

UCACI (Association of Shipowners and Ship Agent of Ivory Coast) AND ABIDJAN PORT DIRECTION MEETING OF 11.05.2016 RECORD

In presence of

- DG du Port / *Port's General Manager*, M. Hien Sié
- Commandant du Port / *Harbour Master*, Colonel Coffi
- Président UCACI / *UCACI President*, Commissaire Dosso
- CMA CGM, Capt. Souley
- MSC, M. Franck Gbalou
- BOLLORE, M. Jean-Patrice Gbei
- MAERSK, M. Jean-Daniel Ahogny
- IVORY P&I, Mme Linda Alliali Ehui

Introductory Statement:

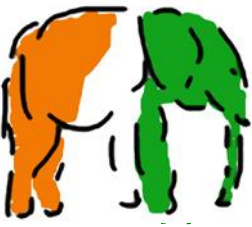
The purpose of that initial meeting was to discuss officially the latest Circular on stowaways issued by the Abidjan Port Authorities imposing a fine on vessels found with stowaways onboard as well as making mandatory for vessels arriving from Tema (Ghana) to bear a "Stowaway Search Certificate" to be issued by the Port of Tema Authorities.

I. Explanation on the circular by the Port Management

1. Search certificate from Ghana Port

In opening of the meeting, the Port's General Manager, Mr Hien Sié, reminded the audience of the latest statistics on Abidjan-disembarked stowaways' countries of origin, showing a surge of the number of stowaways originating from Ghana:

- In 2013 : out of 75 stowaways disembarked in Ivory Coast, 34 were from Ghana ;
- In 2016 : out of the 23 stowaways disembarked in Ivory Coast since the beginning of the year, 11 were from Ghana ;



- Over the past 3 years, out of 186 stowaways disembarked in Ivory Coast, 120 were from Ghana.

It is in response to this worrying trend that the Ivorian Authorities have decided they would from now on request a search certificate signed by the Harbour Master of Tema in person for any ship arriving from said port.

2. Fine on stowaways

As for the other part of the circular - the fine per stowaway – same Port's General Manager explained that this decision was made in reaction to his belief that the increase in stowaway disembarking in Abidjan reflects poorly on Ivory Coast - and more specifically the Port of Abidjan - amongst the International maritime community, and that in his opinion imposing a fine is the only way to tackle the problem.

It should be pointed out that this explanation is the exact same one as already served in 2014 when the port of Abidjan decided temporarily to ban all stowaway landings in Abidjan, before changing their mind after endless discussions (see our corresponding circulars of 2014).

II. Discussions

1. On the "Search Certificate" from Tema

The president of UCACI then ask the Port's General Manager :

- What will be the value of such a Search Certificate from Tema if the search itself is not performed/monitored by the Tema Port Authorities ?
- What will happen if a stowaway is discovered onboard a ship bearing such a Certificate in Abidjan ?

The Port's General Manager and the Harbour Master Port both indicated that the Port Police of Tema should be associated to the search. However, while the two officials argued having discussed with their Ghanaian counterparts, all they could show to support this allegation was emails from them to the Ghana Authorities advising them of the Circular, yet no sign of any written undertaking by same Ghana Authorities that they agree to comply with this new formality.



Considering such, it seems clear that, at this stage, the Ivorian Authorities will have no way of controlling if/how the search will be operated and/or supervised by their counterparts.

They then added that, regardless of the issuance of this Certificate, shipowners would still be fined for any stowaway found following a search in Abidjan unless they can prove that the said stowaway boarded in Abidjan and not in Tema.

The legal consequences of such a decision are of significance. Indeed, by doing so, not only does the Port of Abidjan impose unlawfully on the shipowner of a vessel calling in Ghana an unprecedented obligation to have his vessel searched but also and foremost a direct liability on the results of the said search.

2. In respect of the fine and criminalization of Owners with stowaway onboard their ship

Despite all attempts from the local Shipowners' Union representative and us to reason them, including our raising of the FAL convention's relevant articles (notably FAL 37/11, FAL 38/15 and FAL 39/16) as well as our reminding them of the outcome of the discussions held at the Abidjan Stowaways' Conference in June 2014, the Port Manager and Port Captain opposed the fact that IMO recommendations are not binding to the party States.

They also consider that not only are they entitled but they are actually right to penalize the shipowners just like some of their counterparts in others African ports or in US ports do, as it is in their opinion the only way to avoid Ivory Coast from becoming stigmatized as a "stowaway port/country".

In conclusion of that first meeting, the Officials confirmed formally that the Circular would not be cancelled, nor would the amount of the fine described in such be reduced.

III. Follow-up

Further to this first meeting, the President of the UCACI (local Shipowners' Union) M. Dosso asked the Port General Manager for a private meeting, just the two of them. His hope was to try to, at least, negotiate the amount of the fine.

The meeting was held on 27.05.2016, and was concluded with Mr DOSSO advising that he had been successful in obtaining a reduction of the fine amount from EUROS 1,500 (i.e. XOF 1 million) to EUROS 1,143 (i.e. XOF 750,000).



Unfortunately, this decision was overturned on 06.06.2016 without any explanation by the Port's General Manager who contacted Mr DOSSO back to advised that he had reviewed his position and intended to maintain the fine at XOF 1 million (EUR 1500).

He also confirmed to M. DOSSO that an official circular will be issued to officially confirm the fine amount at XOF 1 million, and the request for a Search Certificate to be counter signed by the Tema Port Authorities for ships arriving from Ghana.

This is where the situation rests to date. We will not fail to keep you all duly informed of the developments and emission of the new circular, if any.