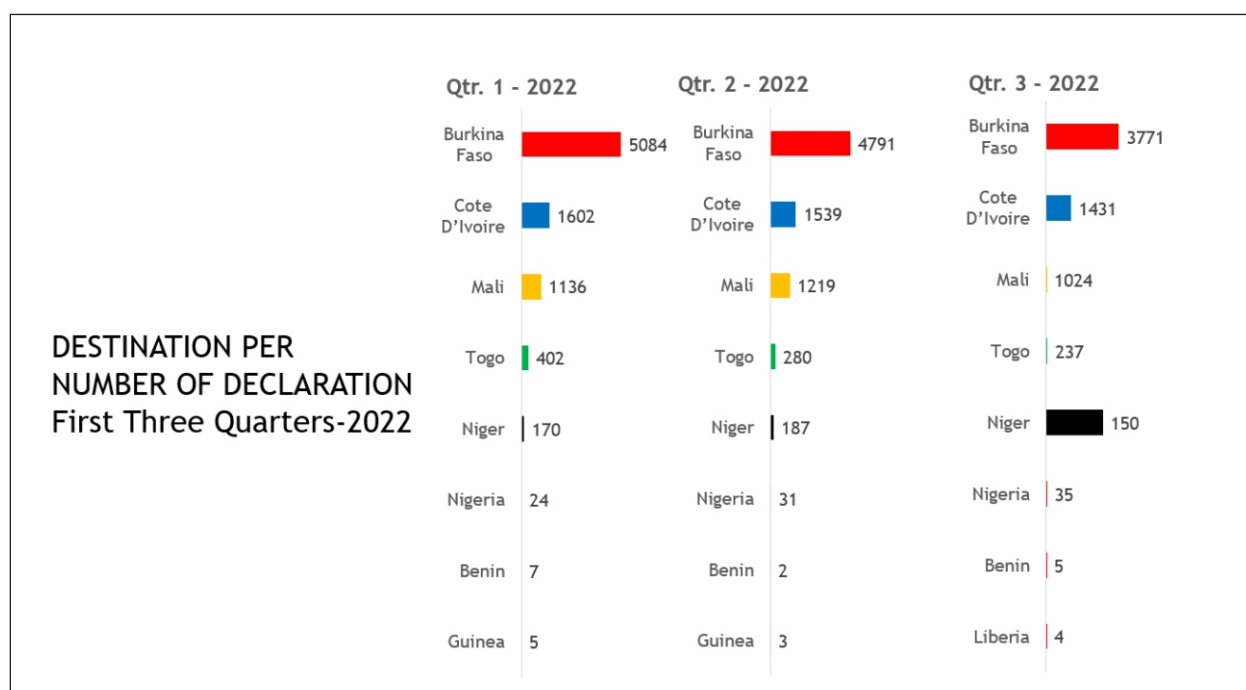
Ghana should be able to learn from other countries that have successfully introduced the E-auction to ensure transparency and effectiveness of the customs auction process.

Going forward, the E-auction system should be used as a means of disposing off confiscated goods in all customs-controlled areas across the country. A conscious effort is needed to ensure that the E-auction system replaces all manual processes of auction after a successful rollout is required.



By Maclean Kwofi

Assessing the Challenges that Resulted in the Steady Decline of Transit Trade in 2022



Destination per number of declarations for the first three quarters of 2022

Introduction

Over the years, landlocked countries have relied on neighbouring coastal states like Ghana, Nigeria and Cote D' Ivoire, to complete transactions of international trade. Transit trade comes with enormous benefits, including an avenue for economic activities for both landlocked and coastal countries. These arise from the processing of cargo clearance at the seaports and the onward transportation of consignments of cargo to landlocked countries. Unfortunately, transit trade in Ghana has been beset with challenges that have led to a systematic decline in the volume of transit trade to major destinations such as Burkina Faso, Mali and Niger.

Transit Trade on a Decline

The decline of Transit Trade between Ghana and its

neighbours became very noticeable after the end of 2021, although the decline had been on a steady pace for a while.

