



EDITOR'S CABIN.

This is the 6th edition of OFIANYI CHAMBERS NEWSLETTER publication so far. In this edition, we are glad to present to you, research analysis on array of maritime topics that are timely and interesting, featuring: Domestication Of The African Continental Free Trade Area (AfCFTA), Effective Utilization Of Garnishee Proceedings In Recovery Of Debts And Effective Defences Thereto: Prospects, Challenges And Avoidable Pitfalls, The Judiciary: The Hidden Wounds, Fundamental Of Commercial Shipping,. Etc.

This edition is authored by Oluwakemi Awoniyi, Adaeze Eileen Ojiako and Ajogu Kelechi..... It also features glossary of shipping terms, which we trust you will find most intriguing. We hope you find this edition informative, engaging and entertaining.

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DOMESTICATION OF THE AFRICAN CONTINENTAL

FREE TRADE AREA (AfCFTA)

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Introduction

AfCFTA is a strategic framework for delivering of Africa's goal for an inclusive and sustainable development. Is it a multilateral trade agreement by member states of the African Union and is facilitated by the African Union Commission. The main objective of the agreement is to boost intra – African trade through the creation of a single continental market for goods and services.



The AfCFTA emphasizes the reduction of tariffs and non-tariff barriers, and the facilitation of free movement of people and labor, right of residence, right of establishment, and investment. Member nations of the African Union vary in their preparedness to execute the requirements of the agreement and its related protocols and annexes. It is also a fact that for AfCFTA to thrive, the continent needs to address the existing annual infrastructure deficit, there is the need to develop national strategies to guide the implementation of AfCFTA.

Accordingly, African Countries must be willing to have open borders. Coincidentally, developments such as Nigeria's August 2019 closing of its borders with Benin and Ghana may cripple AfCFTA's effectiveness, especially when all the

involved Countries are signatories to AfCFTA.

The Agreement was signed on 21 March 2018 at the Extra-Ordinary Summit of the African Union held in Kigali Rwanda and came into force on 30 May 2019 after Gambia became the 22nd State to ratify it. Nigeria signed the Agreement on 7th July 2019 and after initial dilly-dallying, ratified it in November 2020 leading to the formal deposit of the Instrument of ratification before the 5th December, 2020 submission deadline.

In terms of structure, the main Agreement is divided into 7 Parts and 30 Articles. In addition, there are Protocols, Annexes and Appendices which equally form part of the AfCFTA Agreement. Three of these Protocols are.

- The Protocol on Trade in Goods



- The Protocol on Trade in Services, and
- The Protocol on Rules and Procedures on the Settlement of Disputes.

AfCFTA is fashioned after the principles of the World Trade Organization, General Agreement on Tariffs and Trade, and General Agreement on Trade in Services (WTO/GATT/GATS). AfCFTA has some of the trappings of custom union and common market even though one of AfCFTA's objectives is the creation of Continental Customs Union at a later stage. Conceptually, economic integration is broadly classified into five stages:

- Free trade area
- Custom union
- Common market
- Economic union (single market)
- Political union.

Benefits

AfCFTA is the world's largest free trade zone since the establishment of the WTO in 1994 and offers a lot of benefits to member states particularly those with competitive advantage and enabling infrastructures. Africa has a population of 1.3 Billion people and a combined GDP of over \$2.6 Trillion (more than 6 times of Nigeria's GDP).

AfCFTA's agreement came into effect on the 1st of January 2021. Although, full implementation of the agreement may take some time as countries would have to negotiate aspects of the Agreement such as trade, dispute settlement processes, tariffs and intellectual property rights. Nigeria is however poised to gain from the investment and trade opportunities that the AfCFTA will inevitably bring.



Market Size of Nigeria

Nigeria has the largest economy and population in Africa with more than \$500 billion in GDP and a population of 200 million. This market size allows manufacturers to increase capacity and expand into other African countries. This enables investors to benefit not only from the Nigerian market but from other countries of the continent as well. Nigeria contributes an estimated 76% of total trading volume in the ECOWAS region. This is made possible because of the ECOWAS treaty which provides for the free movement of people and goods throughout 15 West African countries.

Conclusion

There have been concerns about the effect of AfCFTA on the Nigerian economy; these concerns can be addressed by

the Government, putting in place modality to ensure that SME and Vulnerable industries are protected. Improving transportation infrastructure, enforcing policies and initiative like the Ease of Doing Business (EODB). This would see a reduction in the cost of production and service and in turn make goods export friendly. It is clear that we must look for African solution to Africa's problems, and this can be found in the unity of Africa. Africa will become one of the greatest forces for goods and services in the world.

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continental-free-trade-
area

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**EFFECTIVE UTILISATION
OF GARNISHEE
PROCEEDINGS IN
RECOVERY OF DEBTS
AND EFFECTIVE
DEFENCES THERETO:
PROSPECTS,
CHALLENGES AND
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satisfaction of a judgment sum or debt.

LAW AND PRACTICE OF GARNISHEE PROCEEDINGS IN NIGERIA

INTRODUCTION

One of the methods by which liquidated money judgments can be enforced is by way of garnishee proceedings. Garnishee proceeding otherwise known as 'Garnishment' is a judicial process of execution or enforcement of monetary judgment whereby money belonging to a judgment debtor, in the hands or possession of a third party known as the Garnishee (usually a bank) is attached or seized by a Judgment creditor, the Garnisher' or Garnishor, in

General overview:

Garnishee proceedings is one of the most effective means for enforcing monetary judgment in Nigeria. By its nature, garnishee, proceeding is 'sui generis' and different from other court proceeding, although it flows from the Judgment that pronounced the debt. See the case of *Heritage Bank Limited V. Inter Lagos Oil Limited & Another. (2018) LPELR-4480(CA)*

Black's Law Dictionary in describing garnishee



proceedings as garnishment states thus:

A judicial proceeding which a creditor (or potential creditor) ask the court to order a third party who is indebted to or is Bailee for the debtor to turnover to the creditor any of the debtors' property (such as wages or Bank accounts) held by that third party.

a. Parties to a garnishing Proceedings:

a- **Judgment creditor;** a person who is awarded a judgment by the court (simply party seeking enforcement)

b- **Judgment debtor;** a party against whom judgment was entered and from whom the debt is to be collected (simply party against whom enforcement is sought).

c- **Garnishee;** the third party having the funds to be attached.

