



Maritime Law and International Trade Conference 2007

The Ghana Shippers' Council (GSC) under the auspices of the Ministry of Harbours and Railways held its second Maritime Law and International Trade Conference at the International Conference Centre in Accra on the 13th and 14th of August. The occasion was also used to launch the Council's publication –*Maritrade* – a compilation of papers presented at the maiden Maritime Law and International Trade conference.

Delivering the welcome address, the Chief Executive Officer of the GSC, Kofi Mbiah, noted that the high freight factor in sub-Saharan Africa continues to make goods expensive in economies of sub-Saharan Africa and steps must thus be taken by all players to reduce the freight factor and make African exports more competitive. According to Mr Mbiah, the freight factor for sub-Saharan Africa is estimated to be around 12%, and for landlocked economies, between 25% - 30%.

Mr Mbiah underlined the very important role that Maritime transport has to play in the achievement of the Millennium Development Goals. “Without doubt, shipping can help eradicate extreme poverty and hunger, and accelerate the building of global partnerships for development.”

He stressed that African countries can attain the MDGs only if they are well informed about current trends and new developments that would enable them position themselves to take advantage of the new technologies for building those partnerships.

The CEO of the GSC said in pursuing its objective of protecting and promoting the interests of importers and exporters, the Council has now established Shipper Committees in all the ten regions which are made up of importers and exporters. According to him the Committees discuss problems associated with the import and export business and also find solutions to the problems.



He further stated that the Council has introduced an electronic/digital platform known as *Mobiship* that allows importers and exporters to access ship movements on their mobile phones through all the four mobile telephony service providers in the country.

He said the Council has continued to provide transport logistics as part of its mid-term strategic plan between 2004 and 2008. Logistics is provided in the area of warehousing, conference facilities, as well as shippers' information centres where importers and exporters use the internet transport portals to carry out business with their partners across the world.

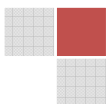
Dr J L S Abbey of the Centre for Policy Analysis, who was the Chairman for the opening ceremony, commended the Council for organising the conference for the second time and thus providing the platform for the major stakeholders in the industry to be educated on new developments in the industry.

The Deputy Minister for Trade, Industry, PSD and PSI, Gifty Ohene-Konadu, in her goodwill message noted that a country without a reformed and systemised method of dealing with new issues in trade, risked being left behind. She therefore called for modernization of trade facilitation measures especially having regard to the developments in international trade.

She stated that, it is in this light that her ministry has come out with a trade facilitation component under the Trade Sector Support Programme (TSSP), which has been designed as a capacity building initiative to implement the National Trade Policy in order to make businesses in the country vibrant. She therefore appealed to Customs, Excise and Preventive Service (CEPS), Port and Harbours Authorities, the Ghana Shippers' Council, Forwarding and Clearing Agents and other stakeholders who have roles to play in the TSSP to cooperate with her ministry to ensure the successful implementation of these projects.

Delivering the Keynote Address, Professor Christopher Ameyaw-Akumfi, Minister of Harbours and Railways hinted that in spite of all the efforts by Government to remove the illegal and unwarranted charges at the country's ports, the practice continued unabated. He said apart from clogging and making clearance procedures at the ports slow, the illegal charges also make the cost of business high, which ultimately affects the competitiveness of the ports.

According to the Minister, his Ministry is poised to modernise seaports infrastructure to ensure that Ghana continues to be the preferred destination of globally acclaimed businesses, and would in this direction collaborate with the private sector and public institutions towards the achievement of this objective.



Touching on the relevance of the Conference, Prof. Ameyaw-Akumfi disclosed that it was a forum for industry players and academicians to engage in useful exchanges. He was optimistic that the conference will grow eventually to serve as an international clearing house, where ideas would be shared and traded with the potential of boosting the practice of maritime law and international trade in Ghana.

Professor Christopher Ameyaw Akumfi performed the launch of *Maritrade* after his address. The first copy of the publication was bought at an auction price of €5million by the Ghana Maritime Authority.

When the conference itself began, Prof P. K. Mukherjee of the World Maritime University in Malmo, Sweden was the first to present his paper – *Arrests of Ships and the Recognition and Enforcement of Foreign Maritime Liens*. Among the highlights of his presentation was.

His presentation dealt with issues of jurisdiction in relation to the Mareva injunction. He further drew a distinction between liens and maritime liens, when they attach to the vessel and the important issues of priorities for the settlements of claims as well as the recognition of maritime liens.

Prof. Mukherjee posited in his presentation that the substantive law as to the nature of a given maritime claim is not the same in all jurisdictions; in particular, and that there are fundamental differences in the civil law and common law perceptions of the nature of a maritime lien.

He further asserted that there are some significant differences in the laws of different jurisdictions with regard to the categorisation of a given type of claim, e.g., the necessities claim.

Prof. Mukherjee finally concluded that priority rankings as between categories of claims are different in different jurisdictions; and that in some jurisdictions, whether or not a particular claim has the status of a maritime lien is not discernible because priority ranking in the relevant legislation is not based on any categorisation of claims.