Statistics from the State Insurance Company (SIC) revealed a 25.7% decline in transit trade from the first quarter to the third quarter of 2022. According to the Head of Inter-State Road Transit (ISRT) at SIC, Mr. Anthony Osei Ntiamoah, the number of declarations for which the SIC issued bonds which stood at 8,430 in the first quarter, decreased to 8,052 in the second quarter of the year. The number further decreased to 6,257 in the third quarter.

The report also revealed that Burkina Faso remained the major destination for transit cargo from Ghana's ports. A total of 473,165 metric tonnes of transit cargo passed through the ports of Ghana

during the period: transiting to Burkina Faso (307,141), Mali (74,377), Cote D' Ivoire (66,825), Togo (17,260), Niger (6,575), Benin (748), and Liberia (239).

It was also observed that the number of foreign cargo trucks exceeded the number of local trucks and the Tema Harbour continued to remain Ghana's major port for transit cargo.

Reasons for the Decline in Transit Trade

The major challenge attributed to the reduction in transit trade was high cost of haulage transport and inefficient supply chain management along the transit trade value chain.

A report by the Ministry of Roads and Highways in 2017 on the state of Ghana's road networks classified more than half (55%) of the roads as either fairly good or poor, while the remaining were considered good for usage by all vehicles including transit cargo trucks.

This has raised serious concerns over the safety of cargo along Ghana's transit corridors, as many haulage trucks conveying transit cargos are forced to park along the shoulders of feeder roads, usually due to mechanical faults. These trucks end up spending days getting repaired. In many instances, these broken-down haulage vehicles are left with no

choice but to transfer their consignments to other vehicles to be transported.

The challenge with this practice is that it must be supervised by a Customs Officer to forestall pilfering, damage and smuggling with the likely outcome of revenue being lost by the transit importer.

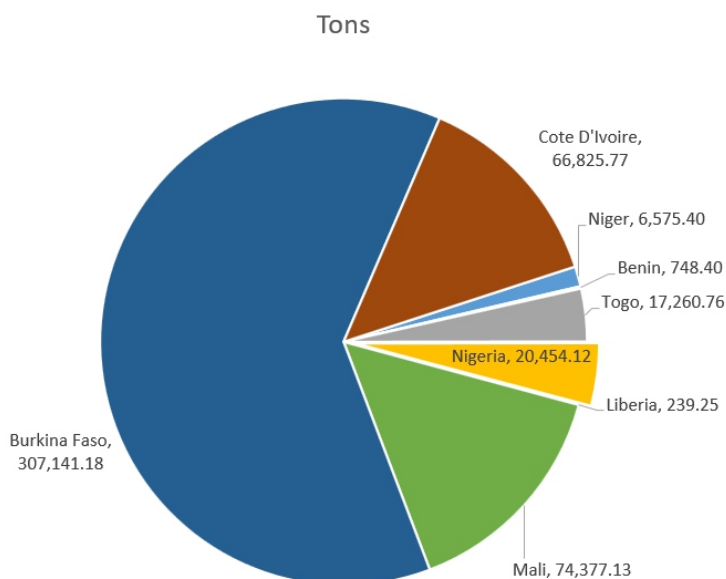
Year-on-Year, data from the Driver Vehicle and Licensing Authority (DVLA) paints a picture of an increase in the number of new vehicle registrations. The implication of this is that, road congestion increases, which in turn increases the ideal time it takes to complete the transportation of cargo to landlocked countries, besides the cost incurred in that regard.

This situation has rendered the Ghanaian road networks as well as the transit corridors unattractive, thereby making the economy uncompetitive.

The major issue of concern to the landlocked countries however, is the proliferation of checkpoints and barriers along the transit corridor managed by the Ghana Revenue Authority (GRA) – Customs Division and the Ghana Police Service (GPS) respectively.

The checkpoints mounted by the Ghana Police

Tonnage Per Destination 3RD Quarter



Tonnage per destination for the 3rd quarter of 2022

Service along the transit corridors are to provide security so that transit traders would be able to transit their cargo smoothly, whereas those mounted by the Ghana Revenue Authority – Customs Division are aimed at facilitating the transit trade by ensuring that the consignments remain sealed and intact and enjoy safe passage through the country.