Challenges in the Garnishee Process

1. Who are the actual parties to the Garnishee proceedings?
2. How can a judgment creditor possibly meet/fulfill the requirement of the law in satisfying the court that the judgment debtor has funds in custody of the third party, as to require the grant of an order nisi to show cause?
3. Can a garnishee protect the funds of the judgment debtor in its custody and make a case for same not to be attached?
4. Is the consent of the Attorney General still



required before funds in the custody of a public officer will be attached by an order nisi?

5. Who is a Public officer within the meaning of section 84 of the sheriffs and civil process Act (SCPA)?
6. What are the possible defenses available to the judgment debtor in a garnishee proceeding?
7. Similarly, are there any defenses available to a garnishee in such a proceeding?

All of these challenges will be considered.

b. Nature of Garnishee Proceedings:

Garnishee proceedings are distinct proceedings from the original action the import of which is that it is only incidental to the action

which produced the judgment. This much was held by his Lordship, **Kekere Ekun, J.C.A** (as he then was), in *Denton- west v. Muoma (2008) 6 NWLR pt. 1083*)⁴¹. When His Lordship stated thus;

“there is no doubt that the garnishee proceedings are separate proceedings between the judgment creditor and the judgment debtor, even though it flows from the judgment that pronounced the debt owing.”

Suffice, however to note that at the initial stage of garnishee proceedings, only the judgment creditor and the garnishee are usually involved thereby excluding the judgment debtor.



Garnishee proceedings, to such an extent, would appear to differ from execution. According to **Galadima, J.C.A.** (as He then was) in the case of *Purification Tech. Nig. Limited. V. Attorney General of Lagos State, (2004) 9 NWLR (pt. 879) 665*. The position of His Lordship is that failure of Garnishee proceedings in whatever form will still ultimately require execution.

While garnishee proceedings strictly relate to money judgment, same cannot be said of writ of execution. Secondly ultimate execution under garnishee proceedings is usually on the garnishee's assets unlike under writ of execution which is usually directed against the judgment debtor's assets. Last but not the least, garnishee proceedings are usually a

faster mode of enforcement when compared with writ of execution.

Another feature of garnishee proceeding as opposed to other methods of enforcement of judgment is that it is like an equitable charge on the assets of the judgment debtor in the hand of a third party. See the case of *C.B.N. V. Auto import Export (2013) 2 NWLR (pt.1337) 80. 127*

Stages in garnishee Proceedings

The garnishee proceeding is in two different stages.

- 1- Garnishee order nisi
- 2- Garnishee order absolute

The statutory basis of this is in the provisions of the Sheriffs and civil process Act SCPA and order VIII of the Judgment enforcement procedure Rules.



The first stage, the judgment creditor makes an application ex-parte to the court (which need not be the court that gave the judgment) that the judgment debt in the hands of the third party, the garnishee, be paid directly to the judgment creditor unless there is explanation from the garnishee why the order nisi should not be made absolute.

If the Judgment creditor satisfies the Court on the existence of the garnishee who is holding money due to the judgment debtor, such third party (garnishee) will be called upon to show cause why the judgment debtor's money in its hands should not be paid over to the judgment creditor, and if the court is satisfied that the judgment creditor is entitled to attach the debt the court will make a

garnishee order nisi attaching the debt.

It is important to note that where the garnishee proceedings are before a court other than the court that gave the judgment, a certified copy of the judgment must be attached to the ex parte application. See the case of **UBN PLC V. Bear Marine Services Ltd. & Anor (2008) LPELR-43692 (CA)**

The essence of the order nisi is to direct the garnishee to appear in court on a specified date to show cause why an order should not be made upon him for the payment to the judgment creditor of the amount of debt owed to the judgment debtor. By statute, a copy of the order nisi must be served on the garnishee and judgment debtor at least 14



days before the adjourned date for hearing.

The second stage is for the garnishee order absolute. Where on the adjourned date, the garnishee fails to attend court or show good cause why the order nisi attaching the debt should not be made absolute, the court may subject to certain limitations make the garnishee order absolute. The garnishee, where necessary also has an option of disputing liability to pay the debt.

Procedure for Commencing Garnishee Procedures.

The procedure required for commencing garnishee proceedings is contained in Section 83 (1) & (2) of the SCPA.

Can a person/entity other than a bank be a Garnishee?

By the clear wordings of section 83 of the SCPA, without a doubt about person or entity with funds standing to the credit of the judgment debtor can be subject to a garnishee proceeding as a garnishee.

Proceedings against all known Banks in the Territory: casting the Net

By section 83(1), SCPA, a judgment creditor who intends to enjoy the fruit of his judgment, is expected to commence garnishee proceedings against garnishees that he has ascertained are indebted to the judgment creditor.

According to M.A. Banire, SAN:

“...this method of making all banks garnishees in garnishee proceedings is regarded as casting the net while hoping



that it catches a fish or two. The practice does not only Contravene the provision of the Law but also imposes undue obligations on the garnishees all of whom have to respond through their appearances mostly by legal practitioners in a matter that have no bearing to them... the Courts are hereby enjoined to discourage this practice as a lazy way out."

A corollary issue here is whether the Garnisher is under obligation to specify in the affidavit in support of the application for the order nisi details of Bank Account of the judgment debtor or amount standing to the credit of the judgment debtor with the garnishee and some other strict details. This was

considered in the case of **Oceanic Bank PLC. V. Oladepo** and it was resolved that ...

" ... the relevant particulars required by section 83 (1) of the Sheriff and Civil Process Act, for the purpose of garnishee proceedings, had been satisfied by the 1st Respondent and that the Application at the lower Court was not speculative, simply because the account number and the exact amount the credit of the judgment



Debtor was not stated by the 1st Respondent..."

