

Full Length Research Paper

A strategic reposition of the maritime industry for economic recovery and sustainability: “The Cabotage Act”

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The Cabotage Law came into force in April, 2004 (Cabotage Act, 2003) aimed at reserving the costal shipping for Nigeria nationals. In essence, the system of maintaining domestic shipping industry is being regulated by the Cabotage Law. This involves the merchant fleet, and the protection of the environment and bio-diversity. The study is of the view that if the Cabotage Law is properly implemented; Nigeria will be able to maintain jobs and skills in an industry that is vital to its future. Lack of knowledge about the maritime sector could be the basis for the very poor response that it has generated from investing public. The oceans are as old as the maritime trade and dates back to the beginning of recorded time. Nigeria can only negate the development of its maritime potentials at its own peril especially taken into consideration here expensive maritime resource.

Key words: Cabotage, economy, maritime, transportation and shipping.

INTRODUCTION

The term “cabotage” is a Spanish word which refers to the maritime trade along country coastlines. In the context of its usage in the study, the term Cabotage refers to the coastal shipping opportunities which exist in respect of Nigeria’s coastal maritime trade.

The captivation of this lucrative shipping market opportunity is expected to occur as a result of the compulsion of the restrictiveness provisions of Cabotage Law. The market reservation provisions of the law is intended to achieve the reservation of a significance part of the Nigerian coastal shipping business opportunity, particularly those existing in respect of the local carriage of goods, the coastal transport of men and materials, the supply of offshore vessels of differing operational and market role description, the supply of all manner of shipping services between all Nigerian coastwise and offshore locations for Nigerian operators only (Walter, 2010). The commencement of the cabotage regime is

supposed to effectively signal the rebirth of Nigeria as a budding regional player (Abubakar, 2002).

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The nation has been losing as much as \$4 billion U.S dollar to foreign ship owners yearly owing to lack of indigenous capacity in the local maritime transportation.

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This lack of participatory capacity was attributed to the inability of indigenes to invest in the maritime transportation sector. The situation is quite critical to the extent that transport services for the personnel and equipment for oil exploration in the deep sea were being rendered by foreigners, which has caused the country dearly.

It is the opinion of the ship operators and maritime stakeholders that with the advent of the Cabotage Law and the local content policy of the government, which should be supported by proper implementation, it is hoped that better days lies ahead for Nigerian businessmen who could key into the merit of the Act. The local operators should be prepared to tap into the multipliers effect of the Cabotage Law (Ozioruva, 2004). The law gives room for ship building, shore to rig services, green field development and manning. In turn, Nigeria would as well make its system attractive to foreign investors. Given legislative backing by moving local content from 40-70% in the near future. It is conceived that there would be more shipping services such as ship chandelling, agencies and haulage for Nigerians (Agbakoba & Associates, 2002). However, Cabotage guidelines specified the procedure of implementating the Act. However, currently it has been receiving a lot of criticism from the public and stakeholders. In sum, according to the Cabotage Law, cargo means goods carried on a vessel whether or not for commercial value and include livestock, whereas coastal trade or Cabotage means, the carriage of goods by vessels or any other mode of transport (Ballack, 2006), from one place in Nigeria or above Nigerian waters. Either directly or via a place outside Nigeria and includes the carriage of goods in relation to the exploration or transportation of the minerals or the minerals or non-living natural resource of Nigeria.

However, the impact of the Cabotage Law cannot be overemphasized in that the agency is to see that ships within the zone comply with the international conventions and National Safety Regulations. In addition, NIMASA is responsible for promoting indigenous maritime capacity, particularly in the ship, ownership, greater tonnage and an enlarged professional work force. According to Decree No.10, 1987 and other related functions by Section 2 of the Cabotage Act, it covers the carriage of goods by sea and passengers originating from one coastal or inland point, which could be port, terminals, jetties, piers etc., to another point located within Nigeria. It as well revolves around the following:

1. Carriage of goods and passengers by sea in relation to the exploration, exploitation or transportation of mineral and non-natural resources whether offshore or within the inland and coastal waters.
2. Carriage of goods and passengers on water or underwater (sub-sea). Installations.
3. Carriage of goods and passengers originally from a point in Nigeria destined for Nigerian market but transiting through another country then back to the Nigerian market for discharge.

