

Shipping Review

GHANA'S AUTHORITATIVE QUARTERLY SHIPPING AND LOGISTICS JOURNAL

VOLUME 24 NO. 1

JANUARY - MARCH, 2022

ISSN: 0855-5148

Assessing the Carrier's Obligation for Seaworthiness Under Ghanaian Law



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Our Mission

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EDITORIAL

Published by:

7th Floor, Ghana Shippers' House
No. 12 Cruickshank Street,
Ambassadorial Enclave, West Ridge,
P. O. Box GP 1321, Accra
Tel. 233-302-666915/7

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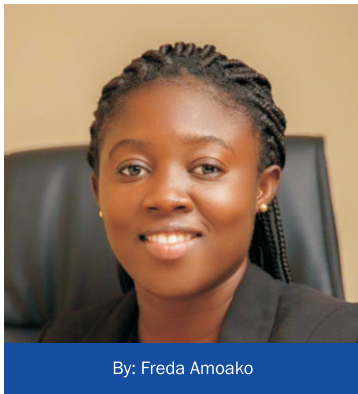
Osei Amankwah - 0203891069

Printed by:

Unik Image - 0302 253756
0302 231527



Assessing the Carrier's Obligation for Seaworthiness Under Ghanaian Law



By: Freda Amoako

Introduction

The shipping industry plays a vital role in international trade especially since 90% of world trade is transported by sea.¹ The obligation to keep a seaworthy vessel is essential in shipping

transport. This is because in safeguarding the interests of parties to a carriage of goods by sea contract, shipping law requires that vessels, which transport goods, be in good order. There are diverse ways of defining seaworthiness. However, for purposes of this essay, seaworthiness is defined as the obligation of the carrier of goods to ensure that the ship, which carries the cargo is fit for the intended purpose.² In this essay, I discuss the obligations and liabilities of the carrier to keep a seaworthy vessel under the International Convention for the Unification of Certain Rules of Law Relating to Bills of Lading,

and Protocol of Signature 1924 (Hague Rules), which are applicable in Ghana by virtue of section 1 of the Bills of Lading Act, 1961 (Act 42).

Carrier's Obligation of Seaworthiness

The obligations of the carrier to keep a seaworthy vessel has been adequately espoused in Article 3(1) as:

"The carrier shall be bound before and at the beginning of the voyage to exercise due diligence to:

- a) *Make the ship seaworthy*
- b) *Properly man, equip and supply the ship.*
- c) *Make the holds, refrigerating and cool chambers, and all others parts of the ship in which goods are carried, fit and safe for their reception, carriage and preservation.*

Firstly, the obligation of the carrier to keep a seaworthy vessel persists during the period prescribed by law or by the contract of carriage (period of responsibility). It means that where a breach occurs outside the period of responsibility, the carrier of goods cannot be held liable. The Hague rules prescribe the period of responsibility as the period before and at the beginning of the voyage.

Parties to a contract for carriage of goods by sea can, however, agree to contract outside the scope of the provisions contained in the Hague rules by virtue of the principle of freedom of contract

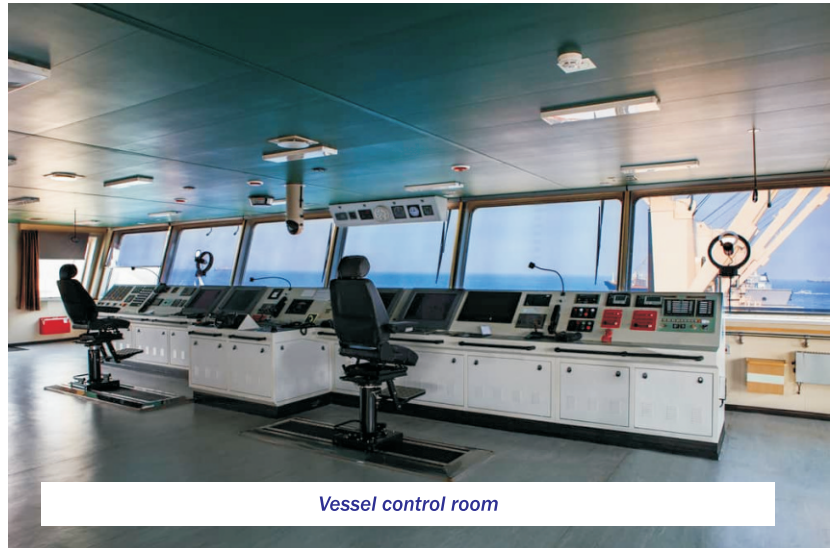
¹<https://www.oecd.org/ocean/topics/ocean-shipping/>

²Simon Baughen, Shipping Law (6th Edn, Routledge 2015) 81

Article 3(1) of the Hague Rules clearly delineates a three-pronged test to establishing the seaworthiness obligation as: ensuring the vessel is structurally fit for the voyage, ensuring that the vessel is properly manned and equipped for the voyage and ensuring the vessel is cargoworthy.

To keep the vessel structurally fit, the carrier should ensure that the vessel is fit to encounter the ordinary perils of the sea and to deliver the cargo safely to the agreed destination. This aspect deals with the overall readiness of the vessel to embark on the voyage. The aspect of seaworthiness, which requires the vessel to be properly manned and equipped requires competent crew onboard the vessel and the availability of the required documents to ensure that the vessel can enter and leave ports without problems.

For instance, failing to keep maps, charts, classification certificates, etc. onboard constitutes a breach in the carrier's obligation.



Vessel control room

The cargoworthiness aspect of seaworthiness concerns the ability of the ship to carry the agreed cargo; the ship might be able to carry cargo in general but certain cargo may need special arrangements such as refrigeration, clean holds, etc. If the carrier agreed with the cargo-owner to ship cargo, the carrier has to ensure that the vessel is able to carry the specific cargo agreed to be carried.³

It is worthy to note that all these aspects of seaworthiness function together to form the complete obligation of seaworthiness. For instance, where the vessel is structurally

fit, properly manned and equipped but not cargoworthy, the vessel will be deemed as unseaworthy. The significance of the seaworthiness obligation is evident in its overriding nature. It means that if a breach of the duty causes damage or loss to occur, the carrier is prevented from relying on any of the defences in Article 4(2) of the Hague Rules once established that the vessel was unseaworthy.

Basis of Liability of the Carrier upon breach

The basis of liability under the Hague Rules is the absence of due diligence. This differs from the common law basis of liability, which is an absolute one. Therefore where the carrier fails to exercise due diligence in the performance of obligation of seaworthiness, he is liable. In other words, where it is established that the carrier in the exercise of his duty was negligent, then the carrier is liable for damage or loss that may occur as a result of the breach. However, establishing failure to exercise due diligence is fundamentally dependent on the facts of the case. This is because due diligence is a relative term and there is no



³Actis Co. Ltd v. The Sanko Steamship Co. Ltd [1982] Lloyd's Rep. 7



single rule that can be applied in all cases.

It is worthy to note that the absolute liability will still apply where the Hague Rules do not apply i.e. in case of charterparties where common law still applies unless the parties agree otherwise. The due diligence requirement means that the

carrier of cargo is protected against latent defects, defects not due to any negligent workmanship or repairer, if these could not be detected by him or experts employed by him.

Due diligence in context of the Hague Rules has been defined as a genuine, competent and reasonable effort of the carrier to

fulfill the obligations set out in Article 3(1) of the Hague Rules.⁴ The carrier in the exercise of due diligence is not expected to be perfect. He is required to be apply reasonable effort in the performance of his obligation.

Conclusion

The discussion above is indicative of the fact that the Bill of Lading Act, 1961 is the applicable law for carriage of goods by sea in Ghana. The Hague Rules also prescribes the obligations and liabilities of a carrier in contract of carriage by sea. The Hague rules are applicable to contracts of carriage where bills of lading are issued and therefore where no bills of lading are issued, the common law standard of liability is applicable. However, if parties expressly incorporate the Hague Rules into their contract, the standard of liability in the Hague Rules will be applicable.



*“The man who stops advertising to save money is the man who stops the clock to save time”
-Unknown.*

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AGI push for tax exemption on raw material imports

The Association of Ghana Industry (AGI) has initiated talks with government to push for tax exemption on the importation of raw materials and partially manufactured goods into the country by manufacturing companies.

The move is to support and protect investments made into the country and to ensure that goods produced are affordable and able to compete favorably on the continent as the Africa Continental Free Trade Agreement (AfCFTA) is in full force. It is also to cushion locally produced goods from unfair competition posed by cheap imported goods.

The President of AGI, Dr. Humphrey Kwesi Ayim-Darke in an interview with the Shipping Review said the current export tax regime is biased towards manufacturing.

“If you go through the Customs tariff regime it is always the case. There are tax exemptions which favour other group of people and little can be said about exemptions that support industries that are importing raw material to produce goods for local and international consumption or patronage.

We have agriculture machinery and other equipment enjoying tax exemption so it would be in the right direction for raw material that are being imported for manufacturing purposes to also enjoy tax exemptions” Dr. Ayim-Darke said.

The AGI is confident that if this concession comes to pass, it would not only significantly impact manufacturing and create well-paying jobs for the youth but also the contribution of the manufacturing sector to the GDP will significantly increase.

“In the case of raw materials, when you are importing, there is no value on the material so we want government to take a second look at taxing



AGI President, Dr. Humphrey Kwesi Ayim-Darke

raw materials imported. In some other countries no business pays for importing raw materials because it is going to be used for production and so why tax it.

Manufacturers prefer that they produce and sell then you tax them but not before production because before production it's all cost and money that they borrow sometimes from the banks to invest into their operations. We are making a strong case to government so that they accept our case and give us some relief” the Chief Executive Officer of the AGI, Seth Twum-Akwaboah told the Shipping Review.

Globally, manufacturing constitutes the real economy and has been noted as a sector with great potential to help leapfrog economies. It is in this light that government introduced the 1 District 1 Factory (1D1F) initiative to revamp industrialisation in the country but its contribution is yet to be significantly felt.

