

Ghana Grants Box Handling Monopoly / GASCO Takes Legal Action Against GPHA

The Ghana Ports and Harbours Authority [GPHA] has given Meridian Port Services [MPS] exclusive rights to handle cargo from ships carrying 50 containers or more at the Port of Tema. Implementation due on the 15/10/08 has now been delayed until January due to an uproar from rival stevedores. Rival privately-owned Ghanaian stevedoring companies have complained that if the GPHA were to implement its contract with MPS, their businesses would collapse because ships carrying fewer than 50 containers rarely call at the port.

Plaintiffs named in the suit

- GASCO,
- Golden Gate Services Limited,
- Odart Stevedoring Company Limited,
- Advanced Stevedoring Company Limited,
- Speedline Stevedoring Company Limited,
- Dashwood Shipping Agencies Limited
- Fountain View Limited

Therefore the Ghana Association of Stevedoring Companies [GASCO] and 6-stevedoring companies operating at Tema Port have issued a writ of summons against GPHA and MPS. The legal action issued on 15/10/08 at the Commercial Division of the High Court, Accra, is seeking an injunction restraining GPHA and MPS from limiting their stevedore companies operations on Berths 3, 4 and 5 of Quay 1 among other claims.

The action is to seek a declaration that:

- the concession agreement between the Authority and MPS had no prior approval of the Parliament of Ghana, as indicated in Article 181, sub-section 5 of the 1992 Constitution, and thus should be declared null and void.
- that the decision of the GPHA to authorise and empower MPS to place limitations on their rights, under the existing stevedoring licenses, to carry out stevedoring operations at Quay 2 of the Tema Port was unlawful, as it was done arbitrarily.
- that the meeting held on March 29, 2007, between all stakeholders, in connection with the GPHA and MPS concession agreement, was that MPS was to have the exclusive right to operate berths 1 and 2, and the rest of the six companies handle stevedoring works at berths 3 to 12.
- asking for an injunction to restrain the GPHA and MPS, from further limiting their operations as licensed stevedores, on berths 3, 4 and 5 of Quay 2, and the whole of Quay 1, until the final determination of the case, and some costs.

The six companies claim that each of them holds a 1-year renewable license, issued to them by the GPHA, to operate stevedoring activities at the Tema Port since 2002, and have been renewing it till date. Under the license, each company was required to pay a non-refundable annual fee of US\$10,000, an insurance bond of \$200,000 [valid for 12 months], and a performance bond with an irrevocable bank guarantee of GH¢50,000, which they complied with. They also state they were also required to pay the GPHA a fixed royalty of 25% of the gross income from their stevedoring operations, which they have complied with as well.

The statement of claim explained further that on the insistence of the Ministry of Ports, Harbours and Railways and the GPHA, all the companies had to go for loans from their bankers to the tune of \$30 million, at high interest rates, to purchase cargo handling equipments, including container handling equipment, for their stevedoring operations at the port.

Meanwhile the GPHA has declared that the authority did not require the prior approval of Parliament to enter into such contractual agreement with MPS, based on legal powers vested in it by PNDC law 160. Also according to local reports the GPHA has allegedly blacklisted GASCO and 6-stevedoring companies denying the right to the allocation of stevedoring berthing until the final determination of the court case. The hearing at the Accra High Court commenced on 03/11/08 and is expected to make a ruling on the case on 18/11/08.

[GNA 18/10/08 & 21/10/08 & GBC 19/10/08 & Joy 20/10/08 & GC 11/11/08]