The irony though has been that the proliferation of checkpoints and barriers along the transit corridor has contrary to its intended purpose, become barriers to smooth transit trade. For instance, during one of the many Fact-Finding trips undertaken by the Transit Shipper Committee of the Ghana Shippers' Authority (GSA) along the transit corridor, it was revealed that the sixty-nine (69) barriers along the Tema-Hamile corridor, usually created delays that extended the journey time for haulage trucks by hours.

In a Fact-Finding trip conducted between 24th to 28th May 2021, it was observed that the demand for monies by uniformed officers on the corridor was on the rise. These barriers have created avenues for the exploitation of drivers transporting consignments to landlocked countries.

It was also found that the absence of rest stops along the corridor made it impossible for drivers to adhere to the mandatory rest period after every four (4) hours of continuous drive and eight (8) hours of journey per day for drivers, as prescribed in the Road Traffic Regulations (LI 2180).

The data from the GSA's Fact-Finding trip on the Tema-Elubo Corridor in September 2022, revealed eleven (11) permanent and eleven (11) temporary police barriers along the corridor, summing up to twenty-two (22) checkpoints. This is against the results obtained from the 2021 Fact-Finding mission when twenty (20) checkpoints were found along the same stretch.

Recommendations

There are several state agencies, directly and indirectly, involved with the business of transit trade. These include the Customs Division of the GRA, Ghana Highways Authority, Ghana Shippers'

Authority, Ghana Police Service, and Ghana Ports and Harbours Authority among others. Among these agencies, there are other private groups that are also concerned with the business of transit trade such as the Joint Association of Port Transport Union (JAPTU), whose actions and inactions have a huge impact on the transit trade value chain.

A common challenge among state agencies is the lack of coordination and collaboration, given that their works are directly related to transit trade. It is imperative that these agencies work to ensure cooperation and coordination amongst them as that would lead to an increase in the volume of transit trade and would ultimately contribute to the economic growth of Ghana and the countries whose business transit through its corridors. For example, it was reported by the Transit Shipper Committee in the third quarter of 2022 that the rate of harassment of transit trucks by the Police had reduced. This assertion followed a nationwide sensitization on the important role of Police Officers in trade facilitation along Ghana's transit corridor. Subsequent reports showed that no Police Officer stopped a well-identified truck in transit.

This heartwarming outcome can be attributed to the high level of collaboration between key stakeholders like the Customs Division of the GRA, JAPTU and other members of the Transit Shipper Committee, spearheaded by the Ghana Shippers' Authority. This is one of many instances where stakeholder collaborations have proven beneficial.

Also, the lack of adequate transport infrastructure for the other modes of transport such as trains has led to stakeholders completely disregarding the prospects it entails in ensuring ideal transport costs, whilst expeditiously facilitating the transit trade venture. Multimodal transportation facilitates the distribution of goods in a timely, efficient, and safe manner, as it utilizes efficient networks. With a rail infrastructure in place, costs related to tracking devices utilized for road transport, will not be incurred since there will be no need to track the container on a fast-moving train. It would also help to curb the phenomenon of harassment by uniformed personnel.

NTEs 2021 Report – Ghana Leads Yam Export Globally



Minister for Trade and Industry, Herbert Krpa launching the 2021 NTE statistics Report

Introduction

It appears that Ghana's export sector is making significant gains post COVID-19. This is evident in a report released by the Ghana Export Promotion Authority (GEPA) on the analysis of Non-Traditional Export (NTEs) statistics for 2021.

Per the report, earnings from non-traditional exports increased from \$2.84 billion in 2020 to \$3.33 billion in 2021, representing an increase of 17%; the highest performance over the past five (5) years. Between 2017 and 2021, Ghana's Non-Traditional Exports (NTEs) have grown at an annual average rate of 7.07%, contributing to up to 22.62% of the nation's total merchandise exports in 2021. This increase reflects a rebound of the country's export sector from the effects of COVID-19, which disrupted the global supply chain in 2020.

Pineapples, Mangoes and Yam; How Did They Perform?

