

The Cargo Tracking Note (CTN); Why Messrs Cargo Tracking Notes (CTN) Ghana Limited, Is Not an Option.

A BRIEF FROM THE GHANA INSTITUTE OF FREIGHT FORWARDERS

ABSTRACT

In this write up, we critique the justification for the introduction of the Cargo Tracking Note (CTN) in the form being advertised, with regards to revenue generation and trade facilitation. We will seek to justify the legality or otherwise of the introduction of the CTN and further outline some recent statistics which debases the justification of the introduction of this new intervention. This paper further proffer workable solutions to help the Government of Ghana meet its revenue target whilst facilitating trade to achieve a win-win situation for all stakeholders in the seaport supply chain network.

1. BACKGROUND

“Globally, access to accurate information on cargo shipment continues to be a challenge, creating a loophole for loss of revenue as some unscrupulous exporters [importers] take advantage of the system to undervalue their products as well as pose security threat to the country”

The above is a caption of a syndicated feature which appeared in the Daily Graphic of Wednesday February 7th 2018 extolling the virtues of Cargo Tracking Note as advertised.

The Cargo Tracking Note (CTN) or Loading Certificate is an official marine document that contains information relating to the cargo and its movement between ports. This intervention was borne out of security concerns post 9/11. Countries became extra conscious of what was being loaded into containers destined for home consumption.

The security consideration of this intervention requires ‘boots on the ground’ (agents) to ascertain the veracity of what is being loaded, so authorities would not depend on the generic shipping clause of ‘said to contain’ for closure, as is the usual practice. This captures the essence of the process as evidenced by the C-TPAT (Customs – Trade Partnership Against Terrorism) - a voluntary supply chain security program led by the United States Customs and Border Protection (CBP).

2. CTN GHANA - IMPLEMENTATION

Messrs Cargo Tracking Notes (CTN) Ghana Limited seeks to partner the GRA to address some challenges of the Customs Division, of GRA. Under the system, Exporters the world over, shipping cargo to Ghana will be expected to provide detailed and timely information about their shipment in advance on a Global Online Platform.

Once implemented, the CTN will allow Ghana Customs and other Stakeholders to commence the Import Review Processes well in advance resulting in several benefits.

2.1 Stated Advantages:

- i. Generation of key prior shipment information in “real time” to effectively Control, Supervise and Manage import traffic into Ghana.
- ii. Collation of reliable trade database to benchmark and protect Government revenue in import duties and taxes.
- iii. Plugging of identified loopholes and leakages in order to preserve the sanctity and integrity of Customs valuation of goods and freight.
- iv. Safeguarding and facilitating trade to significantly reduce the turn-around time for Cargo Clearance which will allow importers to avoid the payment of heavy demurrage fees and generally reduce the cost of doing business.

- v. Provision of a one-stop comprehensive and broader view of the global logistics chain to Customs, the Port Authority and other structures of control which will eliminate duplications and enhance reporting requirements.
- vi. Risk Assessment Engine to swiftly and proactively address major bottlenecks in the import revenue mobilization process.
- vii. Reliability of Weight and Volumes, Country of Origin, Declared Value and the Real Nature of the Goods.
- viii. Facilitate the movement of legitimate trade as well as improve and modernize customs operations.
- ix. Close Monitoring of Prohibited Pharmaceuticals
- x. Reliable and early statistics to ascertain levels of import for strategic economic decisions.
- xi. Importation of Weapons for War; Proactive Anti-terrorism paradigm

2.2 CTN Process Flow

1. Registration and creation of online account with CTN by shipper/forwarder at port of origin
2. Shipper is to file these documents to secure a CTN Number
 - Commercial invoice
 - Freight invoice
 - Customs declaration at port of origin
 - Packing list
 - Bill of Lading
3. CTN Number is to be placed on B/L
4. Validate the CTN

The product of this exercise is forwarded to the Customs Division of GRA ostensibly “to serve as a risk assessment engine which allows customs and other authorities to effectively control, supervise and manage import traffic”. This is CTN.

3. OUR POSITION

It should be noted that GIFF is in no way kicking against the established objective of the Cargo Tracking Note. What we find difficult to understand is the parallel path being charted, the legality of the scheme and the needless cost that it comes with. We present this piece to enhance the conversation at norming a system that will deliver at the optimum ensuring a win-win situation for the State and Citizenry.

