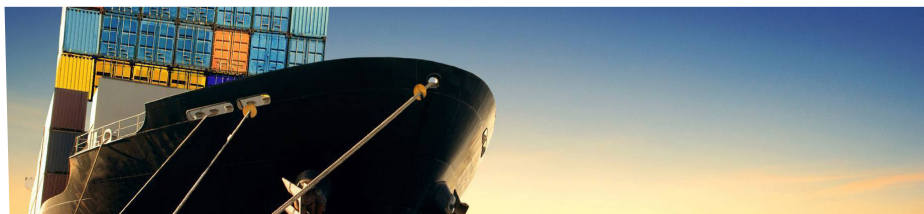


16 October 2017



The National Shipping Agencies Bill 2017 tabled in the National Assembly

- **Establishes the National Shipping Agencies Corporation (NASAC)**
- **NASAC to function as both a shipping agent and regulator of maritime environment, safety and security as well as maritime transport services**
- **NASAC has sole mandate to carry out functions of ship tallying and clearing and forwarding of minerals, mineral concentrates, live animals, Government trophies and related goods**
- **Proposes transfer of maritime regulatory functions from SUMATRA to NASAC**
- **NASAC not liable for any loss or damage occasioned by outsourced service providers or suppliers**
- **Proposes repeal of the Tanzania Central Freight Bureau Act and the Shipping Agency Act**
- **Contracts, documents, licences, permission or resolutions and subsidiary legislation, exemptions given or under the repealed laws remain in force until revoked, replaced or rescinded**
- **Ship owners, ship operators, charterers, inland container depot operators or clearing and forwarding agents cannot hold a Shipping Agency license**

Mid last month, the Minister for Works, Transport and Communications, Prof. Makame Mbarawa presented to the National Assembly, for first reading, the National Shipping Agencies Bill 2017. The Bill provides for the establishment of a shipping agencies corporation and for maritime administration to regulate ports, shipping services, maritime environment, safety and security and related matters.

Establishment of the National Shipping Agencies Corporation (NASAC)

The Bill establishes NASAC as body corporate with perpetual succession and a common seal, and capable of, in its own name, suing or being sued, acquiring, holding, investing and alienating movable or immovable property; borrowing or lending, entering into any contract or other transaction. The major objective of NASAC is to enhance the benefits of maritime transport in Mainland Tanzania.

It is proposed that NASAC shall have a Board of Directors whose chairman shall be appointed by the President and 6 members to be appointed by the Minister. The Board has powers to consider legislative proposal relating to shipping services and recommend their enactment to the Minister. The Board shall also have powers to establish, set, and review rates and charges. In discharge of its functions, the Board may conduct an inquiry where it considers it necessary or desirable for the purpose of granting, renewing or cancelling a licence; regulating any rate or charge; and adopting a code of conduct.

NASAC is proposed to be headed by a Director General, a presidential appointee (appointed to serve for a term of five years renewable once), who will be the chief executive officer responsible to the Board. There will also be a Registrar, appointed by the Minister and accountable to the Minister, who shall be responsible for maritime environment, safety and security matters of NASAC.

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Functions of the Corporation relation to shipping agencies

The functions of the Corporation in relation to shipping agencies shall be to (a) Represent the principal in shipping business services (b) arrange for arrival or departure of ships and provision of port services (c) carry out cargo and ship documentation services (d) arrange for provision of services pertaining to crew matters (e) arrange for provision of ship stores, supplies, ship repairing (f) arrange for transshipment services and shipment of overlanded or short-shipped cargo (g) arrange for container stuffing and de-stuffing services, and procure warehousing and cargo storage services (h) canvas for cargo and market shipping services of ships on behalf of ship owners, operators or charterers (j) attend claims on behalf of principals (k) monitor, track and coordinate all activities concerning the movement of full and empty containers (l) collect ocean freight and other moneys from shippers, consignees or other parties on behalf of the principal (m) provide ship tallying services and keep record for all loaded, discharged, stuffed and de-stuffed cargo items (p) provide or arrange for clearing and forwarding of cargo (q) superintend the conduct of shipping agents and (r) any other functions as the Minister may assign to it.