As of the second quarter of 2020, the manufacturing sector in Ghana contributed around 4.6 billion Ghanaian cedis (GHS), around 755.6 million U.S. dollars, to the country's GDP. Compared to the preceding quarter, this was a notable decrease. Within the period observed, the contribution of manufacturing to GDP fluctuated, peaking in the first quarter of 2021, at approximately 6.8 billion GHS (roughly 1.1 billion U.S. dollars). Currently, manufacturing's contribution to GDP has stalled around 11.0% for the past six (6) years.

International Trade Consultant with Blackbridge Consulting Ltd, Maame Awinador Kanyirige, has backed the move by AGI but says there should be a deliberate policy that would encourage the possible production of a chunk of the raw materials locally over the long term.

“We need to know the number of years that would be agreed for this process to give the nation enough time to have a way of producing the same raw materials locally. For the short term it is a great move because it would greatly support the nation's industrial transformation agenda however there should be a plan that would push for the production of the raw materials locally. If the exemption travel long it can impair the country's capacity of becoming self-reliance in the that space,” she said.

She added that all over the world countries are developing strategies to wean themselves off foreign supply of raw materials as a form of socio-economic security, therefore Ghana should do same.

'Democratic Backsliding' on the Road to the Sea; Burdening an already difficult trade?



By Anab Abudu,
African Landlocked countries Advocate
& Freelance Researcher

According to the African Union, there are 55 countries on the continent. Since 1950, 45 of them have experienced either a coup attempt or successful coup. Data by researchers Powell and Thyne showed

that between that year and 2021, 486 coups were attempted and 242 were successful around the world. Out of the attempted coup 214 took place in Africa. Out of the 242 successful coups which occurred in the same period, 106 took place in Africa - the highest in any region. Sudan in the same period has been the most affected country; recording a total of 17 attempted and successful coups.

Many reasons have emerged over the years as engendering the coups. The Peace and Security council of the African Union has identified a couple which include “governance deficiencies, greed, selfishness, mismanagement of diversity and opportunity, marginalization, abuse of human rights, refusal to accept electoral defeat, unconstitutional review of constitutions to serve narrow interest” ('third termism') and corruption.

Coups in Landlocked Countries

With 16 out of 55 countries being landlocked, Africa has the highest incidence of landlocked

in the world involving over 300 million people. The geography of these countries comes along with some pains including paying more for imports and exports, waiting longer for imported goods (because they have to go through transit countries) as well as being directly impacted by the political stability of coastal neighbors. Therefore anything that introduces restrictions further burdens their trade.

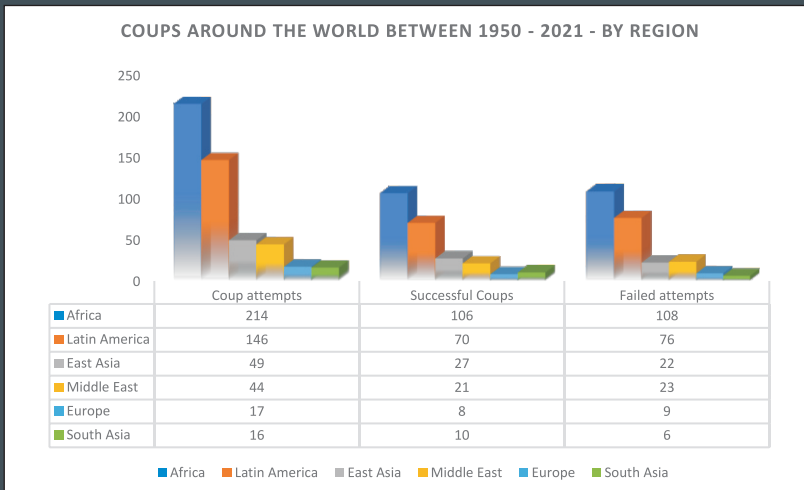
stability across most landlocked countries in the last two decades or so. Very worryingly however, the last five years have seen a surge in coup d'états in some landlocked countries. One of the immediate actions of coup makers is to close all borders and put in place other restrictions to ensure they have full and proper control of all points of entry and exit into the territory.

of the continent. Some of the countries in this region have struggled with maintaining political stability and keeping the military at the barracks (instead of presidential palaces) for many years. These struggles have had devastating effects on their individual economies and have also affected the region as a whole.

The 2019 Economic Development Report of UNCTAD showed that West Africa's contribution to world trade remains relatively low, whether for coastal or landlocked countries. Its share of intra-regional trade represents less than 10% of each country's trade. "There have been serious concerns about the region's recent rapidly declining political stability, as well as a very fast decline in political rights and civil liberties" and security following three successful coups in Mali, Guinea and Burkina Faso and a failed coup attempt in Guinea Bissau. Security challenges from the Sahel have run through Mali and Burkina Faso and threatening to affect the southern/coastal parts. The six (6) Landlocked countries in the region alone have since 1950 experienced forty-seven (47) coup attempts and twenty-seven (27) successful coups.

In Eastern Africa, analyzed data on landlocked countries showed that there have been nine (9) coup attempts and ten (10) successful coups. Ethiopia from the data had recorded more successful coups than coup attempts.

Landlocked countries in Southern Africa in the same period experienced the least number of coups compared to other regions. Based on the data analyzed, there have been four (4) successful coups and eight (8) coups attempts within the same period. Indeed Botswana is one of the few countries both in Africa



Source: Powell and Thyne, 2021.

Research has found that political instability significantly reduces economic growth, both statistically and economically because political stability and economic growth are interlinked.

Political stability unencumbered and unrestricted trade has been one of the keys to overcoming the geographical disadvantage which is economically constraining. It therefore goes without saying that greater efforts must be invested in maintaining political stability because anything short further increases the pain of being landlocked.

Conscious of the impact of political stability on economic growth and development, there has been a period of relative

The actions of coup makers first create political instability and then introduce restrictions; the very things that hurt trade and investments for any country. For landlocked countries, such developments exacerbate the pains of being landlocked.

Burkina Faso in January, 2022 became the latest African country where the military took over the reins of power. Across the border in Mali, an army Colonel; Asimi Goita ousted President Boubacar Keita and another civilian government in August 2020 and May 2021 respectively. Not too far away in the Sahel, Mahamat Idriss Derby managed an 'unusual coup' in Chad after the death of his father (who himself came to power through a coup) died in April 2021.

These (3) countries make up 50% of the landlocked countries in the Western and Central parts

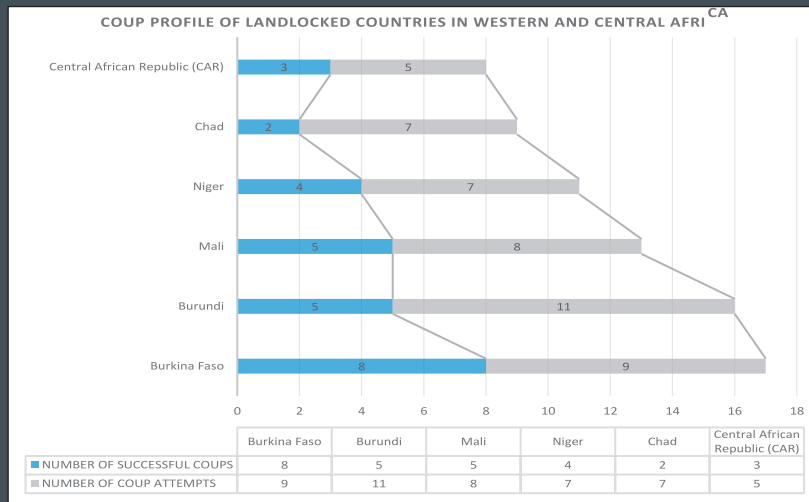
and among landlocked countries that has never experienced a military coup. At three (3) and four (4), Lesotho has had the most number of successful coups and coup attempts respectively. A 2017 In On Africa (IOA) report suggested that the majority of refugees from Africa are from landlocked countries (citing

yet to be fully eased. These actions have further slowed their already tardy trade.

Sanctions imposed on 'democratically backsliden' countries by regional bodies and the international community ultimately affect traders by increasing trade costs for both imports and exports which are

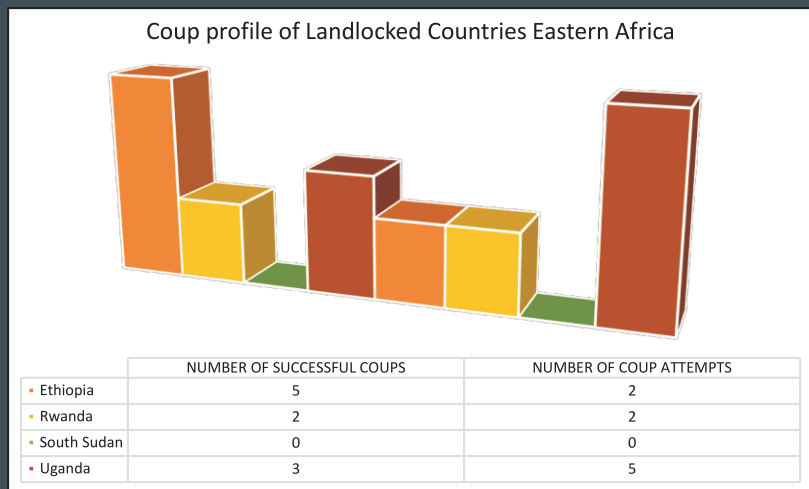
suspension of all commercial and financial transactions except for food products, pharmaceutical products, medical supplies, and equipment, including materials for the control of COVID-19, petroleum products and electricity; freezing of Malian assets in ECOWAS central banks; and the suspension of all financial assistance and transactions with all financial institutions, particularly the ECOWAS Bank for Investment and Development (EBID) and Banque Ouest-Africaine de Développement (BOAD). Mali has also been suspended from the AfCFTA as well as by the African Union which has also barred it from participating in all of its activities.