3.1 Legality

In a forum organized by GRA to sensitize stakeholders on the CTN, a question was posed as to the legality of the intervention. The response from the Management Consultant of Messrs Cargo Tracking Notes (CTN) Ghana Limited pointed to international protocols and the nebulous reference to some powers of the Commissioner General of the GRA.

There is an already existing regulatory framework contained in the Ghana Shippers’ Authority Regulations, 2012 (LI2190) which came into force on 29th September, 2012. The implementing agency is the Ghana Shippers’ Authority which falls under the Ministry of Transport.

Regulation 9 of the said legislative instrument titled “**Advanced Shipment Information**” together with the “**Third and Fifth Schedule**”, makes it certain to us that what is being introduced by Messrs Cargo Tracking Notes (CTN) Ghana Limited is a duplication of what has clearly been spelt out in an existing Regulation passed by the Parliament of the Republic of Ghana. As far as our knowledge goes, L.I. 2190 has **NOT** been revoked or reviewed.

Whether its provisions are being implemented or not does not warrant the issuance or introduction of a new set of administrative/ministerial instructions or directives whose real effect is to negate or override legislation duly passed by Parliament and which is still on our statute books.

When the ASHI (Advanced Shipment Information) and the G-CAP (Ghana Conformity Assessment Program) became topical in the year 2015 the argument and questions posed by stakeholders resulted in the State intervening and giving direction as to how this twine project be looked at in the face of the National Single Window. A Sub-Committee of the National Single Window Technical Committee was set up under the auspices of the Ministry of Finance.

The Sub-Committee Report on ASHI and G-CAP (Appendix A)

Summary 1 of the Conclusion of the Report states that; “The implementation of both systems as independent programs be suspended and components that converge with the National Single Window be integrated into the National Single Window System thus ASHI will integrate with PAARS whiles G-CAP integrates with the Risk Management System”.

The Customs Act, 2015 (Act 981) has subsequently been amended appropriately so by Customs (Amendment) Act, 2016 (Act 923) to give expression to these two interventions.

It is therefore puzzling the attempt at re-introducing an advance shipment information system in the cloak of Cargo Tracking Note with no recourse whatsoever to a not too distant history.

3.2 Operations

...It is believed that out of every \$1000 that must be collected as duty, Government is only able to collect \$600 as a result of dubious document presentation, but don't ask me the basis of this statistics!

This is a statement by the CEO of CTN GHANA, Geoffrey Nyarko-Cole (Consultant for GRA on the cargo tracking note project) on his maiden interaction with us (Ghana Institute of Freight Forwarders, Customs Brokers Association of Ghana, Freight Forwarders Association of Ghana and Association of Customs House Agents, Ghana).

The above statement from the Management Consultant of CTN (though he admits the baselessness) unfortunately finds expression in all his interactions with stakeholders and we believe this is the core assumption on which his “solution” has been grounded. In effect his claim is that GRA Customs Division is only able to rake in 60% of Revenue Target.

The Commissioner General of GRA Mr. Emmanuel Kofi Nti, a few weeks ago announced the collection performance of the GRA and specifically gave the figures of the Customs Division; out of a target of GHC 13.9 billion, the Division collected GHC 12.6 billion. Our elementary computation of percentages puts this performance at 91% collection of the targeted amount and this has been the trend, in some years they have actually gone over the target. The Management Consultant of CTN will have to justify his 60% computation.

What we do know however is that, for the last five months since the Vice President's useful intervention with the Paperless Port Project, (hiccups notwithstanding), statistics from the Ghana National Single Window Monthly Program Status Report for the period 01/12/2015 to 29/01/2018 emanating from the National Single Window Secretariat under the Ministry of Finance tells a very different story as illustrated in figure 1 below.