This decision is well founded on the legal maxim '*lex non cogitadimpossibilia*'. It is noteworthy that some Court insist on specifying details of the accounts.

Can a Joint account be Subject of Garnishee Proceedings?

The law clearly forbids that a joint account be garnished on account of the debt of one of the Partners. See the case of *Plunkett v. Barclays Bank Limited. (1936)2 K.B 107*

Can a garnishee Allow funds in its Custody to be Withdrawn after the Order Nisi has been Granted and served on it?

The Law is trite that once the Judgment debtor's money in the hands of the garnishee has been attached, the garnishee

cannot tamper with the money or pay it over, for any reason howsoever to the third party except by order of court. Where a garnishee so allows itself to transfer funds attached by an order nisi before the order is discharged, such garnishee renders himself liable for contempt or runs the risk of the order been made absolute against it. See the case of *C.B.N v. Krauss Thompson Organization Ltd.*

Attorney General's Consent in Garnishee Proceedings-what the Law Provides?

It is the Law that where money sought to be attached is in the custody of a public officer in his official capacity, the consent of the Attorney General must first be sought and obtained before garnishee proceedings can be duly or validly commenced for the attachment of any judgment debt against the affected



government otherwise his case will be struck out by the Court. This is the provision and purport of section 84 of the SCPA.

In the case of Central Bank of Nigeria PLC. being a public Officer within the meaning of section 84 of the SCPA the Supreme court was trite when it held in the case of *C.B.N v. Interstellar* (2018) LPELR-44058 that:

“By virtue of section 2(e) of the Central Bank of Nigeria Act, the Central Bank of Nigeria acts as a banker and provides economic and financial advice to the Federal Government of Nigeria. Further, by section 36 of the

Act, the Bank receives and disburses Federal Government moneys and keeps account thereof. In this case the relationship of the 3rd and 4th respondents were that of a banker and a customer relationship. In other words, the appellant was not a public officer in the context of the provision of section 84 of the Sheriff and Civil Process Act. So the need to seek the consent of the Attorney-General did not arise”.



Possible Defence available to a judgment Debtor.

In line of the constitutional guaranteed right of fair hearing, a judgment debtor should be heard. Be that as it may, the judgment debtor can raise either of the following as a defense to the garnishee order nisi being made absolute:

1. Show cause why the order nisi should be set aside for want of excess of jurisdiction, for instance where the garnisheed amount is not in accordance with the judgment of the Court.
2. Show that there has been a partial or full execution of the judgment subject of the garnishee proceedings.
3. Prove that proper parties are not before the court.

4. Show that there has been an order staying execution of the judgment or that there is a pending application for stay of execution of the judgment before a Court.

However, any challenge to the judgment will be at another forum, definitely not at the garnishee proceedings. See *Nigerian Breweries v. Dumuje* (supra).

Effect of section 12(2) of the Limitation Law of Lagos State on Garnishee Proceedings.

Section 12(2) of the Limitation Laws of Lagos state on Garnishee Proceedings provides that

“An action will not be brought upon a judgment after the



expiration of twelve (12) years from the date on which the judgment became enforceable ."

What if the process of commencing garnishee is stalled by an Appeal and stay of execution filed by the judgment debtor? The simple answer is to commence the execution process irrespective of the application for stay and let same be pending to prevent being caught by the Limitation law.

Appeals arising from Garnishee Proceedings

There are two types of appeal, these are interlocutory and final appeal. Garnishee proceeding being *sui generis* in nature, the appeal arising

there from will be considered as being final or interlocutory.

If the decision made in relation to the order nisi (in essence an ex-parte order), then such an appeal will be an interlocutory appeal.

The decision in the case of **Oceanic Bank Plc v. Oladepo & Anor (2012) LPELR-196070 (CA)** is that;

"it must be stated that there is no right of appeal against an ex-parte decision of the High Court, such as the Order nisi in this appeal, to the Court of Appeal- see Section 14 (10) of the Court of Appeal Act, 2004"

In relation to an Appeal against an order absolute, this was the position upheld in the case of **UBA PLC v. Emeka**



Onuoha 7 ors (2014) LPELR-24360(CA) as follows:

“in any event the Garnishee order absolute made by the Learned trial judge put an end to the Garnishee proceedings. The Garnishee Order Absolute wears the toga of finality once made...”

CONCLUSION

Garnishee proceedings is one of the most effective means for enforcing monetary judgment in Nigeria, the Law is trite that once the Judgment debtor’s money in the hands of the garnishee has been attached, the garnishee cannot tamper with the money or pay it over, for any reason howsoever to the third party

except by order of court. In line of the constitutional guaranteed right of fair hearing, a judgment debtor should be heard. However, any challenge to the judgment will be at another forum, definitely not at the garnishee proceedings.

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THE JUDICIARY: THE HIDDEN WOUNDS.

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INTRODUCTION

The only people who speak on issues are the affected /those who are adversely affected , which is the only reason the Judiciary is in a state of disarray today .

For a long time we have acted as if the administration of the

justice is not to be spoken about except for those affected, but little do we realize that the judiciary and the legal profession at large should be the voice of reason and call to justice for the ordinary layman. In previous administrations, the Nigerian judiciary has gotten the level where the Chief Justice of Nigeria himself is a product or beneficiary of the evil of the destruction of the citadel of justice.

UNSEEN WOUNDS

There are more hidden wounds on Nigerians daily afflicted by the judicial system, no greater fallacy in the halls of justice than this most popular phrase echoed at every turn in the court rooms, 'As the court pleases'. It was originally intended to be a demonstration of the respect for the judge and fact



there is nothing else that can be done in conclusion of disputes in a court after judgment is delivered by the judge; since it is in the interest of all, including litigants, that there should be an end to litigation. Unfortunately, the phrase was evolved from a good servant to an intimidating monster; it has turned the court to a military camp. It is being presented like a license to kill or benefit from and say nothing.