The Import-Export Act of 1995 (Act 503) classifies traditional exports as cocoa beans, logs and lumber, unprocessed gold and other minerals and electricity. Thus, Non-Traditional Exports (NTEs) are defined as all products other than cocoa beans, logs and lumber, unprocessed gold, and other minerals and electricity. These include; pineapples, mangoes and yam, all of which together generated a total of US\$141 million from exports for Ghana in 2021.

• Pineapples

Ghana's performance on the international market regarding the export of pineapples seems to be on a decline. The West African country ranked 11th in the order of countries that exported Pineapples in 2021. Data from the Ghana Export Promotion Authority (GEPA) reveals that Ghana's Pineapple exports to the world registered a decline of 6% in value in 2021 compared to earnings in 2020. The exports yielded US\$29m in 2021, a decline of US\$6m and US\$2m in value of Pineapple exports in 2019 and 2020 respectively. A large chunk of the

pineapple exports from Ghana went to Europe (85.8%). From the perspective of Africa, Cote d'Ivoire ranked 1st in terms of the countries with the highest export value of pineapples to the world, followed by Ghana and Kenya.

Cote d'Ivoire and Ghana have contributed about 68% of the total value of Pineapples exported from Africa, a trend the two countries have managed to maintain over the past few years. Similarly, Ghana and Cote d'Ivoire contributed more than 97% of the total value of pineapple exports from West Africa, indicating a dominant position in Africa for the two neighboring countries despite the decline in Ghana's export value.



Pineapples exports from Ghana declined by 6% in 2021.

• Mangoes

Unlike Pineapples which witnessed a decline, the export of mangoes increased by 28% between 2020 and 2021. The total value of mango exports in 2021 stood at US\$64.6 million compared to US\$50.3 million in 2020. This was reflected in the global demand for Mangoes which saw a steady growth from US\$2.91billion in 2017 to US\$4.14billion in 2021. Ghana ranked 11th in the order of countries that exported mangoes to the world in 2021. The main destinations for mangoes exported from Ghana included; Germany (US\$ 9.9m), Switzerland (US\$ 6.1m), Belgium (US\$ 2.7m) and France (US\$ 1.2m). Whilst UK's imports of Mangoes from across the globe grew by 5% between 2017-2021, Ghana's exports to UK on the other hand grew by 6% during the same period.

• Yam

Ghana made significant gains in the area of yam export in recent years, overtaking Jamaica to become the world's biggest exporter of yam. The country's export value of yams has been on the rise since 2018 from US\$ 38.5 million to US\$ 48.2 million in 2021. Ghana recorded a world share of 24.1% with an annual growth rate of 14% between 2020-2021, as well as an average growth rate of 9% from 2017-2021. The value of yam exports from Ghana in 2021 stood at US\$ 48.2 million, making it the largest exporter of yam around the world during the period under review. USA was the biggest market



Ghana ranked No.1 in the world for yam exports in 2021

for Ghana's yams in 2021 with a market share of 21.9%.

Jamaica ranks 2nd in world export of yams. Global exports of yams were valued at US\$ 200 million at a growth rate of 4% in 2021, with an average growth rate of 6% between 2017 and 2021. The top global exporters of yams were Ghana (US\$ 48 million), Jamaica (US\$ 39 million), United States of America (US\$ 22 million), Japan (US\$ 21 million) and China (US\$ 20 million).

RECOMMENDATIONS

The CEO of the Ghana Exim Bank Mr. Lawrence Agyinsam has announced that the bank was ready to contribute \$10 million for the improvement of the production and exportation of yam. USAID has also committed to invest up to \$25 million for the same purpose.

The NTE sector needs more of such investments to improve revenue generation. It is regarded as one of the surest ways to attain the government's target to raise at least US\$ 25 billion from NTEs by 2029.

Exporters and potential exporters, product associations, financial institutions, senior and middle level Managers of export-oriented firms and SMEs as well as stakeholders in the NTEs value chain should be encouraged to enroll in the GEPA Export School as this would help to build the capacity of exporters at various stages of the value chain to enable them to compete favorably globally.



Mango exports from Ghana increased by 28% between 2020 and 2021

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