4. Operation by vessel in Nigeria waters including tonnage, pilotage, dredging, sawage, bunkering etc.

The Coastal and Inland Shipping (Cabotage) Act 2003 was quite recent; the Act is part of the policy of government to create opportunities for Nigerian to participation in all sectors of the economy. The enactment of the Act was also in response of the yearning of Nigerian stakeholders within the maritime industry both in the public and private sector for legislative intervention to stimulate the participation of Nigerians in its domestic coastal trade.

In recognition of the technical capacity of the shipping industry, Section 51 of the Act provides for a transition period of one year within which the necessary modalities and guidelines for the smooth running of the Cabotage regime would be developed. To facilitate the enforcement of the Cabotage Act, the Honorable Minister of Transport constituted a committee on the modalities for the implementation of the Cabotage on the 12th of February, 2004. The act was divided into four; enlightenment/ sensitization, operations and enforcement, Cabotage Vessel Financing Fund, and Legal/Regulatory Framework.

The study therefore seeks for more indigenous participation in the maritime industry with the aim of repositioning the Maritime industry for economic recovery and sustainability (Cabotage Act, 2003).

Problem statement

The essence of the cabotage Act is to allow more indigenous ship operators to participate in the Nigerian Maritime industry for economic recovery and sustainability. However, the current outlook seems discouraging as more foreign operators are rather patronized within the Nigerian Maritime industry.

Research question

The above statement led to the following research questions:

1. What are the significant effects of foreign vessel operators' dominance on the maritime industry in Nigeria?
2. How does the current state of affairs affect the Nigerian economy at large?

Research objective

The objectives of this research are:

1. To examine the effects of foreign vessels operators' dominance on the maritime industry in Nigeria,
2. To establish the impact of this foreign vessels operators' dominance on the Nigerian economy at large.
3. To explore other pertinent issues affecting domestic

Table 1. Throughput of indigenous tanker vessels hired by PPMC (2004 - 2007).

Year	Number of vessels hired by PPMC	Product moved by PPMC chartered vessels/MT	Charter fee (\$)
2004	10	1,848,673.115	39,413,056.80
2005	10	1,780,253.965	41,036,256.68
2006	10	2,739,162.113	41,144,436.09
2007	11	2,739,162.113	38,094,082.96
Total		9,107,251.306	159,687,832.53

Source: PPMC. Total product= 16,297,759.

maritime industry and to proffer suggestions toward the development of the sector.

METHODOLOGY

As aforementioned, this study is focused on the Cabotage Act in the Maritime Industry in Nigeria. Careful attention was made in selecting the data for this research. A combination of secondary and primary data was utilized in the study. Secondary data were sourced from NIMASA, NPA and other maritime industries news, periodicals, magazine, journal articles and internet website on related issues. Also, an extensive review of the Cabotage Act 2003 was undertaken. The primary data was obtained through a face to face oral interview of 15 selected operators, 20 investors and prospective investors, 10 government officials and 5 experts within the maritime industry. The study relied much on qualitative method. The rationale for this method of data collection is based on the fact that such data have the merit of being authentic, practical and to a great extent reliable. The benefits of this approach has been reinforced by Creswell (2003:181), who buttressed the originality and dynamic attributes of research methods, and stated that qualitative research is emergent rather than tightly prefigured. Several aspects emerge during a qualitative study. The research questions may change and be refined as the inquirer learns what to ask and to whom it should be asked. Alluding to the above, Dawson (2006) described qualitative research method as the exploration of attitudes, behaviours and experiences through such methods as interviews. Furthermore, the author added that such method attempts to get an in-depth opinion from participants.