A nation like Nigeria, where some skilled and specialized roles do not have the right training and certification, most people are not trained for most critical jobs in the country (Judges are not trained mind you), 'As the court pleases has turned to a tool for power and used for intimidation of the fainthearted, and the same

layman the judiciary is to protect and fight for injustice are the ones who go through distress and oppression under the same institutions that should not be victims of their situations.

THE CHALLENGES OF THE JUDICIARY

Most people, especially privileged Nigerians do not know the terrible tribulations the average or poor man in Nigeria goes through and the courts do well to frustrate the hope of the ordinary man who uses it as a last resort of help for humanity or enforcement of his personal rights.

In many situations and frequent occurrences which a lawyer and a client rejoice after getting judgment in their favor, little do you realize between a judgment delivered



and reaping of the fruit of judgment could be such a tedious and strenuous exercise, especially when the same officers the court clerk, court secretary, chief registrar, bailiffs and the police; the main drivers who should do their duties and not obstruct justice. Most of them will never let you reap or have anything go smoothly without the usual phrases like 'anything for me? Oga do something for your person' etc. you will need to grease their palms, as we all know and the usual bribery that happens by paying a good percentage of the judgment sum which by the time all that is done, nothing for the lawyers and the client himself to rejoice after getting judgment in your favor most of the times enforcement becomes more of the issue.

Truth be told by the time the average Nigerian or lay man goes through this, they ask questions and wonder whether resorting to the court for justice is really worth it, it would even have been better letting a debtor owe you than incurring or losing more in the process of seeking justice and incurring more financial loss .

Furthermore, what Nigerians see as open wounds in most major cases are situations, where the conscience has not only been crushed but threatened and a few speak up who are affected. A large number of Nigerians believe anything, everything, and anyone has a price tag at any time they can be bought over, influenced, or coerced with money.

When a matter is filed by a person, normally it will take



months before getting assigned to a court ; but when filed by another person B ,it can be heard same day, or in appeal cases in Nigeria today a matter 'case A' entered in 2008 may not have been heard while no date assigned and you will see 'case Z 'entered in 2021 has been heard, decided and reported , why because the case A is not a political figure or a child /spouse or even relative to a high profile official; these are hidden wounds inflicted in various ways we remain silent yet somehow no one reports or investigates why the system is this way. An institution that has all the power to probe yet sits back and blames victims who are not sure of the authority to report or is it the police force that is not as effective or efficient in even attending to emergency cases

and make you go through long tedious process or last resort to bribe yourself out of the situation.

RECOMMENDATIONS / QUESTIONS TO BE ASKED

Sadly this shouldn't be the normal way of doing things or progressing in Nigeria. Are we going to shake the table of the police force but that's for a different day, as a lot has to be done with the management and structure, because the sector of those who are to protect Nigerians are causing more problems and havoc in the society at large today. As a lawyer I go to the station and I see 'Bail is free' highlighted boldly which is a big lie! ; deep down already you, you know you have entered it with the police offers at their desk because you will most likely bribe or go through a longer means



not following their crooked ways or protocols to get an immediate discharge of a client. Most times, it is oppression of citizens who are in their right standing which is very unfair and we the rest are bystanders observing or doing nothing as we see victims harassed as we don't want to be involved or dragged in the mess of the given situation. We are deprived of that which is ours by rights and we ask all for minimal things from the government. Unfortunately, most Nigerians agree with the politicians without questions the rationale or question some policy that make no sense or favor the citizens that vote the same people into power.

Should we continue to keep quiet and be onlookers until we see cracks on the wall or hear the sound of the fall of

the edifice called judiciary or see fire burning from the temple? Should we only wait until we are hit and the situation affects us or someone we know well (family, or loved one)?

The Legal profession, the lawyers who are the drivers or stakeholders in this profession must stand and speak up, as we are the voice of reason to question a lot the average Nigerian has no idea or knowledge on and speak up for the human rights and independence of the judiciary. Why should clerks be allowed to go scot-free when they mischievously connive with defendants to adjourn dates at convenience or hide case files? Why should judges not create an atmosphere where lawyers can in particular on behalf of their clients report the malfeasance of their clerks



and secretaries and have it rectifies? Why should copies of judgments and rulings not be given mandatorily and at no cost within the period specified by the constitution?

CONCLUSION

To paraphrase a Bible verse, should we continue in sin of afflicting the people with injustice and allow oppression go on so we retain the so called "honor and dignity" of an institution whose beauty has been tainted and slain behind closed doors in high places?

In conclusion, I call the Political drivers of our profession, judicial workers, key players, and stakeholders in this Judicial systematic rot, those who want to be in the good books of the public and do not speak up as well as those who were once speakers

and have been muted, we all need to stand in unity on the same issues that plague the judiciary and the legal profession at large as we are all stakeholders, while not trying to put the judiciary in bad books the wounds are unseen yet affects all, they are becoming cancerous and a torn in the flesh for one who deals daily with this pending issues , may we not continue to be politically correct and we fail to speak on the evil decay and rot in the judicial system . As I will fondly quote the Bible - Mark 3:25 - 'can a house stand when it is divided against itself?'

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FUNDAMENTALS OF COMMERCIAL SHIPPING

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Introduction

Commercial shipping cannot be discussed without defining shipping.

Shipping is a general parlance for describing the movements of goods from one location to another. There are different modes either by sea or land in this article we will discuss on sea transportation, goods can be classifier under import s or

exports. The transportation of goods and commodity are usually handled under the following nomenclature

Nomenclature of Shipping

Break bulk

Break bulk was derives from the phrase **breaking bulk** the extraction of a portion of the cargo of a ship or the beginning of the unloading process from the ship's holds. These goods may not be in shipping containers. Break bulk cargo is transported in bags, boxes, crates, drums, or barrels. Unit loads of items secured to a pallet or skid are also used.