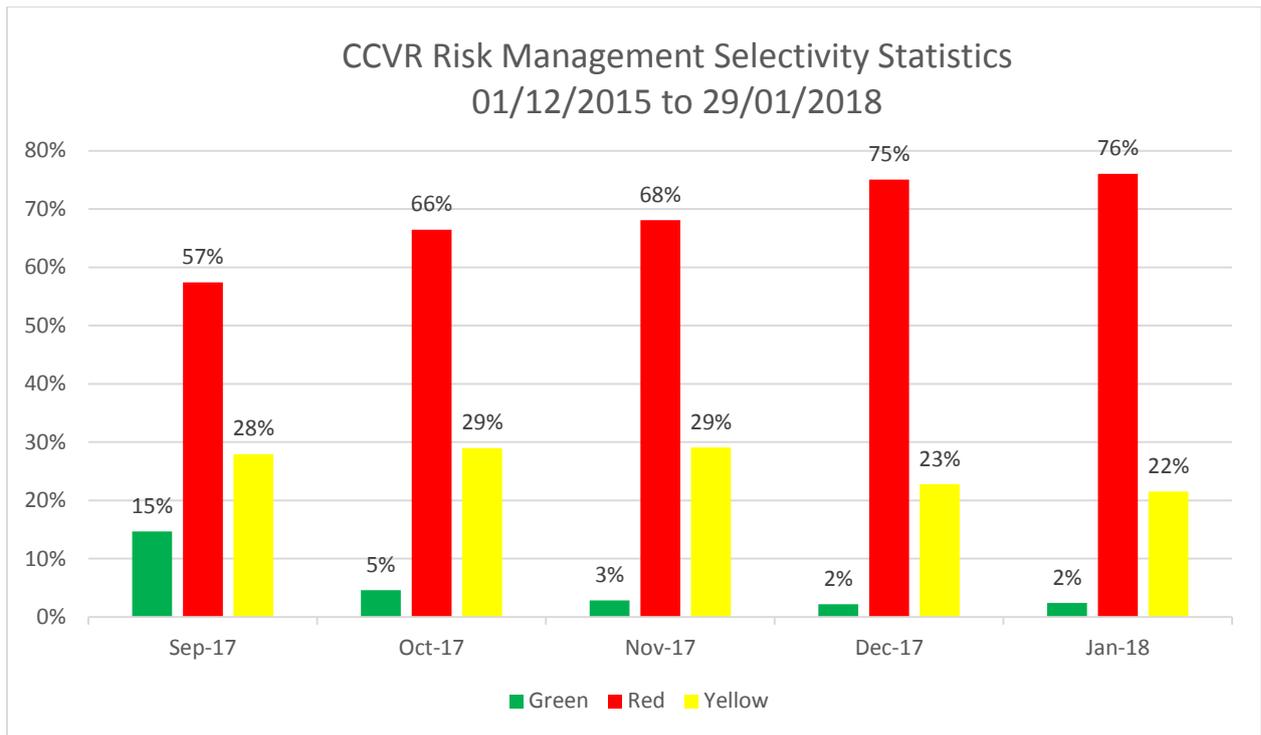


Figure 1: CCVR (Customs Classification and Valuation Report) Risk Selectivity Statistic.

Figure 1 above shows the Risk Selectivity Statistic indicating a study rise in physical examinations of cargo by Customs, and a sharp decline in the non-intrusive (no physical) examination for the last 5 months.

Table 1 below is an extract from the Joint Inspection Performance Statistics showing a month-on-month report of cargo that was released by the Customs division upon physical examination and the offences reported (COR).

Table 1: Joint Inspection Performance Statistics (September 2017 to January 2018)

September 2017		October 2017		November 2017		December 2017		January 2018		Totals	
COR	Release	COR	Release	COR	Release	COR	Release	COR	Release	COR	Release
98	5524	442	13671	508	13901	510	14155	554	13708	2112	60959
2%	98%	3%	97%	4%	96%	3%	97%	4%	96%	3%	97%

Source: GNSW Monthly Report, January 2018

It is noteworthy the picture painted by the above report. Out of a total of 60,959 cargoes physically examined and released within this time period 2,112 (3.4%) had issues of Customs Offence.

Table 2: Customs Offence Report (COR) Break Down

Reason	Contraband Goods	Excess Quantity	Non Declared goods	Prohibited or Restricted	Short Landed	Misclassification	Under Invoicing	Others	Total
Date									
Sep-17	0	7	0	0	1	0	0	90	98
Oct-17	0	14	12	0	0	8	2	406	442
Nov-17	0	27	14	0	0	11	1	455	508
Dec-17	1	39	13	0	0	8	0	449	510
Jan-18	0	37	19	1	1	10	2	484	554
Total	1	124	58	1	2	37	5	1884	2112
Percent	0.05%	5.90%	2.72%	0.05%	0.10%	1.74%	0.24%	89.20%	

Table 2 above gives the breakdown of these offences. Note that ‘others’ under ‘Reason’ ie. 1884 (89.2%) constitute the largest of the offences that are mere administrative issues which pose no threat to revenue e.g. Change of freight station, manifest amendment, wrong container size, correcting chassis number etc.