The second presentation on *Growing your Business through Effective Shipping Strategies* was delivered by Augustine Adongo, Executive Director, Federation of Associations of Ghanaian Exporters (FAGE)

His paper focused on the general strategic directions for performing beyond best practices with a focus on key strategies for competitiveness within the global shipping arena. It further touched on operational productivity for value addition and the determinants for liner competitiveness among others.



Mr. Adongo finally dealt with strategies that create value for the shipper, freight forwarder and the shipowner. He stressed that because of globalisation, technological advancement and unrelenting pressure to increase shareholder values, businesses were required to adopt effective strategies to enable them meet the challenges of the times.

Mr Emmanuel K. Arku, Head, Freight Department, Ghana Shippers' Council was the third resource person to make a presentation. His paper was titled *WTO Services Negotiations: Towards the Protection of Developing Countries Interests*

His paper focused on issues of concern to developing economies in international trade transactions within the framework of the General Agreement on Trade in Services (GATS). It further analysed issues relating to transparency obligations, trade facilitation and the strengthening of domestic services capacity among others.

Mr Arku stressed in his paper that multilateral rules governing trade have come to stay, and therefore developing countries must learn quickly to play by them. He further highlighted the need for the involvement of developing countries, especially in the rules making discussions to ensure that their peculiar concerns are carried on board.

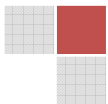
He was of the view that for developing economies to enhance their capacity to integrate beneficially into the world economy, liberalisation must proceed at a speed that is not too rapid for local actors, the regulatory framework and social safety net must be adequate, and there must be a competitive business environment and suitable accompanying policies.

The second day's session began with a presentation by Kofi Mbiah, Chief Executive, Ghana Shippers' Council on the topic: *Maritime Terrorism and Supply Chain Dislocation: Dealing with Threats of Catastrophic Proportions*.

His paper examined supply chain logistic and its importance as well as the dynamic and complex issues of maritime terrorism and the efforts by international legal regime to deal with the menace.

Mr. Mbiah submitted in his paper that the threat of maritime terrorism was real and would haunt the international maritime and trading community for years to come. He further noted that any act of maritime terrorism is likely to affect the supply chain and cause severe dislocation of the axis on which the world economy rotates.

The CEO of GSC pointed out that the threats and challenges posed by incidents of maritime terrorism present developing economies with an opportunity to increase and improve upon their security systems. According to Mr. Mbiah, in countries that have awoken to the realisation that their economies are completely dependent on the security



integrity of the logistics chain, strategies have been put in place to reap the advantages of increased security.

Mr. Mbiah said developing countries must focus their attention on the training of personnel, acquisition of relevant equipment and gear, re-orientation of customs – a shift of emphasis from enforcement to security protection, collaboration with other governments and agencies for the sharing of intelligence, education of all involved in the supply chain and finally the emphasis on best practices for trade facilitation.

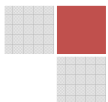
Dr Bola Fajemirokun, Managing Partner, Fajemirokun & Fajemirokun (Barristers & Solicitors), Lagos, Nigeria., was next to make a presentation. She chose to speak on *Marine Cargo Claims: Obligations, Liabilities and Remedies of Parties to the International Transport Contract*.

Dr. Fajemirokun's paper examined the key issues relating to obligations of importers or exporters as well as remedies open to them in cases of breach of international contract. Her paper further shed light on the liabilities and obligations of cargo owners and carriers within the framework of international conventions as well as the liabilities, obligations and rights of terminal operators within the framework of multimodal transport.

According to Dr. Fajemirokun, marine cargo claims embrace marine insurance claims for indemnity or premiums and identified loss or damage to goods carried wholly or partly by sea, delay in delivery, freight, charter hire, demurrage or damages for detention claims as some examples of marine cargo claims. She further pointed out that marine cargo claims have a narrower ambit than maritime claims. She said maritime claims extend to claims in connection with the ownership or possession of ships, contingent and ancillary liabilities arising from ship operations and wages claims for ship's master or crew among others.

Dr. Fajemirokun said the challenge in the West African sub-region is to engender effective collaborations to secure a level playing field in connection with international transport contracts and to actively participate in regional and global policy processes.

Mr. Fitzgerald Odonkor, Head of Projects, Ecobank, The Gambia delivered the last paper to bring the two day conference to a close. His paper was on *New Trends in the Provision of Financial Services for International Trade Transactions*. His presentation looked at new financial products on offer by International Financial Institutions, the new Uniform Customs Practice for Documentary Credits (UCP 600) among others.



Mr Odonkor identified Structured Trade Finance and Foreign Currency Borrowing as two new trends in the in the acquisition of funds to finance import and export transactions. Structured Trade Finance refers to cross border finance especially of commodities in emerging markets where the intention is to get repaid by the liquidation of a flow of commodities while Foreign Currency Borrowing refers to the possibility of both importers and exporters borrowing in currencies other than their own with the objective of reducing their cost of borrowing and also being able to better plan their cash flows.

Mr. Odonkor also identified Avalised Drafts, Forfaiting and Factoring as some of the new financial products on offer by international financial institutions. Mr. Odonkor said the challenges of international trade continue to grow with the increasing sophistication of business transactions and the overwhelming reality of interdependence and thus called for innovation from major players including financial institutions and the regular updating of international rules and practices for cross border trade.