Break bulk was the most common form of cargo for most of the history of shipping. Since the late 1960s the volume of break bulk cargo has declined dramatically worldwide as containerization has grown. Moving cargo on and



off ship in containers is much more efficient, allowing ships to spend less time in port. Break bulk cargo also suffered from greater theft and damage. It is commonly used for cargo that is hard to containerized and usually involves hard labour for loading and unloading; making it sometimes vulnerable to pilferage e.g. wheat, cement, iron and steel rods, sugar, etc

Containerized cargo

Containerized cargo means cargo shipping in a container. Containers are used to transport freight in multiple modes: ship rail and truck. There are many configurations: dry, insulated or thermal, refrigerated or reefer, flat racks and platforms, open top and tank. Usual dimensions: width 8 feet, height 8 foot 6 inches or 9 foot 6 inches, lengths 20 foot or 40 foot. Less common

lengths include, for example, 24, 28, 44, 45, 46, 48, 53, and 56 feet. All liner companies have adopted the size standard of the ISO (International Organization for Standardization) as their standard / average size, enabling containers to be handled anywhere by any equipment.

Before the first types of containers appeared, freight was handled manually as break bulk cargo. Goods were taken through a series of pick-ups and loads from factory to vessel, then from vessel to warehouse, from warehouse to another vessel and so on. This method required a lot of handling and delays, which was costly, time consuming and unreliable. Modern shipping containers were first used for combined rail and horse-drawn transport in Britain at the end of the 18th century. By the 1830s,



railroads were carrying containers that were suitable for other transport modes. The U.S. Army used standard-sized small containers during WWII, which helped in faster distribution of supplies.

The first standard shipping container was invented and patented by Malcolm McLean (USA, 1956). Although he wasn't an ocean shipper, he owned the largest trucking company in the country at that time. Gradually, he came up with idea of how to make intermodal transportation seamless and efficient. For years, when Malcolm started his trucking company, cargo was loaded and unloaded in odd sized wooden cases, he watched dock loaders unloading freight from trucks and transferring it to ships, and was amazed by the inadequacy of this method. He knew that both trucking carriers and shipping

companies would gain from a standardized process of cargo transfer. So, Malcolm decided to make a change – he purchased Pan Atlantic Tanker Company with all its shipping assets. With it, he started experimenting with better ways of loading and unloading trucks. And finally came up with what is now called a shipping container. It's strong, theft resistant, reliable and easy to transfer. In April 1956, the first container shipped, the Ideal X. It departed from Port Newark and successfully made its route to Houston.

Containerized Cargo occurs when cargo is loaded into steel or aluminum boxes known as containers are usually considered much safer and easier to transport on sea and on land/rail. Also less labour is required to assist with stuffing goods into a container.



Facilitating Container Trade

The importance of container shipping to global trade and prosperity demands fast, efficient and effective facilitation in all the legs in supply chain.

These Factors are:

- Time Efficiency
- Cost Efficiency
- Compliance with international and local rules
- Market integration
- Systems integration
- Revenue integration.

International shipments normally need greater protection when compared to domestic shipments. Other issues such as handling of products, climate. Potential for pilferage, communication & language difference, freight costs etc. also influence the decision of containerization. Also, the bottom, line in all

international package decisions is that the consignment must arrive at its destination undamaged. To facilitate product handling and protect the product during the movement and storage, many companies use containers, especially when these moves by sea.

Why are containers preferred for ocean transportation?

- Cost due to loss or damage are reduced
- Lower warehousing & transportation costs since containers are more easily stored and transported. Container can be moved between different modes of transport without touching the goods
- Containers can also be used for temporary storage at ports with limited warehousing facilities.



Dry storage container

The most commonly used shipping containers; they come in various dimensions standardized by ISO. They are used for shipping of dry materials and come in the size of 20ft, 40 ft and 10ft.

Flat rack container

Flat rack is best suited for heavy lift, such as construction materials. With collapsible sides, these are like simple storage shipping containers where the sides can be folded so as to make a flat rack for shipping of a wide variety of goods.

Open top container

With a convertible top that can be completely removed to make an open-top so that materials of any height can be shipped easily.

Tunnel container

Container storage units provided with doors on both ends of the container, they are extremely helpful in quick loading and unloading of materials.

Open side storage container

These storage units are provided with doors that can change into completely open sides providing a much wider room for loading of materials.

Double doors container

They are kind of storage units that are provided with double doors, making a wider room for loading and unloading of materials. Construction materials include steel, iron etc in standardized sizes of 20ft and 40ft.

Refrigerated ISO containers

These are temperature regulated shipping containers that always have a carefully controlled low temperature. They are exclusively used for



shipment of perishable substances like fruits and vegetables over long distances.

Insulated or thermal containers

These are the shipping storage containers that come with a regulated temperature control allowing them to maintain a higher temperature. The choice of material is so done to allow them a long life without being damaged by constant exposure to high temperature. They are most suitable for long-distance transportation of products.

Tanks

Container storage units used mostly for transportation of liquid materials, they are used by a huge proportion of the entire shipping industry. They are mostly made of strong steel or other anti-corrosive materials providing them

with long life and protection to the materials.

Cargo storage roll container

A foldable container, this is one of the specialized container units made for purpose of transporting sets or stacks of materials. They are made of thick and strong wire mesh along with rollers that allows their easy movement. Availability in a range of colored wire meshes makes these shipping container units a little more cheerful.

Half height containers

Another kind of shipping containers includes half height containers. Made mostly of steel, these containers are half the height of full-sized containers. Used especially for good like coal, stones etc which need easy loading and unloading.



Car carriers

Car carriers are container storage units made especially for shipment of cars over long distances. They come with collapsible sides that help a car fit snugly inside the containers without the risk of being damaged or moving from the spot.

Intermediate bulk shift containers

These are specialized storage shipping containers made solely for the purpose of intermediate shipping of goods. They are designed to handle large amounts of materials and made for the purpose of shipping materials to a destination where they can be further packed and sent off to final spot.

Drums

As the name suggests, circular shipping containers, made from a choice of materials like steel, lightweight metals,

fibre, hard plastic etc. they are most suitable for bulk transport of liquid materials. They are smaller in size but due to their shape, may need extra space.