4. FACTS ON THE GROUND

Our piece, as demonstrated so far is based on verifiable facts and this is how we intend to carry on.

4.1 National Single Window System

“3A. (1) There is established under this act the national single window system to allow persons involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export, transit and other customs related requirements. – CUSTOMS (AMENDMENT) ACT, 2016 (ACT 923) [Emphasis ours.]

The above statute captures in essence the World Customs Organization’s definition of the single window system. We have forever maintained a simple appreciation of this definition; “...that all trade documents needed for Customs processes should be lodged once and once only!!”

This is the clarion call and this is what shapes our expectation into the future. The Single Window we know is not an event, it is a work in progress and so any intervention along the line must fit into the Single Window philosophy. That is why we have issues with the parallel path being charted by the CTN.

Messrs Cargo Tracking Notes (CTN) Ghana Limited is consulting for the GRA to establish another node which will require the second lodgment of Trade and Transport documents which have already been lodged by the shipper on the Exporting Country’s Customs platform. The shipper will be required to print the **Export Declaration** and together with the other documents mentioned earlier, scan and upload **again** unto the CTN platform for transmission to the Customs Division of GRA. We have mentioned Customs Cooperation as the tool available to ensure this seamless flow as explained in the ensuing paragraph.

4.2 Customs to Customs Cooperation

We are conversant with clause 2.3 of Article 10 of the WTO TFA (Trade Facilitation Agreement). An International Treaty ratified by Ghana, which states: **A member shall not require an original or copy of export declarations submitted to the customs authorities of the exporting member as a requirement for importation.** *[Emphasis ours]*.

To demonstrate our knowledge and rules of the environment in which we work and to further accentuate our position of acceptance of the stated objective of CTN, we have not sought unbridled comfort in clause 2.3 of article 10 of the TFA as quoted above. We have rather pointed to the GRA a much more useful source which ensures a natural progression of the Single Window.

Article 12 of the TFA establishes the framework for Customs Cooperation through which Trade and Transport information can be exchanged free of charge, once the modalities are established including the input of the Trader. This is the forward looking agenda of the World Trade Organization of which Ghana is a member.

Our difficulty is why as a country we will want to sidestep this charted path (of which we are signatories to) and create an unnecessary and expensive bureaucracy which even before its birth is embroiled in a quagmire of controversies, suggesting something else than the stated objectives.

4.3 Fees

This needless bureaucracy comes at a cost (**fee, charge, and rate**) of USD 100/2 TEUs on a bill of lading, this figure would be higher if you have more than the stated minimum. It should be noted however that this fee is not grounded on any Statute. Article 174 (1) of our 1992 Constitution states: **“No taxation shall be imposed otherwise than by or under the authority of an Act of Parliament”**.

For the avoidance of doubt, Section 9(1) of the REVENUE ADMINISTRATION ACT, 2016 (ACT 915) tells us what “TAX” means; a duty, levy, charge, rate, fee, interest, penalty or any other amount imposed by a tax law or to be collected or paid to the Commissioner General under a tax law.

In the face of the above, Messrs Cargo Tracking Notes (CTN) Ghana Limited and the GRA should come with a much more compelling argument as to why they should be exempted from the dictates of the basic law (1992 Constitution) of the land in this matter.

4.4 No cost

In the same syndicated publication mentioned earlier, the Management Consultant of CTN Ghana limited, Mr. Geoffrey Nyarko-Cole said among others that the system will come at no cost to the importers.

The above claim on a normal day will be deemed as laughable but for a situation which borders on blood and sweat, we see it as an insult to our sensibilities knowing very well that the shipper in the exporting country does not originate trade but only acts at the behest of the Ghanaian Importer. This shipper having built up cost will definitely pass it on to the Ghanaian importer as every sane business man will do.