Coup profile of Africa's landlocked countries by sub-region



Source: Based on data from Powell and Thyne, 2021

Coup profile of Landlocked Countries Eastern Africa



Source: Based on data from Powell and Thyne, 2021

Nexus between landlockedness, coups and difficult trade – A Malian example

Exports and imports are some of the key drivers of economic growth but restrictions imposed by coup makers and trade sanctions stifle trade. Notwithstanding these, the recent coup in Mali, saw coup leaders announce the closure of all land and air borders which are

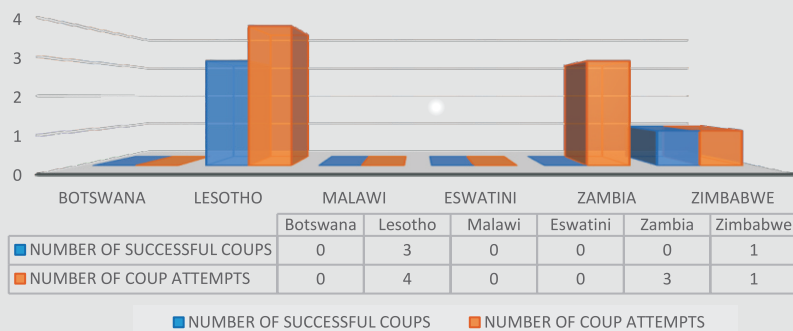
passed on to consumers and ultimately affect the competitiveness of Malian traders. A coup in May 2021 was Mali's second in the last two years following which ECOWAS imposed stricter sanctions on the West African country.

The latest sanctions included the recall of ECOWAS member states ambassadors accredited to Mali; closure of land and air borders;

With all ECOWAS member countries applying sanctions on Mali, the leadership of the National Committee of Reconciliation and Development (CNRD) behind Guinea's coup in September 2021 refused to enforce the ECOWAS sanctions on Mali having been suspended from the regional bloc itself. They have continued to maintain open air, land and sea borders with Mali. Guinea's decision remains an exception in the region which has forced Mali to retain maritime access through the port of Conakry which is not the most efficient compared to the ports of Dakar or Abidjan.

Inefficient ports are expensive ports but this decision by the Guinean government has provided some breathing space for traders and indeed the national economy while the sanctions remain.

Coup profile of Landlocked Countries in Southern Africa



Source: Based on data from Powell and Thyne, 2021

Even though traders in Mali are able to escape the country's trade sanctions through Guinea, the extra costs will eventually be passed on to consumers who already pay higher for imported goods.

This makes the cost of food and cost of living more expensive than it already is after the economic impacts of the COVID-19 pandemic shrank and stretched household incomes. With the Ukrainian war on-going, the world is feeling the pinch of soaring fuel prices which has direct effects on the prices of everyday goods in most developing countries, Mali included.

Trade creates jobs and provides domestic consumers, particularly low-income households, with access to more affordable goods and services. E.g., cheaper smartphones have allowed people in low-income countries to have access to the internet and other online tools, enabling them to be better integrate with the world and enjoy the benefits of the internet. Increased trade costs as result of these sanctions erode the purchasing power of these low-income households.

The effects of the COVID-19 pandemic have been devastating for developing countries. It has rolled back a decade's progress

towards achieving the SDGs. With

the coup, sanctions and global economic effects of the Russia-Ukraine war, all impacting the prices of consumer goods, more people will be forced back into extreme poverty.

The Malian authorities are also reported to have toured Mauritania (port of Nouakchott about 1,446.10 km to Bamako) and Algeria (port of Algiers about 5,015.10 km to Bamako) as well to strengthen bilateral ties as part of a 'response plan' to the sanctions. This will directly affect transport prices/trade costs for traders. It will also directly affect transit trade volumes of the ports that have invested in the trade.

As an importer of manufactured goods, Mali is a customer for the ports of Dakar, Abidjan and Tema which could see a slowdown in this business. As Malian traders are forced to use Conakry port because of ECOWAS sanctions, they will build relationships in Conakry port, which will help the port to increase its share of transit trade from Mali and ultimately affect the volume of transit business becoming available to the traditional transit ports/countries.

There are also significant effects on informal cross-border trade.

As described by UNCTAD, this kind of trade is between neighbouring countries conducted by vulnerable, small unregistered traders. Based on UNCTAD estimates, 70-80% of these traders are women and has been linked to supporting regional food security and women empowerment. It also has a positive impact on poverty reduction and improving access to education for children. Coups, resultant border closures and

sanctions affect these directly and will be even more painful for women in landlocked countries. The COVID-19 pandemic has eroded a significant part of the gains made towards achieving the SDGs and with the coup, sanctions and global economic effects of the Russia-Ukraine war, more people will suffer the more.

The coup and sanctions have influenced investors, some of which have adopted a 'wait and see' posture which impacts the economy and also reduces employment opportunities. Some are waiting for sanctions to be lifted and others when there is shift to democratic governance before they invest. Studies highlight how successful coups "threaten the stability of political institutions essential for regulating markets and enforcing contracts.

Foreign firms often rely on the threat of litigation to protect property rights and ensure the fulfillment of contracts and other obligations" (Levchenko 2012). These institutions could be rendered ineffective as guarantors of trade contracts. As these mechanisms for enforcing contracts become unreliable, investors face the threat of receiving no compensation for contract breaches by domestic trade partners. This makes them cautious about their investment decisions.

Sanctions as result of the coup have weakened the government's ability to provide essential public goods such as health care and education and service its debts as the government itself reported in January. UNCTAD has recently drawn attention to a decrease of global economic growth projected for 2022 from 3.6% to 2.6%. Even worse, developing countries will need USD 300 billion to service external public debts which is about 9.2% of outstanding stock of public debt at end 2020. The World Bank sounded the alarm in March that "over the next 12 months, as many as a dozen developing countries could prove unable to service their debt". Another disturbing feature of the debt issue is that "much of the debt of developing economies involves variable interest rates – meaning they could rise almost as suddenly as rates on credit-card debt".

Conclusion

Coups everywhere disrupt economic growth. For landlocked countries it is more devastating because apart from setting the country back, it further hardens efforts to rise above the challenges of being landlocked.

Due the special geographic circumstances of landlocked countries, political crisis in those countries must be resolved speedily and skillfully resolved in order to return them to a path of democratic governance. Mediators should be mindful to broker country-suitable democratic solutions that ensure political stability and engender economic growth and development for the ordinary people not a one-size-fits-all democratic system that benefits only a few.

Be mindful of your Certificate of Origin - GNCCI entreat exporters



A section of Shippers at a sensitization workshop

The Ghana National Chamber of Commerce and Industry (GNCCI) has entreated exporters to be mindful of the originality of the Certificate of Origin (COO) that accompany their exports as some unscrupulous freight forwarders are generating fake ones.

The caution is coming at a time the GNCCI is recording cases of forged COOs, a move that has the propensity to mar the nation's global image and affect bilateral agreements meant to extend some privileges to Ghanaian exporters.

A Certificate of Origin is an important international trade document that certifies that goods in a particular export shipment are wholly obtained, produced, manufactured or processed in a particular country. The purpose of a Certificate of Origin is to facilitate international trade and proves that the product exported is manufactured and produced in a specified country. It is required by certain countries in order to determine whether duties or tariffs should be assessed on the products being imported.

Speaking to the Shipping Review, the Greater Accra Regional Head of the GNCCI, Daniel Osei Torgbor said the Chamber is very concerned and has begun sensitizing exporters on the inconveniences likely to occur if the COO accompanying their cargo is flagged as fake.

"The Ghana Customs has brought this matter to our attention and it is a very serious one that needs immediate attention. The Chamber of Commerce is the body mandated to generate the Certificate of



GNCCI Greater Accra Chairman, Daniel Osei Torgbor

Origin but we are beginning to get reports to authenticate COOs that we have no idea of. Sadly, an unfortunate trend is emerging,” Mr. Osei Torgbor said.

He noted that goods that are flagged go through very rigorous checks which causes delays and the exporter is mandated to pay the full exporting cost in the instance that the COO is confirmed as fake.

“We have been receiving some reports and we are acting on them before things get out of hand. We have realized that in many instances the exporter is unaware of the issue because the freight forwarders are mostly responsible for getting the COOs. As a result, we have begun to educate the exporters and asked them to be more vigilant and entreat their freight forwarders to do the right thing or else some dire ramifications await the nation internationally,” Mr. Osei Torgbor added.

He added the development needs immediate attention considering the role of the Africa Continental Free Trade Agreement (AfCFTA) as the COO is the primary document that would be used to facilitate trade.

“Under AfCFTA the Rules of Origin which is born out of the Certificate of Origin will be key. Imagine the trend continuous. You can imagine how some companies can take advantage of it to send imported products across the continent in the name of AfCFTA. We need to be strict and nip this challenge in the bud for the good of all.”

GNCCI'S COO Function

GNCCI issues documentary evidence of origin for goods exported from Ghana and certifies a variety of other export documentation, eg. Packing Lists, Commercial Invoices, Proforma Invoices, etc. as required by overseas buyers and foreign customs authorities. The Chamber issues a Certificate of Origin according to the International Certificate of origin guidelines prepared by the World Chambers Federation, the International Chamber of Commerce's (ICCs) specialized division for Chamber Affairs.