Special purpose containers

Not the ordinary containers, these are the container units, custom made for specialized purposes. Mostly, they are used for high profile services like the shipment of weapons and arson. As such, their construction and material composition depend on the special purpose they need to cater to. But in most cases, security remains the top priority.

Swap bodies

They are a special kind of containers used mostly in Europe. Not made according to the ISO standards, they are not standardized shipping container units but extremely useful all the same. They are



provided with a strong bottom and a convertible top making them suitable for shipping of many types of products.

Major players in Shipping

- The Shipper or Exporter used interchangeably from the source of cargo
- The Consignee or importer used interchangeably as the receiver of the goods
- The Carrier or Shipping Line
- Freight forwarder depending on the clime are also known as Customs House Brokers
- Bank
- Terminal Operators
- Government Agencies e.g. NPA, NSC, Customs, SON etc.

Bill of lading – A document of title to the goods being carried on the ship, which acts as a receipt for the cargo and contains the terms of the contract of carriage. It is a document which evidences a contract of carriage by sea.

The document has the following functions:

- A receipt for goods. Signed by a duly authorized person on behalf of the carried
- A document of title to the goods described therein
- Evidence of the terms and conditions of carried agreed upon between the two parties



Conclusion

The shipping industry is one of our oldest industries and still plays an important role in our modern society. Today, over 55 000 cargo ships are active in international trade. The fleet is represented in over 150 countries, crewed with over 1.5 million sailors working around the world. The different types of cargo being transported are goods for consumers, food, raw material, cars and fuel etc.

Reference:

- WISTA Nigeria Annual Journal Vol. 2 No. 8 2021
- Essay in Admiralty first edition

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THE EFFECT OF THE RUSSIAN /UKRAINE WAR ON THE MARITIME SECTOR.

The Black Sea is a key transit point for agricultural products, metals and energy and its expected that the military action will disrupt supply chains and their operations.

The US, EU, UK, Japan and Canada, have unveiled a range of economic sanctions against Russia. The sanctions so far, have targeted different areas, hitting specific financial institutions, entities, several Russian wealthy individuals' commodities.

Shipping companies, as a result, need to review carefully, their current contractual obligations under charter- parties, supply and agency contracts (including crew manning agreements) and put into effect due diligence procedures



concerning payment instructions which may involve Russian banks (direct or intermediate) or other financial entities.

Potential damaging effects shipping companies could encounter range from financial penalties against companies and their directors, freezing of assets and bank transfers, to the arrest or detention of ships and their cargo.

French authorities have detained the Russian flagged cargo ship “Baltic Leader” on the grounds that the ship “may be related to Russian interests’ subject to sanction “imposed by the US on Russia.

The tension has resulted to the suspension of commercial shipping at the Ukraine ports, although some Russian Black Sea ports remain open.

There are certain charter-party clauses that need careful consideration by ship owners. These clauses include the safe berths/safe ports clauses, war risk clauses and force majeure clauses.

Trading within the ports not only of the countries involved in the hostilities, but also in the Black Sea region may present a challenge, in the coming days.

Most charter- parties include sanction clauses. BIMCO has issued in 2020, Sanction Clauses for time charter - parties and for Voyage Charter -Parties, which provide, in the case of time charter -parties, an express right of termination and in the case voyage charter parties, cancellation rights.

With regards to safe berths/safe ports clauses, a port must be both physically and politically safe.



In *Leeds Shipping v Societe Francaise Bunge, the Eastern City* (1958) 2 Lloyd's Rep. 127, it is stated that 'a port will not be safe unless, in the relevant period of time, a particular ship can reach it, use it and return from it without, in the absence of some abnormal occurrence, being exposed to danger which cannot be avoided by good navigation and seamanship'. Unfortunately, so far it has been reported that two ships have been hit by shell near Ukraine's ports, meaning that the ports have become unsafe while hostilities rage.

There are also force majeure clauses. Typical force majeure events include war risk but it will depend on the wording of the relevant force majeure clause.

Most charter -parties include war risks clauses either in the standard form or as rider

clauses, whereby the vessel shall not be obliged to proceed or required to continue to or through, any port, place, area or zone – where it happens that the vessel, cargo, crew or other persons on board the vessel may be exposed to war risks; whether such risk existed at the time of entering into the charter -party or occurred thereafter.

Shipping companies must seek legal advice and assistance of their P&I Clubs.

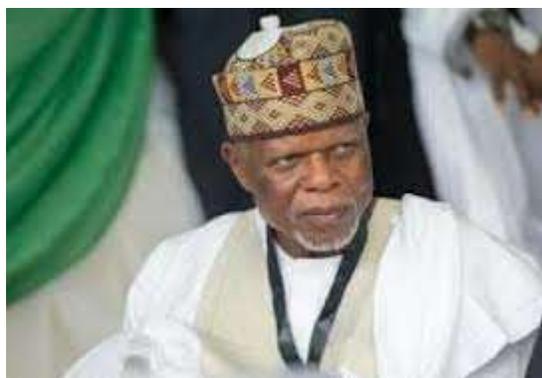
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Ships and ports daily. Vol. 16 No. 1648

NEWS and EVENTS.

VIN Valuation: Customs Make U-turn, Approve One Month Grace Period





Comptroller-General of Nigeria Customs Service (NCS), Col. Hammed Ali (Rtd.)

Following the decision of Nigeria Customs Service (NCS) to temporarily jettison the problematic VIN valuation process for one month, freight forwarding groups including the National Association of Government Approved Freight Forwarders (NAGAFF) and Africa Association of Professional Freight Forwarders and Logistics of Nigeria (APFFLON) have commended the Customs management.

Customs, in a circular with reference number NCS/T&T/ACG/008/S.100/VO L 111 dated 7th March, 2022, the NCS said it has approved a one month window to enable agents clear the backlog of vehicles held up in the ports as a result of the strike action.