4.5 Valuation and Other Assurances

The cardinal assumption upon which CTN came into town is the claim of higher integrity of Trade and Transport documents when sourced from the exporting country. The Management Consultant of CTN makes mention of a certain drawback that accrues to the shipper in the country of export which in his estimation is an incentive for the shipper to report accurately on value, volume, weight etc. **This is a myth!**

The Shipper has no locus or interest whatsoever to embark on a needless venture ostensibly to validate the content of Trade documents in relation to value that he has been presented with by the trader (Ghanaian Importer). He is a contractor who takes charge of trade documents, instructions and processes same prima facie. This is how he earns his keep.

To the best of our knowledge, the cargo tracking note will only mirror documents made available to the shipper on the Ghanaian importers instructions to the GRA system. To the extent that CTN has “no boots on the ground” and has not demonstrated any indication of how it will validate the importers claim even at source calls into question the sacrosanct nature of the by-product of CTN as a risk management factor. CTN is in effect dependent on hope, hoping that the foreign shipper will get it right.

4.6 Used Motor Vehicles

Section 60 of CUSTOMS ACT, 2015 (ACT 891) is devoted primarily to the Valuation of Used Motor Vehicles, constituting over 50% of total duties collected. This is an innovation peculiar to Ghana and has won accolades to the Ghana Customs the world over.

In essence, once you land a used motor vehicle on the shores of Ghana, there can be no valuation assurance based on whatever the CTN reports. This negates the valuation assurance

claims by CTN on used motor vehicles; any fee charged thereof will not have been properly earned!

4.7 VGM (Verified Gross Mass)

Messrs Cargo Tracking Notes (CTN) Ghana Limited seeks to deliver further assurances on accurate volume and weight. The International Maritime Organization's (IMO's) mandatory amendment of Safety of Life at Sea (SOLAS) requirement on Container Weight Verification which took effect on 1st July, 2016 mandates the verification of the gross mass of all shipping containers. This has long resolved the weight and volume issues that Messrs Cargo Tracking Notes (CTN) Ghana Limited is making a claim for now.

4.8 The PAARS

For all that the CTN report is worth for risk assessment, we have indicated a better route clothed under International Treaties and Domestic Laws.

PAARS (Pre-Arrival Assessment Reporting System) is a component of the Ghana National Single Window solution that provides multi-dimensional Risk Analysis Assessment based on well integrated and dynamic National Data Warehouse Platform supported by Post clearance audit for effective risk profiling, intelligence reporting and investigation referrals following valuation and classification assessment on import data including supporting documents in order to generate CCVRs (Customs Classification and Valuation Report) to facilitate release of goods and cargo in line with international standards at customs ports and stations – CUSTOMS REGULATION 2016 LI 2248 SECT.182

In the exercise of this legal mandate as expressed above, the issuance of the CCVR comes with 1% of CIF as processing fee, which is variously shared. For External Valuation Verification, a private entity is paid 0.0010% of the 1% processing fee to carry out the one and only duty of

verifying values externally as the name of the fee suggests. (USAID WTO TFA ARTICLE 6-ANALYSIS OF GHANA'S DISCIPLINE ON FEES AND CHARGES PG.7)

Clearly there is a service being provided as shown above with its corresponding fee in the area of value verification from the exporting country. CTN's claim to value assurance as its main deliverable in this new scheme brings to fore the question as to whether we are going to be subjected to accepting and paying for any "solution" once it is claimed?.

5. CONCLUSION

In this paper we discussed the purpose of the CTN, its legality and operationability in view of revenue generation and trade facilitation. We have further argued the unfounded justifications for the introduction of the CTN as a tool for blocking leakages of government revenue in the port. In keeping with the basic understanding of single window as "data must be captured once", GIFF is of the view that, we can block the leakages by building capacity through a Customs to Customs cooperation which is a given in article 12 of the trade facilitation agreement. All these documents that are being required to file on the CTN platform are available as export declaration form which is sitting on the originating countries customs platform. This is to ensure interoperability between custom to custom systems and also avoid further creation of extra cost and needless bureaucracies in the port supply chain network. The deliverables captured as Stated Advantages; "i - xi" above, are mirrored deliverables of existing ICT Interventions that is **managed** by the Ghana Revenue Authority as per Section 3A (2) of the Custom (Amendment) Act, 2016 (Act 923), we therefore humbly submit that this is a creation that has not thoroughly considered the history and current situations on the ground.