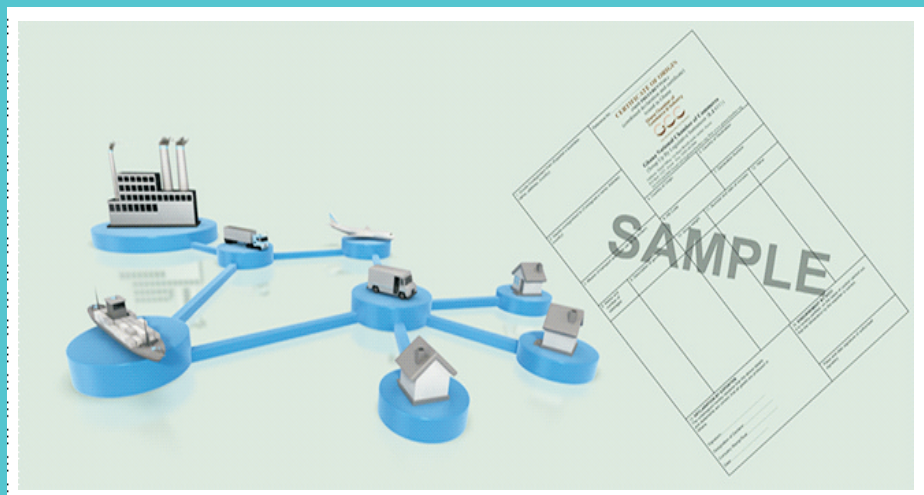
The Chamber currently issues five types of certificates:

- EUR
- GSP
- IMPERIAL PREFERENCE
- COMBINED CERTIFICATE
- ECOWAS

The following documents are required before a Certificate of Origin can be issued:

- Certificate Type
- Exporter's Tin Number
- Exporter's Name and Address
- Importer's Name and Address
- Port of Discharge
- ECOWAS Trade Liberalization Number (Optional but important)
- Product Description
- Product HS Code
- Quantity of Goods
- Net Weight
- Gross Weight
- Total Invoice Value

Note: In addition, all exporters are to provide a commercial invoice or packing list, customs declaration form, bill of lading, etc. to the Ghana Chamber of Commerce to help process the certificate.





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The Prospects of Africa's Economic Transformation in Tomorrow's Maritime World



By Abdul Haki Bashiru-Dine,
Ghana Shippers' Authority



Background

The coronavirus (COVID-19) pandemic impacted economic growth in Africa. In 2020, Southern Africa registered the sharpest decline in Gross Domestic Product (GDP) growth rate in the continent, at minus seven percent. Southern and Central Africa were the regions that suffered the most in that year. However, projections conducted in December 2020 showed that Africa's economy would recover in 2021 and 2022, following the impact of the pandemic, with the regional real GDPs growing significantly. Overall, North Africa would witness the largest expansion, by four and six percent in 2021 and 2022, respectively.

Despite the current global challenges due to the COVID-19 pandemic, Africa today is still regarded as the next frontier for investments. The continent stands as one of the fastest growing regions of the world. Six of the ten fastest growing economies are in Africa. In a

seeming season of sustained global economic crisis, African economies have remained resilient.

Trade is critically important to economic development. Right now, Africa has about 2 percent of all world trade according to the WTO Report 2019, which is hard to believe when you think about all of the tremendous resources that they have - oil, diamonds, gold and not to mention all the agricultural products such as coffee, tea, cocoa.

To think that Africa still only has two (2) percent of world trade is really incredible. But the power of trade is that if the Africans were able to increase their share of world trade from two (2) to three (3) percent, that 1 percentage increase would actually generate about \$70 billion of additional income annually for Africa, or about three times the total development assistance Africa gets from the entire world.

According to UNCTAD, Africa's GDP has grown by 5% a year – one percentage point higher than global growth over the last 10 years and the continent is closely tied in to the global value chain (GVC). However,

Africa remains primarily confined to the role of raw material supplier and unable to transition to that of a production platform. It runs a trade deficit, with imports – mostly of manufactured goods – exceeding exports, 80% of which are primary products:

Africa's Maritime Sector and the Economy

Maritime transport is the backbone of international trade and the global economy. Around 80 per cent of global trade by volume and over 70 per cent of global trade by value are carried by sea and are handled by ports

worldwide. These shares are even higher in the case of most developing countries.

The contribution of the maritime industry to the economy of Africa is huge representing over 80% of the Africa's trade. Africa's share of global trade still remains very weak at about 2.3% according to the UNCTAD.

The export of raw materials from Africa to the Far East and other continents is mainly through shipping. Over 90% of Africa's import trade is by shipping and this has a huge impact on the value chain operations in Africa. Tax revenue remains the most important source of domestic financing in African countries. Most governments in Africa rely on trade taxes such as levies customs and other fiscal duties on imports as a source of revenue for economic development.

The maritime industry particularly shipping has the potential in playing a significant role in Africa's future development. The Maritime Industry in Ghana is by far, the most critical sector and is key to the development of the nation's economy. The Industry accounts for over 80%, as a share of customs collection and the highest contributor to the nation's revenue base through taxes and levies on imported and exported products.

For the past decades, trade growth has been lackluster in Africa. Compared to the world average growth rate, Africa underperformed. Excluding oil, exports from most African countries have declined in the last decade mainly because of downward trend for many commodities and supply constraint.

Over the last decade, maritime experts have bemoaned the rising number of challenges

within the maritime sector which should be addressed with the aim of ensuring efficient logistics and supply chain operations.

Impact of Covid on Africa's Maritime Economy

COVID-19 has negatively impacted Africa according to UNCTAD Review of Maritime Transport, 2020. In the second quarter of 2020, UNCTAD estimated the drop in Africa's exports at 35% and the drop in imports at 25%. By July 2020, there were some improvements, but the numbers still pointed to double-digit drops of 17% for imports and 21% for exports.

By late June 2020, the drop in the number of ship calls in Sub-Saharan Africa stood at 9.7%

countries at a disadvantage. Maritime transport in Africa needs to address challenges facing innovation and technology, infrastructure quality, regulation and governance, human capital and skills, as well as business and investment.

Challenges of Africa Maritime Sector

Presently, African ports remain largely outside several global trends. These trends, however, can have a positive impact on the economies of Africa. At the time when main ports in Asia have the infrastructural capacity to receive 8,000 TEU vessels, West and Central Africa sub-region ports are unable to receive vessels in excess of 2,500 TEUs.



while the drop in container ship calls stood at 12.7%. The impact on bulk shipping was less pronounced. Port calls by dry bulk carriers declined by 7.7% while calls by wet bulk carriers was less affected, falling by 1.4% only.

Like in other regions, digitalization is recognized as key to navigating the COVID-19 crisis, hence capacity-building in this area is required. However, a "readiness gap" in the maritime sector's automation and technology levels puts African

Also, the introduction of very large container vessels has contributed to a widening gap between the few large efficient ports, which benefit from economies of scale of these vessels and most ports in developing countries, which will increasingly have to rely on feeder services.

Africa's ports have faced rapid traffic growth in the last five years (more than 12 percent according Drewry). It is the right time to tackle major port reforms since traffic forecasts are expected to

grow at a slower pace until 2010 (Drewry, 2005).

Improvement of port management is a prerequisite for further development of the maritime sector in Africa (WCA). For shipping lines, port turnaround time in ports has become an increasingly important factor to decide to call in any port of the world. It is estimated that one extra day at a port cost more than US\$ 35,000 to a shipping line for a 2,200 TEU vessel.

Without improved port efficiency and regional integration, many ports of the world will become increasingly marginalized, served by feeders. Shippers will have to bear higher maritime transport tariffs.

Without improved port efficiency, several coastal countries in West and Central Africa could become “de facto” landlocked, having to bear approximately the same cost as a landlocked country.

To summarize the challenges of Africa's maritime sector which when addressed could have positive impact on African economies are;

1. Poor Export Capacity
2. Port trade cost structure
3. Inadequate port infrastructure to support growth of the maritime shipping sector
4. Inefficiency in port operations
5. Lack of improved port management capabilities.
6. Poor implementation of maritime legal and policy frameworks
7. Regional Integration

Conclusion

The way forward is a need for

reforms in the maritime sector of Africa. In particular, the attainment of competitiveness along the entire logistics and supply value chain.

The main objectives of upcoming reforms in the maritime transport industry and port sector in African countries should be aimed at the following;

1. Institutional reform-carrying out cost benefit analysis of current port management and efficiency in countries facing very high port charges and high maritime transport rates.
2. Fostering private sector participation both to provide investment for new installations and equipment, and to transfer technical know-how and more efficient terminal management.
3. Facilitating procedures and controls in ports, such as procedures affecting turnaround time, dwell time and handling cost, otherwise port attractiveness is seriously limited. The introduction of community-based IT system may help in this regard.
4. Improving port access to ultimately develop a multimodal transport system. Areas around ports are usually congested, and investing in road infrastructure to improve port access may have a positive impact on city economic activities and port efficiency.
5. Facilitating transport on the main trade corridors from port to landlocked countries.
6. Increasing competition among shipping lines in countries, when informal barriers to market entry or collusion still prevails.
7. Developing knowledge sharing and collaboration between ports and countries on current port reforms in Africa. The Port Management Associations in Africa could become a suitable platform for these exchanges.
8. Reviewing maritime policies in various regions of the world to adopt adequate maritime policies in the Africa region.
9. Efficient implementation of trade facilitation measures to boost trade and the capacity of the maritime sector.



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Ghana Shippers' Authority - 2021 in retrospect



A demurrage sensitization workshop in Kumasi

2021 was an eventful year for the Ghana Shippers' Authority (GSA). Several activities were undertaken during the year all in the bid to protect and promote the interest of Shippers (importers and exporters) across the country. Below are some highlights of the GSA's activities during the period under review.

The GSA after establishing that demurrage payments to shipping lines in 2019 amounted to \$27million and \$39million in 2018 begun a campaign on educating shippers on ways to avoid the payment of demurrage. The GSA held seminars for shippers in the Ashanti, Bono-East and Ahafo regions in Kumasi. The seminar educated shippers on how to avoid the payment of demurrage to help increase their margins as well as ensure stability of the prices of goods on the market.

Also, the GSA in collaboration with the National Insurance Commission (NIC) organized a sensitization workshop for the leadership of the Ghana Union Traders Association (GUTA) on the Cargo Insurance Protocol.