The circular signed by Assistant Comptroller General (ACG) Tariff and Trade, HK Gumi on behalf of the Deputy Comptroller General (DCG) T&T directed all Area Controllers to monitor the transition period and ensure manual assessments are in full compliance with extant laws.

The circular reads, "Sequel to the Customs/Stakeholders town hall meeting held in Lagos on the VIN-Valuation, the CGC having listened to public outcry, has graciously approved one month window



to enable clearing the backlog of vehicles held up in the ports as a result of the strike action.”

President Buhari Confirms Bello-Koko as Substantive NPA MD



Managing Director of Nigerian Ports Authority (NPA), Mr. Mohammed Bello-Koko

President Muhammadu Buhari has approved the appointment of Mr. Mohammed Bello-Koko as the substantive Managing Director for the Nigerian Ports Authority (NPA)

This was revealed in a press statement by the Ministry of Transportation issued today, signed by Eric Ojiekwe, the Director, Press and Public Relations of the Ministry.

According to the report, the appointment takes immediate effect.

Mr. Bello-Koko who has been serving as acting Managing Director until this development, was the Executive Director, Finance & Administration of the Authority.

Europe Floods West Africa with Toxic Fuel

Oil Vessel

*** Why scarcity will continue in Nigeria – Tanker owners**
*** NIMASA should have impounded MT Nord Gainer – Expert**

As Nigeria plans to spend N201billion to clean



170.25million litres of dirty fuel imported last month,



reports have shown that European nations have been dumping toxic fuels in West Africa for more than two decades.

The fact that African countries allow high sulphur content in fuels is the continent's biggest regulatory failure on fuel specifications. However, it is not the only failure. In Nigeria, the major risks aren't that fuel specifications are weak or unclear, but the regulators easily compromise.

Speaking with **MMS Plus**, a Governing Board member of the Nigerian Content Development and Monitoring Board (NCDMB) and Chief Executive Officer of Sopetro Marine Limited, Mr. Mina Oforiokuma lamented that the menace of bad fuel in Nigeria and the entire African continent has been the stock in trade of several European nations.

Oforiokuma, who is also a founding member of Ship Owners Association of Nigeria (SOAN) shared an investigative report by Public Eye which revealed how Europeans take advantage of weak fuel standards in Africa to manufacture cheap and low-quality blendstocks called "African Quality" fuels. These blendstocks are often harmful to both health and the environment.

European and American markets do not accept the use



of such low quality blendstocks as fuel ingredients because these blendstocks need further treatment to minimize or eliminate the hazardous substances.

“Some blendstocks, including those that are waste or recycled from the chemical industry, pose additional risks when blended into fuels. For traders, however, these blendstocks are cheap, and they can be profitably used to produce African Quality fuels. Swiss trading companies play a major role in transporting fuel from the Amsterdam-Rotterdam-Antwerp (ARA) and US Gulf regions, West Africa’s two main supply hubs,” the report said.

Around 50 percent of fuel imported to West Africa comes from the ARA region. Some 90 percent of the diesel has sulphur content at least

100 times above the European standard.

Besides selling African Quality fuels at the pump, traders also import dirty blendstocks into African countries for blending with products produced from high-quality African crude. Several African crude oils have the benefits of being both sweet (low in sulphur) and waxy. Examples are the AKPO blend from Nigeria, Cabinda from Angola, and Rabi Light from Gabon.

Deelen, a refinery expert, explains that “many African crude oils are waxy and therefore produce a very high cetane Light Gas Oil making it a very popular blendstock for diesel.” Light Gas Oil can be used directly as diesel fuel; it does not need to be blended. Since many African countries have a lower minimum cetane number, often as low as 45,



traders can work to the “fill up quality give away” blending rationale by “filling up” African refined diesel before placing it onto the market.

There is a risk, however, that they are filled up with imports of low cetane blendstocks. Low cetane blendstocks, for example Light Cycle Oil, often contain substances such as sulphur and aromatics, which damage human health.

If a blender has no access to high cetane gasoil blendstocks and still wants to profit from using cheap and low cetane blendstocks, there is always the option of additivation. Cetane improvers such as HFA 3033, supplied by major additive supplier WRT, are widely used additives for diesel. And cetane boosters don't cost a fortune.

Gender equality today for sustainable tomorrow #BRAKE THE BIAS

L-R: WIMAfrica Continental Coordinator, Mrs. Gloria Kanabe; Chairperson WIMAfrica Anglophone, Chief Mrs. Carol Ufere; President of WIMA-Nigeria, Mrs. Rollens Macfoy; Hajia Aisha Jummai Musa; with the winners of the quiz session; when WIMA-Nigeria celebrated International Women's Day in Lagos, yesterday.



Nigeria Could Be Sub-Regional Bunkering Hub for Ships

Amid Nigeria's huge maritime potentials and little or no area of specialization, the Secretary General of the Abuja Memorandum of Understanding on Port State Control for West and Central African Region, Capt. Sunday Umoren has described bunkering as a viable aspect for specialization.

Noting that the nation has a geographical advantage to play the role of a bunkering hub in the sub-region, Umoren stressed that bunkering is a legitimate and lucrative business even though it's usually the illegal aspect that is popular in the country.

Umoren made this call while speaking at a conference organized by Women in Maritime (WIMA) Nigeria to mark the 2022 International Women's Day in Lagos, yesterday.

The Secretary General of Abuja MoU also encouraged women in Nigeria to harness opportunity for bunkering as well as other emerging opportunities in the maritime sector such as; investing in ocean freight, tourism, warehousing, ocean shipping logistics, trucking, sales, freight forwarding, and terminal operations, among others.

At the event tagged 'Gender Equality Today for Sustainable Tomorrow' #Breaking the Bias', Umoren reiterated that the maritime industry is a major driver of the national economy with huge opportunities for



women in the sector, even as he showed the inspiring stories of some historical women achievers in various aspects of maritime.

In his paper titled: 'Empowerment and Job Opportunities in the Maritime Industry', Umoren showed the vast economic impact created by the sector and its numerous investment opportunities.



