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**MEMBERS' NEWSLETTER**

Issue No. 6

### **Merchant Shipping Act becomes Law**

**T**he Merchant Shipping bill passed in parliament in February finally became law as the president appended his signature at the end of last month. The Act will empower the Kenya Maritime Authority to regulate the maritime sector and its service providers who include Port Facility Operators, Clearing and Forwarding Agents, Shipping Lines, Ship agents, Terminal Operators, CFS operators, Quay Side Operators and Ship Contractors.

Kenya Shippers Council is mainly concerned about the ability of the majority of the Clearing & Forwarding agents to provide efficient and reliable services. The Council seeks to have professional C&F agents regulated by the Kenya Maritime Authority as mandated by the Merchant Shipping Act 2009. To this effect, KSC has drawn up a list of draft regulations, to be submitted to the Ministry of Transport for consideration, for managing the clearing and forwarding sub-sector with a view to promoting professional competence. The regulations will specifically focus on minimum requirements for registering a clearing and forwarding company in terms of professional staff, capital base, VAT compliance, etc. The regulations will also cover procedures for examination and approval of customs agent's license, business scope, penalties for violations of regulations, and adherence to a code of conduct.

### **Customs and Cargo handling high on Doing Business Reform Agenda**

**A** team of government and private sector representatives met at the Ministry of Finance in April and May with an aim of improving 6 key areas identified in the 2009 Doing Business (DB) report as major impediments to doing business in Kenya. While the World Bank considered 10 areas of reform, the DB reform team focused on six problematic areas of Starting a Business, Dealing with Construction Permits, Paying Taxes, Getting Credit, Registering Property, and Trading Across Borders.

Kenya ranked 82 out of 181 surveyed economies in 2009 and registered reforms in only two areas of starting a business and trade across borders. In trading across borders, the DB reform team identified reforms in customs and cargo handling as follows:

- Authorized Economic Operator currently being piloted by KRA with 15 companies.
- Implementation of the KWATOS system to automate port and ICD operations
- Use of Raddex- an Electronic Data Interchange system which enables communications between custom systems in Uganda, Tanzania and Rwanda etc. hence facilitating cross border trade in the region
- The cargo tracking system was also touted as a major reform to prevent diversion of transit cargo. An electronic seal enables KRA to track cargo from Times Tower. This is also at a pilot stage

- Enhanced use of X-ray scanners to reduce physical verification of goods
- Single entry documentation (SED) for both import and export online
- One Stop Border Post which enables clearance of transit goods at the border only once.
- Single window for import and export; ORBUS module of Simba 2005S is active and provides Electronic Data Interchange functions. It's being enhanced and has been interfaced with KWATOS.

While recognizing the reforms in trade facilitation mentioned above, there is much more that needs improvement if Kenya is to increase her trade volumes and grow the economy substantially.

### **Security along the Northern Corridor Intensified**

The committee on security along the northern corridor which meets in Mombasa has continued to identify cases of insecurity against the measures implemented to curb them. It was reported that overstay cargo continues to pose a security risk at the port due to pilferage. Although an auction of 105 long stay containers was done in December 2008 and some units crushed, many more remain at the port. Adequate lighting has been provided at verification rumps, the cargo tracking system is at pilot stage and will be launched soon to curb rising cases of cargo theft like especially fuel siphoning and diversion or transit cargo. Other measures put in place to boost security of cargo is enforcement of a code of conduct by the Kenya Transporters Association who represent majority of truck owners, and which will impose sanctions on its errant members whose drivers collude with the clearing agents and the importers to divert cargo.

### **Shippers still reeling under high maritime charges**

Cargo owners continue to demand for reduction in fees levied by maritime service providers. One Shippers Council member who uses the Grain Bulk Handling Facility has decried the KPA charges for stevedoring and wharfage for conventional bulk discharge which he says should be reduced to be in line with conveyor discharge. "When grain ships queue at the GBHL facility, importers resort to conventional discharge which cost USD 6.50 more per tonne. KPA would do well to levy similar charges for both conventional and conveyor grain discharge", said Mr. Munir Thabit of Mombasa Maize Millers Ltd. The millers further decried the capacity constraints of GBHL, which is the only one handling conventional bulk cargo. While other CFSs have been licensed to handle containerized cargo, the licensing process for a second conveyor has stalled since the tendering process was canceled by the Prime Minister.

"Additional conveyor discharge facilities at the port will ease queuing (congestion) of grain ships hence eliminate demurrages and bring down the cost of doing business", adds Mr Thabit.

For comments and suggestions kindly send us your feedback on:

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