The workshop marked the beginning of a series of sensitization workshops to be rolled out by the two organisations to create awareness of the protocol and to solicit the buy in and recommendations from the shipping public on the protocol. The GSA participated in an inter-agency Committee constituted to review the entire processes of Uncleared Cargo (UCL) Administration at the Ports. The Terms of Reference of the Committee were as follows (i) Identify the challenges of UCL administration at the Ports; (ii) Develop Standard Operating Procedures (SOPs) for UCL

Administration; (iii) Highlight other matters incidental to UCL administration; (iv) Propose appropriate recommendations on the way forward.

In its quest to sensitize and build the capacity of importers, exporters and stakeholders of the shipping and logistics industry, the GSA under the year of review held several sensitization /education for all its ten regional shipper committees spread across the country. Some of the topics that were presented include the International Commercial Terms (INCOTERMS) 2020 and benefits of the African Continental Free Trade Agreement (AfCFTA). With support from the Bank of Ghana a forum was held on letters of commitments and letters of credit. The forum addressed some of the major challenges confronting exporters in their day-to-day business transactions and highlighted the introduction of the "ECO" currency. It was also attended by major stakeholders in the shipping and logistics industry.

The phenomenon of Uncleared Cargo at Ghana's ports has persisted for some time and this has impacted negatively on the operations of specific stakeholders within the Port ecosystem. The Committee was therefore established to assist in eradicating this problem.



Dignitaries at a Forum organized by the GNCCI on AfCFTA



Cocoa Freight negotiations at the Ghana Shippers' House

In collaboration with the Ghana Police Service the GSA organized sensitization seminars for senior Police Officers in Bolgatanga and Wa. The sensitization seminars formed part of a nation-wide program to sensitize the police on transit trade and its benefits to the national economy and the role of the Police in promoting trade along Ghana's major transit corridors.

The GSA continued to keep close ties with its stakeholders. Some of the trade associations the GSA engaged during the period are; Ghana Union of Traders' Association (GUTA), Association of Ghana Industries (AGI), Freight Forwarders Association of Ghana (FFAG), Importers and Exporters Association of Ghana, Food and Beverages Association of Ghana, Customs Brokers Association of Ghana and ICUMS. The GSA held virtual meetings with the above bodies with the objective to discuss the concerns of various trade groups following the announcement by Shipping Agents of an increase in their Port Additional Charges following the limited tariff review by the Ghana Ports and Harbours Authority (GPHA).

The major concerns of the trade groups were as follows: That the timing of the increment, especially the fact that the Covid-19 pandemic had worsened their

plight was inappropriate; That freight charges globally were increasing and to compound them with the proposed increases could spell doom to their businesses; That the proposed increases had not been negotiated with the Authority; That if no action was taken to stop the increases, they would proceed on a strike action.

Others are, Dangme West Mango Farmers' Association (DAMFA), Manya Krobo Mango Farmers' Association (MKMFA), Wenchi & Kintampo Mango Farmers Association, Sunyani Greenfields Association, Yilo Krobo Mango Farmers' Association (YKMFA).

Some of the issues that were raised during the interactions

with the Trade Associations include: increase in freight charges and shortage of containers, proposed fees and charges of the Ghana International Trade Commission (GITC), etc.

During the year, the GSA received and investigated a total of one hundred and eight (108) shipper complaints. Out of these, ninety-eight (98) of the complaints were resolved while ten (10) were at various stages of resolution. The complaints include request for refund, high clearing charges, high handling charges, damaged cargo liabilities, undelivered cargo, recalculation of CBM, requests for abandoned cargo, pilfering, exorbitant local charges, failure to refund for non-delivery of service, etc.

In accordance with the GSA's efforts aimed at removing non-tariff barriers within the nation's transit corridor, the GSA organised sensitization seminars for truck drivers and owners in Tema and Takoradi on 3rd and 23rd June respectively. It was to educate them on key regulatory regimes and road governance-related matters along Ghana's transit corridors.

The GSA collaborated with Globe Productions and Graphic



Some GSA staff in a group picture after the Ghana Business Awards

Business to organize the 4th Ghana Shippers' Awards to acknowledge shippers and providers of shipping services for their contributions to the growth of the maritime and logistics sector. The Awards are aimed at distinguishing excellence in the trade and transport industry, to instill in industry players a sense of fulfilment and greater zeal to achieve higher laurels and encourage more transparency and compliance with laid down procedures in the trade and transport industry.

The 13th in the series of Maritime Law Seminars was organized by the Judicial Training Institute (JTI) for Judges of the Superior Courts of Ghana with support from the GSA. The two-day seminar was organised to build the capacity of the selected judges in maritime law for speedy adjudication of cases and to strengthen the bond between maritime commercial interests and the judiciary.

The Cocoa Marketing Company Ltd (CMC) and the Ghana Shippers' Authority successfully organized the 2021/22 Annual Cocoa Negotiation Conference. After several deliberations and evaluation of the final positions of the shipping lines and analysis of the local conditions, vis-a-vis port charges, the increasing charter rates, container shortage, rising bunker prices and upon considerations of the various issues raised during the negotiations, the freight rates and Bunker Adjustment Factor (BAF) for the shipment of cocoa beans from Ghana for the 2021/22 cocoa season were concluded as follows; Basic freight was increased by 5% while BAF was increased by 1%.

During the period under review, the GSA engaged itself in Africa Continental Free Trade Agreement (AfCFTA) activities and participated in several programmes as follows: Courtesy

call on the AfCFTA National Coordinator, Dr. Fareed Arthur to discuss a possible collaboration between the Ministry of Trade and Industry, AfCFTA Secretariat and the GSA to sensitize shippers on the AfCFTA.

In line with efforts to facilitate trade, the GSA paid a courtesy call on the Secretary-General of the African Continental Free Trade Area (AfCFTA) Mr. Wamkele Mene.



GSA CEO, Ms. Benonita Bismarck presenting an Outboard Motor, GPS and Fish Finder Device Batteries to Ocansey Kope Community at Ada

The GSA intensified efforts at honoring its responsibilities to society in 2021. It embarked on several activities as a way of supporting or giving back to its stakeholders and society. It donated some items to the Chiraa Hospital in the Bono Region to assist in its operations. The items were one hundred and fifty (150) pieces of branded bedsheets, twenty-one (21) packs of toilet rolls, twelve (12) liquid soap (3 litres) and six (6) buckets of washing powder.

The GSA also handed over a 6-8 HP Outboard Motor in addition to a GPS and Fish Finder Device batteries to the people of Ocansey Kope Community in Ada East District in the Greater Accra. The donation was to enhance the fishing activities of the community.

The GSA and its Chief Executive

Officer were acknowledged for contributions to trade facilitation, the shipping and logistics sector, business development and corporate social responsibility.

The GSA was adjudged Trade Facilitation Company of the Year (2021) at the 4th edition of the Ghana Business Awards (GBA) held at Kempinski Hotel in Accra. It was in recognition of the GSA's trade facilitation efforts.

The Chief Executive Officer (CEO) of the GSA was named the CEO of the Year in the Public Sector category at the 4th Ghana Business Awards. The awards recognized her ardent role in leading the Ghana Shippers' Authority, GSA to oversee major interventions to address concerns of shippers in Ghana and contributing to trade facilitation.

The CEO of the GSA was also honored with a Gold Business Leadership Award at the 4th Ghana Business Leaders Excellence Awards Ceremony organised by Top Brass Ghana.

These activities and many others are contributing to the attainment of the GSA's mission of effectively and efficiently managing Ghana's commercial shipping and to protect and promote the interests of shippers.

New Social Charter for Global Seafaring: Some Highlights of Seafarers Fundamental Rights Under the Maritime Labour Convention (MLC) 2006.



By: Kojo Frimpong,
Ghana Shippers' Authority

Ocean shipping is the primary mode of global commercial transit. Over 90% of all commercial items are transported by sea. As a result, the oceans serve as the primary

transportation corridors for global trade. For shipowners and mariners, this presents both opportunities and challenges. Maritime trade volumes are expected to quadruple in 2050 as global freight demand grows.¹ The necessity for strong and effective global standards for the working and living circumstances of the maritime workers has become vital for the maritime sector's success.

Seafarers must have safe working conditions in order to maintain the marine environment and ensure the economic viability of shipping operations. These favorable working conditions are required to attract and maintain qualified employees, which can improve efficiency and output. Substandard working circumstances, on the other hand, are associated with poor hygiene, medical care, good food, a lack of training, and bodily and psychological injury.²

Since its inception, the International Labour Organization (ILO) has taken a great interest in the regulation of marine labor issues as part of its constitutional mandate and basic objectives. The ILO's work continues to be centered on international labor standards. International labor standards are divided into two categories: legally binding international labor agreements and non-binding international labor recommendations that serve as guidelines for policy, law, and practice.

The ILO's standard-setting activities in the field of maritime transport are primarily based on Article 94 of the 1982 United Nations Convention on the Law of the Sea (UNCLOS), which requires every flag state to exercise jurisdiction and control over ships flying its flag in administrative, technical, and social matters.

A NEW BLUEPRINT FOR SEAFARERS

The 'Geneva Accord,' a resolution adopted within the framework of the Joint Maritime Commission, a bipartite organ responsible for fixing the international minimum wage, the general well-being of

¹https://www.itfglobal.org/media/581902/sbor_english.pdf accessed 25 February 2022.

²George P Politakis, *The IMLI Treatise on Global Ocean Governance* (Oxford: Oxford University Press, 2018), Volumes II, 105-107 Pp.' (2020)

seafarers, and reflecting the common understanding of ship-owner and seafarer groups concerning existing maritime labor standards, was a major consolidation exercise of international maritime labor standards in January 2001.

In 2006, the ILO adopted the Maritime Labour Convention (MLC 2006). The MLC 2006 is the most significant development in the long history of seafarers' rights law.

The MLC 2006 includes standards for conditions of employment, hours of work and rest, accommodation, recreational facilities, food and catering, health protection, medical care, welfare and social security protection for seafarers, regulation recruitment and placement services, and flag and port State inspection systems.