NASAC's sole mandate

What will prove to be a big challenge to the existing shipping agents, NASAC shall represent all principals in shipping business and may delegate the mandate to a shipping agent licensed. NASAC can only engage contractor, subcontractor and supplier who are licenced or registered. However, the following functions are exclusively reserved for NASAC:

- clearing and forwarding functions relating to import and export of minerals, mineral concentrates, machineries, equipment, products or extracts related to minerals, live animals, Government trophies or any other goods as the Minister may by order published in the Gazette prescribe;
- documentation in relation to shipping agency by receiving from the principal import and export cargo documents including bills of lading and manifests and transmitting such documents to a shipping agent to which representation of a principal has been delegated;
- ship tallying services

Regulation of maritime environment, safety and security shall be to:

- administer the Merchant Shipping Act
- exercise port state control of all foreign ships and flag state control of ship registered in Mainland Tanzania
- regulate and approve marine services safety equipment's and marine services providers
- regulate ferries
- coordinate maritime search and rescue operations
- regulate and coordinate the protection and preservation of marine environment
- perform such other functions as may be conferred on the Corporation by this Act or any other written laws
- the Corporation may undertake such other functions as the Minister may assign to it

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Regulation of maritime transport services shall be to:

- issue, renew and cancel licences;
- establish standards for regulated goods and regulated services;
- establish standards for the terms and conditions of supply of the regulated goods and sources;
- regulate rates and charges;
- Monitor the performance of the regulated service provider
- facilitate the resolution of complaints and disputes;
- monitor the conduct and practices of shipping lines and other regulated service providers;
- monitor freight rates and surcharge agreement
- call for, register and appraise freight rates, currency and bunker adjustment factors and other charges or surcharges in relation to maritime transport services
- require all ships loading or discharging cargo in Mainland Tanzania ports to submit to the Corporation
- ship particulars, freight rates; copies of cargo freighted manifest and charter parties for both import and export; copies of operational or service agreements; notification of any imposition of new charges; condition of services;
- register shippers, shipping agents and clearing and forwarding agents;
- undertake such other functions as the Minister may assign to it

Corporation excluded from liability

- NASAC shall not liable any loss, damage, injury or cost sustained by any person as a result of any default, negligence, breach or other wrongful act or omission of contractor, subcontractor, concessionaire engaged by NASAC
- NASAC shall not be liable for any loss or damage to equipment released to a shipper, consignee or any other person equipment belonging to a principal with specific, general or implied mandate from the principal for such release
- NASAC shall not be liable for any loss, damage or cost occasioned by doing or not doing any action as directed by the principal to the NASAC when fulfilling its duty as agent. The shipper, consignee or any other person suffering from the NASAC's action shall claim for loss, damage or cost directly from the principal

Licensing of private shipping agents

NASAC shall be both regulator and operator and it is to be seen how it will attain efficiencies that are desired especially after its predecessor NASACO failed to perform.

Any person who intends to provide port and shipping services shall make an application to the Director General. The Director General shall not issue a licence to any applicant if:

- the applicant is a ship owner, ship operator, charterer, inland container depot operator or clearing and forwarding agent
- the applicant does not possess the prescribed qualifications for the proper carrying on of the business of shipping agency
- the applicant has a known criminal record inside or outside the country, or
- the provisions of this Act or regulations made under this Act have not been complied with

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Transitional period

The Bill proposes the repeal of the Tanzania Central Freight Bureau Act and the Shipping Agency Act. The proposed shall also take precedence over the provisions of the Merchant Shipping Act. Consequently, the maritime sector regulatory functions formerly performed by SUMATRA shall be transferred and performed by the Corporation. During the transitional period:

- Licence holders under the previous regime may, upon payment of prescribed licence fees, be authorised to continue carrying on such services for a period to be determined by the Minister, by order published in the Gazette
- Any contract, document, licence, permission or resolution prepared, made, granted, or approved under the repealed Acts remain in force until revoked, replaced or rescinded.
- All subsidiary legislation and all exemptions made or given under the provisions of the repealed Acts remain in force until revoked, replaced or rescinded
- All members of Licensing Committee appointed pursuant to the provisions of the repealed Act to remain in office until their appointments is revoked
- All assets (including Employees and staff), interests, rights, privileges, liabilities or obligations vested in the SUMATRA related to maritime transport industry shall be transferred to and be vested in the Corporation

It is widely expected that the Bill will be scheduled for second reading in the coming session beginning 7 November 2017. The establishment of NASAC will have a detrimental effect on the current shipping agents and if not managed well, will likely bring back the inefficiencies importers and exporters faced when NASACO was in place.

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