L-R: Mrs. Aisha Cole, WIMAfrica PRO, Mrs Faith Hope, WIMAfrica Continental Coordinator, Mrs Gloria Kanabe, WIMAfrica Continental Nig. VP, Mrs

Carol Ufere, Secretary General of Abuja MoU, Capt. Sunday Umoren, WIMAfrica Nigerian President, Mrs Rollens Macfoy, WIMAfrica Nigerian Coordinator, Engr. Oluwadamilola Adebamipe and the Assistant PRO of WIMAfrica, Mrs Lola Adesakan, at the WIMA-Nigeria event in Lagos, yesterday.

While the maritime benefits he highlighted included; job creation, attracting foreign investments, supporting allied industries and creating cosmopolitan cities, he rated a crucial aspect like maritime tourism zero in Nigeria as the venture remains untapped.

He, however, encouraged young women to speedily identify mentors in their respective fields and be resolved to display top-notch excellence in their respective professions.



Earlier, the President of Women in Maritime Africa (WIMA), Nigerian Chapter, Mrs. Rollens Macfoy, IWD is another opportunity to reemphasize the call to action for accelerating gender professional parity.

“I categorically say here that, men need to know that: real men treat women with love and respect, as headship is all about love, teaching and watching what you have invested on grow overtime,” she said.

According to her, the event by WIMA-Nigeria was in line with United Nation’s declaration marking the 2022 IWD an annual event which was first celebrated in 1911.

She stated that there is no barrier in professionalism, noting that the maritime sector is large and can accommodate everyone.

“We need to educate the young women and implore them to come and be trained to know where they can fit in the industry. They can be crew managers as an administrator, the cooking profession earns so much onboard the vessels, those that like trading can be ship chandlers. There is no end to professionalism in this maritime sector,” she stressed.

In her goodwill message, the former Continental President, WIMAfrica, Mrs. Jean-Chiazor Anishere, SAN. urged women to let their professionalism and hard work come to bear to encourage the younger ones.





Anishere, who was represented by Barr. Oluwakemi Awoniyi, said “as Women in Maritime and Sea Port sector grouped in “African Women in Maritime” (WIMAFRICA/WIMA-NIGERIA), we shall always continue to strive for better economy and as it concerns women, for gender equality.”

“Gender equality is a right. Fulfilling this right is the best chance we have in meeting some of the most pressing challenges of our time—from economic crisis and lack of health care, to climate change, violence against women and escalating conflicts. Women

are not only more affected by these problems, but also possess ideas and leadership to solve them. The gender discrimination still holding too many women back, holds our world back too,” she said.

However, she encouraged the girl child and future leaders, not to relent in good and hard work which make the society a better place for all to live in. “We must BREAK THE BIAS!” she added.

Meanwhile, the Pioneer Director-General of the Nigerian Chamber of Shipping, Mrs. Ifeyinwa Akerele stressed the need to have more female groups working in unity in a bid to tap into the opportunities available in the marine world, which is perceived as the male-dominated industry.

She expressed satisfaction that the female folks are beginning



to venture into the maritime industry, adding that in the near future there will be equality in terms of participation in the sector...

The event was spiced with thrilling quiz sessions and debates by young secondary school girls on the historical events of IWD and the pros and cons of maritime industry.

(News culled from MMS Plus)

GLOSSARY OF SHIPPING TERM.

AWARD

The decision given by an arbitrator, to whom a matter in dispute has been referred.

BIND

To obligate, to bring or place under definite duties or legal obligations by a bond, contract, or covenant.

BLACKLIST

A list of countries published by a particular government which will not allow a ship or ships from that country to trade at its ports if they have traded at the ports of the blacklisted countries.

CARRYINGS

Quantity of cargo carried over a period of time by a shipping line or liner conference members.

CASH AGAINST DOCUMENTS

A term of sale whereby the buyer receives the commercial documents, including the bill of lading, being the document of title, on paying the seller for the goods.

DEFEASIBLE INTEREST

A cargo insurable interest that ceases during transit of goods.



DEFENCE

Evidence offered by the accused person to defeat criminal charges.

ENTRY INWARD

The reporting of a vessel's arrival in the port by the Master of the ship at the Customs house. It is used to obtain permission to commence the discharging of goods on board the vessel.

ENTRY OUTWARDS

The reporting of the intention to commence a new voyage by the Master of a ship at the Customs house and also to obtain permission to commence loading.

EVEN IF USED

A term used in a voyage charter party which provides that the time used to load or discharge, within the excepted periods, should not

be deducted from the time allowed. A charter party might stipulate that time does not count from 1700 hours Friday to 0800 hours Monday, even if used. In this case, even if the charterer chooses to load or discharge in between these hours, the time spent working would not count as lay time.

FRANCO DOMICILE

A term of sale that requires the seller, or exporter of goods, to bear all the risk on the goods up to the buyer's premise. It means that the seller pays for the goods, packaging and loading expenses, freight, plus local import dues and Customs duty.

FREE IN AND FREE OUT

This indicates that cargo should be loaded and discharged free to the vessel.



FREE IN AND OUT AND TRIMMED

This avoids any kind of ambiguity and indicates that the cost handling, such as loading, discharging and trimming should not be paid by the shipowner, but should be responsibility of the charterer or shipper.

GROSS MANIFEST

A document with all freight details and tonnage.

GROSS TERMS

A voyage charter party term which indicates that the shipowner would be responsible for the payment of loading and discharging bills.

GROSS WEIGHT

The weight of goods and their packaging.

HIRE OR HIRE MONEY

The amount of money paid by the charterer to a shipowner for the hire of a ship taken on time charter. Hire money is payable, by agreement, at regular intervals such as monthly or semi-monthly, normally in advance.

HIRE STATEMENT

A written statement of the amount of hire money paid by the time charterer to the shipowner, stating the number of days which have elapsed since the commencement of the charter or since the last statement.



HOLDS

Cargo compartments of a ship in which goods are stored.