The MLC 2006 establishes international working and living norms for seafarers, which are enforced by countries that have ratified it. MLC 2006 took effect in August of 2013. The MLC's criteria apply to ships from ratifying states as well as foreign ships calling at ratifying nations' ports, regardless of whether their flag state has ratified the Convention. The convention is often regarded as the fourth pillar of the international regulatory regime for high-quality shipping, alongside the three important IMO conventions of SOLAS, MARPOL, and STCW, all of which are based on UNCLOS Article 94.

The layout modified the IMO

convention's core structure, which consists of three parts: articles, rules, and codes. The Articles define fundamental rights and serve as the legal foundation for all other regulations.

The Regulations establish basic duties in the areas of working and living circumstances for seafarers covered by the agreement. The Codes are divided into two parts, with Part A containing binding standards and Part B containing non-binding advice.

WHO IS A SEAFARER?

A seafarer is defined under the MLC as anyone who is hired, engaged, or operates in any capacity onboard a ship covered by the Convention.³ As a result, the definition encompasses not only the crew involved in navigating or operating the ship, but also all additional non-maritime personnel such as hotel staff, including cabin and cleaning staff, bartenders, waiters, entertainment, vocalists, and casino people.

MINIMUM AGE FOR A SEAFARER

Under MLC 2006 Regulation 1.1, no under-age persons are permitted to work on ships, and anyone under the age of 16 is not permitted to work on a ship. The MLC 2006 does not specify the legal form in which it must be implemented; however, it must be in a form that is required by national law. Other than a minimum age of 18, the MLC 2006 does not specify a minimum age for positions on board ships. In terms of employment and residential



situations, a young person under the age of 18 is given special consideration.

A seafarer between the ages of 16 and 18 must work on a ship but cannot do: night work (with few restrictions); or anything that puts the seafarer's life in jeopardy.

Standard A1.1 requires that a seafarer between 16 and 18 years of age work on a ship but cannot do: night work (with some possible exceptions); or work that puts the seafarer's health or safety at risk.

'However, other maritime conventions, such as the IMO's STCW Convention, which specifies the minimum age for certain roles for seafarers covered by the STCW, may already have national standards in place.

³MLC 2006, Standard

⁴MLC 2006, Standard A1.1



ARTICLES OF AGREEMENT

The MLC, 2006, retains its goal of ensuring that sailors have a fair employment agreement. Regulation 2.1 of the MLC, 2006, was accompanied by a genuine push for modernization, with the goal of adapting to the practices and terminology used in various maritime countries for self-employed workers, evidence of contractual or similar arrangements, employment agreements made entirely or partially by a collective bargaining agreement (CBA), and so on.

The criteria of the MLC, 2006 relating to seafarers' employment agreements are included in the scope of seafarers' living and working circumstances that the flag State must assess and approve. Seafarers have the right to a safe and secure workplace

that meets safety standards, as well as the right to fair terms of employment, decent working and living conditions on board ship, and health protection, medical care, welfare measures, and other forms of social protection, according to Article IV.

The MLC 2006 standards for seafarers' employment agreements for seafarers working on ships must be implemented by flag states through legislation or regulations. The employment agreement for seafarers must be signed by both the seafarer and the shipowner.⁵

WAGE AND WORKING HOURS

When seafarers are deprived of much-needed rest, they make mistakes that can lead to accidents. Fatigue has been found as a significant contributor

to numerous maritime accidents. Seafarers are enticed to work above their safe human endurance limitations by both shipowners and seafarers. To preserve sailors' health and marine safety, it is critical to restrict work and rest hours. To ensure that seafarers are compensated for their efforts. Regulation 2.2 stipulates that all seafarers must be paid on a regular basis and in full according to their employment agreements.⁶

The employer is required to pay the seafarer on a monthly basis, with overtime included in the total. Basic pay, often known as wages, refers to compensation for working standard hours, which are typically 8 hours per day and 48 hours per week. The recommended minimum salary for basic pay should never be less than that.

Ensure that mariners have set working and rest hours. To ensure that seafarers' hours of work and rest are regulated, Member States must define maximum and minimum hours of labor and rest throughout specific time periods in accordance with the Code's provisions.⁷

BENEFITS OF MEDICAL CARE AND SICKNESS

The right to free medical care is one of the oldest and most durable rights granted by sailors. This right is so well-established in maritime law that it is automatically included in every seafarer's job contract. It is a fundamental right that no individual seafarer can contract away. If seafarers become ill or wounded while on board, their ship is responsible for paying for their medical and living expenses up to the point of maximum care.

⁵MLC 2006, Standard A2.1.1(a)

⁶MLC 2006, Regulation 2.2

⁷MLC 2006, Regulation 2.3



the selection of a suitable person or committee from among the ship's crew to be responsible for accident prevention under the supervision of the Master. It further stipulates that the competent authority shall implement programs for the prevention of occupational accidents with the cooperation of shipowners' and seafarers' organizations.¹²

Following consultation with representative shipowners' and seafarers' groups, Regulation 4.3 requires the development and promulgation of national rules for the management of occupational safety and health on board ships. It mandates that shipowners conduct risk assessments for the management of occupational safety and health, as well as specific data protection obligations for seafarers. It addresses a wide range of human factors that affect workplace

Furthermore, they should be paid during their recovery until they reach their maximum cure or the end of their contract, whichever comes first.⁹

Regulation 4.2 of the MLC 2006 codifies shipowners' duties to provide seafarers' medical care, incorporating both the general maritime law right to medical care and workers' compensation disability principles. Standard A4.2.1(a) established that shipowners' are responsible to bear the financial costs for seafarers who become ill, injured, or deceased while they are serving under a seafarers' employment agreement or arising from their employment under such an agreement.¹⁰

The shipowner is liable for medical care and board and lodging until the seafarer has fully recovered or the illness or injury is declared permanent. This covers the situation where a seafarer remains disabled after the sickness or incapacity has been declared of a permanent nature (maximum cure). Once a seafarer

reaches the point of maximum cure, the shipowner's liability ends. However, if the injury or illness was caused by employment, the shipowner can remain liable to pay for the seafarer's long-term disability benefits.¹¹

PREVENTION OF ACCIDENTS

Seafarers are defined as all personnel employed in any capacity on board a ship, other than a ship of war, registered in a country for which the Convention is in force and habitually engaged in maritime navigation, according to the Prevention of Accidents (Seafarers) Convention, 1970 (No. 134). The Convention is concerned with occupational accident reporting, investigation, and prevention. It states that "each maritime country's responsible authority shall take the appropriate measures to guarantee that occupational accidents are adequately reported and investigated, and full statistics of such incidents are kept and evaluated."

Convention No. 134 mandates



⁸ibid

⁹George P Politakis, *The IMLI Treatise on Global Ocean Governance* (Oxford: Oxford University Press, 2018), Volumes II, 105-107 Pp.' (2020)

¹⁰MLC 2006, Regulation 4.2

¹¹Standard A4.2.1 (a,b,c)

¹²The MLC, 2006, Article II (4).

safety and health, including exhaustion, drug and alcohol abuse, and other concerns like chemical exposure, noise, vibration, and other workplace hazards.

One of a seafarer's most fundamental rights is to return home or the port of engagement after completing his contract.

Under the MLC 2006, seafarers are entitled to repatriation at the shipowners' expense when their employment agreement expires, or when the employment agreement is terminated by the shipowner or by the seafarer for justified reasons.¹⁴

A seafarer can expect to serve on board for a maximum of 12 months before being entitled to repatriation at the shipowner's expense. Unless a seafarer has substantially infringed the



conditions of the work agreement, shipowners are not authorized to ask for a contribution or make a deduction from their earnings to cover the expense of repatriation. If the shipowner does not pay for the repatriation, the flag state is responsible for it.

ACCOMMODATION AND RECREATIONAL FACILITIES

Seafarers have a right to a safe and comfortable living environment as well as recreational opportunities on board. Flag States must enact rules and regulations requiring ships flying their flag to adhere to a set of requirements that must be inspected. When a ship is registered, re-registered, or when the accommodation on board undergoes significant structural alterations, inspections are required. The Convention's obligations for health and safety protection and accident prevention must also be considered in the rules and regulations governing lodging and recreational facilities.

According to regulation 3.1, each Member shall guarantee that

ships flying its flag offer and maintain adequate lodgings and recreational facilities for seafarers working or living on board, or both, in a manner that promotes the health of the seafarers.¹⁵

FOOD AND CATERING

Regulation 3.2 of the MLC 2006 deals with food and catering for seafarers. The MLC, 2006 emphasizes the necessity of having enough food and safe drinking water on board the ship, as well as food provided by trained catering employees.¹⁶

In that it needs national laws and regulations or other actions, the Convention allows for considerable freedom in the legal form of execution.

Ships must carry appropriate amounts of high quality food and drinking water and supply it free of charge during your time of engagement to guarantee that seafarers have access to good quality food and drinking water given under regulated hygienic conditions. Food must be nutritious and varied, and it must be cooked and served in sanitary

¹³<http://www.oit.org/wcmsp5/groups/public/---deform/---norms/documents/generic_document/wcms_776723.pdf> accessed 13 March 2022.

¹⁴MLC 2006, Guidelines B2.51

¹⁵MLC 2006, Regulation 3.1

¹⁶MLC 2006, Regulation 3.2



national laws, regulations, or even a signed CBA, these elements form the basis of the inspection system, allowing port state authorities to check for compliance.

The incorporation of the MLC, 2006 into state legislation will result in the simplification of reporting responsibilities as well as a broader enforcement power over all ships, so improving the quality of maritime services and environmental protection. Additional flexibility will be

checked, as well as the firmness of rights, in terms of how seafarers will be safeguarded from unfair competition from subpar ships.

To recapitulate, the MLC, 2006, if effectively implemented, will result in improved social interaction at all levels, better-informed seafarers of their rights and remedies, and improved supervision for the shipowner, flag state, port state, and seafarers at all levels.

conditions. Religious and cultural differences must also be taken into account. The Captain or someone under his/her control must conduct and record frequent inspections. The following items must be examined:

Supplies of food and drinking water Spaces and equipment used for storing and handling food and drinking water Galley and food preparation areas.

CONCLUSION

States that sign the Convention may have three responsibilities: first, as a flag state, second, as a port state, and third, as the state from which the seafarer originates, to ensure that the seafarer's fundamental right is maintained.

The Convention's minimum rights are implemented by national laws, regulations, CBAs, or just good practice.

The MLC of 2006 establishes a strict enforcement regime that is

backed by a certification system and demonstrable adherence to basic employment and social standards. A marine labor certificate and a declaration of maritime labor compliance, both issued by the flag State, are required for any ships of 500 GT or more operating internationally. The flag State explains how the ship complies with the Convention's criteria through these documents. If the MLC is incorporated into





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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Ensuring the success of the AfCFTA - Issues for urgent consideration

Introduction

The Africa Continental Free Trade Area (AfCFTA) is estimated to generate USD 3.4 trillion in Gross Domestic Product, increase real incomes by 7 percent, increase trade by up to USD 70 billion and lift more than 100 million people out of poverty by 2040. Most gains will be generated by the manufacturing and services sector.

Eastern and Southern Africa have better capacities in labour, finance, technology and infrastructure to manufacture value-added goods than their counterparts in Central and Western Africa. Countries and regions with less capacity should be supported to take full advantage of the AfCFTA. They would benefit from financial and technical assistance towards localising the agreement and

building competitive value chains.

Relative political stability needs to be assured to support the private sector and multilateral investment in cross border trade-enabling infrastructure. Leadership from the African Union and regional bodies such as the Economic Community of West African States (ECOWAS) and East African Community (EAC) are essential to ensure that changes in governments are constitutional and can support predictable policy environments for localising the AfCFTA.

Support from external actors such as the European Union and other partners of Africa is necessary in the short term, but African governments must tap into local capital markets, sovereign wealth funds, potential

gains from curbing illicit financial flows, and the imposition of mandated levies to support the financing of initiatives under AfCFTA.

ISSUES THAT REQUIRE URGENT CONSIDERATION

AfCFTA aims to create an integrated market through seven core action clusters that guide its implementation. These are geared towards export diversification and the development of manufacturing and industrial value chains by member countries. These action clusters coalesce around tariff reductions (see table 1 below) and the removal of non-tariff barriers over time, for which they set up the non-tariff barrier reporting mechanism.

Despite the potential gains and action points on implementation

Table 1: Tariff reductions proposed across the AfCFTA

Country Classification	Tariff reductions	
	Non-Sensitive Products	Sensitive Products
	No less than 90% of all	Up to 7% of all products
Non-least developed countries	Fully liberalised over 5 years	Fully liberalised over 10 years
Least developed countries	Fully liberalised over 10 years	Fully liberalised over 13 years
Group of Seven (Djibouti, Ethiopia, Madagascar, Malawi, Sudan, Zambia, Zimbabwe)	85% fully liberalised over 10 years; a further 5% liberalised over 15 years	Fully liberalised over 13 years

Source: Pearson Institute for International Economics, based on Economic Commission for Africa Data

indicated above, the Agreement takes institutional dynamics and distributional effects as a given. The development of factor markets and how these influence the national and regional strategies of economic diversification, financial commitments and negotiations under the Agreement are front-burner issues within the broader objective of the AfCFTA building on other regional trade agreements.

Factor market

Regional Economic Communities (RECs), established to foster integration, form the bedrock for the implementation of the AfCFTA. The success of RECs in delivering their mandate has been hindered by the slow pace at which tariff and non-tariff barriers (NTBs) have been eliminated. This is the result of the high degree of diversity among members, significant differences in non-tariff barriers for both soft and hard infrastructures, large cost differences and costs lost to external producers that lead to trade diversions. These bottlenecks hinder the development of regional value chains and export diversification, which are chiefly influenced by how countries and regional blocs organise their productive factors. Additionally, Article 19 (2) of the Agreement protects the gains and relationships made by countries and regions that have achieved higher levels of integration. The provision for differential treatment may

cushion economies with weaker markets but generate negative externalities, such as the 15-year period for removal of tariffs by less developed countries such as Niger and Malawi (see table 1 above). Deliberations around the treatment of less developed countries in the region delayed negotiations in ECOWAS, with objections raised by officials from Morocco regarding the longer period of tariff removal for Nigeria, given the size of its economy.

On a regional scale, economies in Southern Africa produce more sophisticated exports because of their developed and integrated factor markets. Evidence from the United Nations Conference on Trade and Development (UNCTAD) shows that Botswana (90.1%), Central African Republic (76.14%), Mauritius (66.03%), South Africa (49.37%), Togo (64.86%) and Senegal (41.67%) have high manufacturing exports against their total export portfolio. In comparison, Angola (1.25%), Seychelles (11.01%),

Mozambique (1.97%), Nigeria (6.69%) and Cote d'Ivoire (16.17%), have relatively low rates of export manufacturing capacities. Additionally, trade infrastructure that supports cross-border exports in Southern Africa has been in existence since 1910, compared to other economic communities.

Data from the Human Capital Index (HCI) puts South Africa, Mauritius, Botswana, Namibia, Lesotho and Zambia as the top economies with the largest share of high skilled labour required to engage in the manufacture of complex exports.

The absorption of new technologies and the need to diversify manufactured goods to secure benefits from the AfCFTA depends on labour market factors such as mobility, productivity, healthcare conditions, innovation and education.

Southern Africa outperforms all other regions in optimising labour for production, with Kenya following closely on innovative capacity.

The Global Competitiveness Index (GCI) Innovation Capability and ICT adoption indicator puts sub-Saharan



Secretary General of the AfCFTA Secretariat, Wamkele Mene

Africa behind the rest of the world for technology development and utilisation in general.

Yet this only forms a general view; the Tufts Fletcher School and the International Technology Union (ITU) have identified most Eastern and Southern African countries, with the exceptions of Nigeria, Egypt and Ghana, to be leading the way, indicating further disparities in the structures of the factor markets across the continent.

Another influential factor here is finance. ABSA Bank's financial market index for 2020, which uses the capacity of local investors to finance economic activities as an indicator, identifies Namibia, Mauritius, South Africa, Morocco, Eswatini, Botswana, Nigeria, Seychelles, Kenya and Tanzania as the top performers, with Ghana and Egypt emerging as strong performers on policy and institutional architecture.

Political stability is fundamental to the productivity of factor markets. The World Bank designates this as one of the

most important conditions for driving consistency in policy implementation for most African countries, particularly in West Africa.

Only 8 out of 54 countries of the World Bank's political stability in Africa index for 2020 are identified as being stable and not vulnerable to sudden changes in government, politically motivated violence or terrorism.

Negotiation bottlenecks

38 out of 54 countries had completed negotiations under phase 1 and deposited their negotiation instruments as of September 2021. Phase 2 of the negotiations commenced in 2021, with competition policy, intellectual property rights and investments forming core components. There were challenges with the negotiations in phase 1.

The development of value chains and intra-regional markets could take on divergent trajectories and generate



A Presidential group

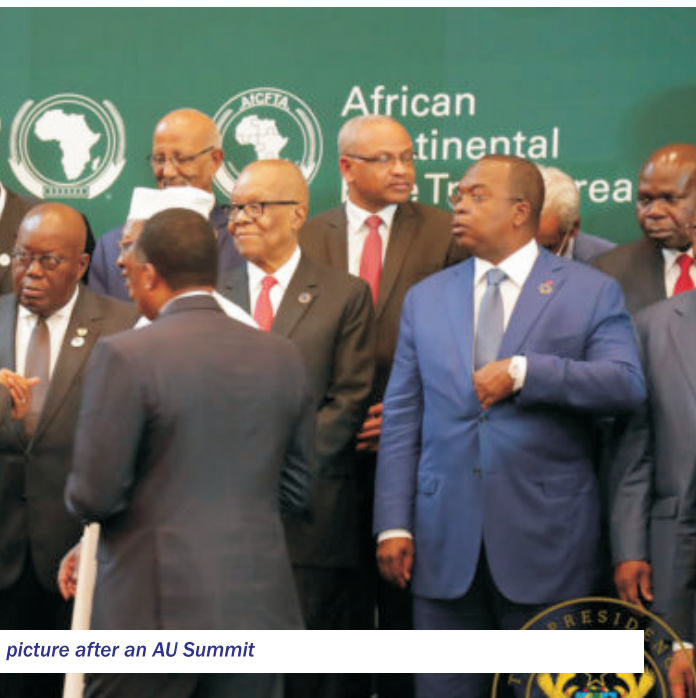
markedly different outcomes if the 'conditional' national clauses negotiated by member states, in accordance with Article (IV) of the Agreement, see the rights and obligations of one country differ from another.

Negotiations are envisaged to be undertaken at the level of countries or regional economic blocs. Therefore, countries that belong to custom unions will negotiate as blocs while those with complex manufacturing capacities will demand stricter rules of origin. The treatment of the least developed countries who are entitled to more extended periods for tariff liberalisation, form parts of regional blocs or that have not ratified the AfCFTA is of critical importance in future negotiations.

Additionally, the direct involvement of the private sector in high level negotiations is limited. The presence of non-state economic actors pursuing gains through enhanced integration at the regional level should be met with action from political leaders.

The current strategy of countries, who already use established





picture after an AU Summit

Financing of initiatives and projects

Non-African multilateral development organisations are financing strategic programmes and advocacy initiatives under AfCFTA. While this is positive in the short term, it could undermine the ownership and commitment of member states in the long term. The recent USD 3 million financing of the AfCFTA Secretariat by the United Nations

Development Programme (UNDP) is part of a chain of initiatives financed by non-AfCFTA members. The pilot trade platform Africa Trade Observatory (ATO) was designed to collect and analyse trade data and monitor the implementation of the Agreement.

Yet it is predominantly financed and managed by development partners: the EU finances the platform by EU 9.5 million and the International Trade Centre (ITC) manages the technical development of the platform.

Africa had similar financing challenges with the New

Partnership for Africa's Development (NEPAD) prior to its reform in 2010, as most initiatives were financed by development partners.

Evidence suggests that only 16 out of the 25 member countries that have both ratified the Agreement and committed to the Kigali Decision on financing the African Union have imposed the mandatory 0.2% levy on eligible imports.

Domestic economic policies and international financial obligations, which are part of the flexible considerations provided by the instruments in the Kigali Decision, form most of the justifications provided by member countries for not imposing the levy.

Considering that members' contributions range between USD 350,000 and USD 35 million, and the annual budget for the programme implementation in 2019 was USD 681.48 million, the contribution of non-African members is significant and presents the risk of ownership. The non-AfCFTA members provided 34 percent of the total budget in 2019 for financing operations of the African Union. African countries must match the

institutions in the private sector, consulting at the national level will generate varying implications for the widespread utilization of the provisions of the Agreement. The work of the Africa Business Council and other private sector led initiatives like AfroChampions will be important in generating support for the implementation of the Agreement in the private sector.

The distribution of technologies and innovation systems that facilitate the service economy and the status of intellectual property institutions carry the potential to unravel or delay negotiations. Out of the 54 countries on the continent, 13 do not have such institutions. The 11 who have adopted supra-national regulations (soft or hard) on anti-competition legislation must be supported to develop their institutions.

It would be beneficial to consider the experiences of other member countries such as Zambia, Ethiopia, South Africa, Tanzania and REC's who have developed institutions like WAEMU, COMESA, EAC, ECOWAS and EMCC.





A factory hand packaging a product

commitments of non-African development partners by increasing their commitment to maintaining levies that support the financing of the Agreement, as well as fostering its domestication in their respective countries.

European support for AFCFTA

Africa intends to pursue a similar model to that of the European Union by creating a large single market area with free trade between its members. The EU could support mutually beneficial results with Africa through its knowledge of implementing tariff reductions, dealing effectively with non-tariff barriers and using broad stakeholder consultation in negotiating trade agreements. Nonetheless, as has been argued elsewhere, such success would be contingent upon the EU listening to what African governments and RECs actually want in regards to intra-African trade and trade with Europe.

RECOMMENDATIONS

Factor markets

Differences in productive resource endowments suggest that it will be near impossible to have an equal or equitable distribution of export manufacturing capacities. Nonetheless, policymakers can minimise factor market weaknesses by:

I. Easing labour mobility through the full implementation of protocols on free labour. This will provide the opportunity for skilled labour in industry and manufacturing to be transferred to contexts where such capabilities are less available. Although not perfect, Southern and Eastern Africa are exemplary in this regard. Other regional blocks such as ECOWAS require more deliberate efforts, given the history of their countries setting aside the provisions on the free movement of persons.

II. Supporting democratically fragile countries through the empowerment of regional parliaments that pass and enforce sanctions on leaders that disrupt governments in ways not foreseen by constitutions. The legislative powers of the East African Legislative Assembly, which takes precedence over

national partner states, is a case in point. Productive factors are intrinsically connected to political stability and recent coups could slow down systematic approaches to capital formation. This has implications for developing production capacities, even if their comparative advantages can be determined.

III. Building cross country infrastructure in energy and transport will support cross-border trade. The World Bank estimates this to cost about USD 47.6 billion per annum. A progressive example that moves towards the development of a natural gas market can be seen in the construction of the first cross border gas pipeline connecting Mozambique to South Africa by Sasol with support from the Multilateral Investment Guarantee Agency (MIGA). The development of regional resources demand collective action on the part of countries in a regional bloc to both facilitate and protect investment. This improves regional and collaborative strategies towards curbing conflicts, as seen in the recent collaboration between Rwanda and oil giant Total towards protecting the regional infrastructure in the oil and gas value chain in Cabo Delgado (Mozambique) . This will better position the private sector to



Product packaging process at a factory

unlock the full potential of sustainable growth through trade, as investments expand in cross-border electricity, healthcare, transport, telecommunications and digitalisation.

Negotiations

As the second phase of negotiations progress, African leaders should be vigilant to ensure that the outcomes of these processes are critical to moving forward.

I. Negotiators must ensure that additional complexities do not generate negative externalities for members that belong to more than one regional economic bloc.

II. Institutional capacities for localisation are not homogenous across the continent. It is in the interest of the AfCFTA to foster the development of the institutions of weaker countries to be able to build their trade supporting infrastructures to the same operational levels.

III. It is essential that the second phase of negotiations around competition policy, intellectual property (services and e-commerce) and investments be undertaken with broader stakeholder engagements and advocacy from the private sector, such as participation through the Africa Business Council.

Financing

The active domestication of provisions in the AfCFTA are significant. Of crucial importance are the financing of national and cross-country strategies for various initiatives under the Agreement.

I. African countries must work individually and collectively to tap into domestic tax revenue, remittances from Africans in the diaspora, domestic savings,

African direct investment, capital markets, sovereign wealth funds and the reversal of illicit financial flows.

II. The continent generates over USD 520 billion in tax revenue and USD 168 billion from minerals and fuels annually, whilst holding USD 400 billion in reserve banks and more than USD 160 billion in sovereign wealth funds. This presents an opportunity for member countries to cooperate with each other while supporting regional initiatives that can mobilize finance to support the implementation of the AfCFTA.

III. Cooperation between bilateral and multilateral development partners of Africa must focus on reform that addresses the inability of some member countries to honour their



Product packaging process at a factory

financial obligations towards the implementation of the Agreement. An example of this can be seen in the World Bank Group in 2020 towards Africa's regional integration. This supported regional connectivity with sub-regional infrastructures, the development of regional value chains and the dissemination of inclusive private sector solutions across Africa to foster trade and capital flows.

The African Union, under the AfCFTA, must address structural market deficiencies by designing strategies that support less endowed countries to mobilise funds towards implementing initiatives.

This can be seen in the AU and Afrexim Bank led USD 5 billion compensation mechanism. This resolved short term fiscal losses and supported the medium to long term adjustments of production activities.

Enterprises such as the USD 2.2 billion investment by MiGA to support cross border investment initiatives of the Eastern and Southern Africa Trade Development Bank and the Development Bank of South Africa should be expanded.

Support must also be provided to tap into the USD 610 million support from the International Finance Corporation (IFC) towards capital market development in member countries to encourage export diversification. This will require member countries to commit their financing requirements under the African Union and the financing mechanisms of the AfCFTA.

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Territorial integrity receives major boost as Ghana Navy gets four new vessels



A miniature vessel being presented to President Nana Akufo-Addo

With Ghana and indeed West Africa currently confronted with twin threats posed by terrorism and violent extremism from the Sahel, and by piracy in the Gulf of Guinea, the President of Ghana, H.E. Akufo-Addo stated that his government is determined to do everything within its power to guarantee the nation's territorial integrity and ensure the safety of Ghanaians.

On the back of this the nation has acquired four (4) new vessels for the Ghana Navy.

The acquisition of these vessels, according to President Akufo-Addo, "is a further manifestation of the commitment of Government to retool and re-equip the Ghana Armed Forces to enable them perform their duty of protecting the territorial integrity of our nation."

Delivering a speech at the commissioning event, the President indicated that these vessels – Ghana Navy Ship Volta, Ghana Navy Ship Densu, Ghana Navy Ship Pra and Ghana Navy Ship Ankobra – have been fittingly named after some of Ghana's famous rivers.

"This is in recognition of significant progress being made by the Armed Forces to end illegal mining in our river bodies and help restore them to their natural state. Naming these ships after them is entirely appropriate," he said.

Outlining the actions that have been taken to protect the country's northern borders from the onslaught of violent extremists and terrorists, the President stated that the Northern Border Project, designed to safeguard our land borders in the North, is progressing steadily.

This, he said, will include the establishment of forward operating bases (FOB) along the northern perimeters, and equipping them with state-of-the-art equipment to defend the country.



A group picture with President Nana Akufo-Addo



Top hierarchy of the Ghana Navy in a group picture with President Nana Akufo-Addo

He added that with the country's economy highly dependent on offshore resources, coupled with the enormous potentials of the maritime sector to contribute to Ghana's food security and employment generation efforts, he stated that these make the provision of effective maritime security of the utmost necessity.

“Therefore, the Ghana Navy, as the lead maritime security agency, deserves all the support it needs to enable it carry out its duties efficiently and effectively,” he said.

President Akufo-Addo added that, “In addition to the four ships being commissioned, Government is in the process of acquiring two (2) offshore patrol vessels with high endurance limits, to maintain constant presence at sea.”

He noted that government will also procure more patrol vessels to respond to the myriad of threats along the coastline, stressing that financing for the acquisition of these ships has been already provided for in the security sector retooling programme, initiated by his government.

The President was confident that with the arrival of these four (4) “river class” ships, as well as the imminent coming into play of the others, the Navy, working in collaboration with other services, will be well-equipped to protect the nation's maritime domain, which will, in turn, serve as a boost for the fisheries and shipping sectors, as well as for offshore oil and gas production.

“Indeed, these four (4) ships are to provide dedicated security to our offshore oil and gas installations, which have, hitherto, been, regrettably, unprotected. They were acquired through a public-private partnership between the Ministry of Defence, Israel Shipyards Ltd, Ghana Commercial Bank and two (2) international oil companies,” President Akufo-Addo said.

He, thus, reaffirmed his confidence and that of the nation in the competence, dedication and professionalism of the officers, men, women and civilian staff of the Ghana Armed Forces.

“Their loyalty to the Republic and to the maintenance of its constitutional order continues to be exemplary. I am glad to note, in particular, the achievements of the Navy in the fight against piracy, fuel smuggling and other maritime crimes,” he said.

President Akufo-Addo reassured the security services that his Government will not waiver in its quest to empower the security and intelligence services.

“On your part, the Ghanaian people expect you to superintend over the judicious and productive use of these assets, so as to help secure the integrity, peace and stability of our nation,” he added.

SOURCE: GoG

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