Cabotage law and the maritime industry

Within the Cabotage regime, there is no doubt that the business and economy opportunity, has been enhanced. These economic potentials are fully actualized due to the determination of the Regulatory Agency, (NIMASA) to effectively implement the compliance to the later (Dauda, 2011). Having thus recognized and acknowledged the positive potentials of the cabotage regime, it is time to examine the true extent to which the stakeholders have been mobilized to exploit the considerable strategic opportunity which is represented by the law in force. However, there are clearly a number of factors, which the Act has provided for to boast the coastal trade such as;

Tonnage availability; The Act specified that for a successful Cabotage regime in Nigeria would essentially be required to consider the availability of Nigerian owned registered and crewed vessels of the appropriate market size and description.

Table 1 shows that indigenous operators were not allowed to fully participate in the maritime activities. Instead of allowing the indigenous ship to participate, PPMC chartered the ships and moved the products themselves. A total of 9,107,251.306 were moved by PPMC out of the total 16,297,759 total products

Tables 2 and 3 indicates that Nigerian ports including crude oil terminals for ten years (1997-2006) recorded cargo throughput of 1,324,700.166 by local and foreign fleet ship that patronize the ports and the crude oil terminals. The fact remains that in Nigeria today the carriage of crude oil is still credited to foreign flag ship by NAPIMS at the expense of Nigerian Economy.

Table 4 shows that out of the 42,276 total no of ships that entered the Nigerian port only 3,549 were Nigerian ships while 38,727 were foreign ships. Also out of the total 1,236,986,185 GRT, only 16,297,759 were shipped by Nigerian own ships while 1,220,690,426 were shipped by foreign ships.

This is not encouraging and does not support the Cabotage Policy. Hence, there is a need to motivate the participation of indigenous vessels within the National maritime industry.

Although this Act has been promulgated to support indigenous participation in the maritime industry, many people may be ignorant of it, which may hinder full participation. This is also in concordance with the finding of Alam et al (2010a) in the education sector in Bangladesh. According to them,

"The common culture of different parts of the world testifies that the mass population of a country is ignorant about the law... Even though the citizens of a country are the main user of law, they do not have any deeper understanding about it, making law an elite knowledge..."

From the same perspective, Zumeta (1992) cited in Alam

Table 2. Summary of the status of waivers granted under the cabotage regime, during the tenure of Dr. Sekibo as the HFOT.

Type of registration	Total waiver approved by the HMOT
Nigerian owned	228
Foreign	58
Bare boat	8
Joint venture	93
Temporary	21
Grand Total	408

Source: NIMASA.

Table 3. Cargo throughput at Nigerian ports (including crude oil terminals) 1997–2006.

Year	Ports inward	Outward	Total(A)	Crude oil shipped(B)	(A+B)
1997	11,213,624	5,369,181	16,582,805	99,667,533	116,250,338
1998	14,286,864	5,038,854	19,325,718	97,953,211	117,278,929
1999	15,751,331	6,482,605	22,232,936	92,462,264	114,696,200
2000	19,230,496	9,702,384	28,932,880	102,930,079	131,862,959
2001	24,668,791	11,271,901	35,940,692	100,732,875	136,673,567
2002	25,206,380	11,780,861	36,987,241	86,284,036	123,271,277
2003	27,839,293	11,926,652	39,765,945	85,797,681	125,563,262
2004	26,907,075	13,909,872	40,816,947	117,055,427	157,872,374
2005	29,254,766	15,697,312	44,952,078	112,872,821	157,824,399
2006	31,937,804	17,235,520	49,173,324	94,232,673	143,405,997
TOTAL	226,296,424	108,414,142	334,710,566	989,989,600	1,324,700,166

Source: NPA Statistics Department.

et al. (2010a) posited that countries always design both micro and macro level policies in order to achieve the desire level of national development. Dill (1997 cited in Alam et al. 2010a) is however of the view that policy is a wider guideline which does not necessarily control the daily life of a sector. Alam et al. (2010a) seem to concur with Dill, and stated that many indiscretions may be practiced, which bypass the policy guidelines. Hence, in respect of the new Cabotage Act, there may also be tendencies for people to try to maneuver rules and regulations.

Nevertheless, the Cabotage Act is a sign that the government is now willing to execute its function on behalf of the citizens. In similar vein, Alam et al. (2010b) have stated that,

“Business of state is to provide a decent life to its citizens giving a wider and increased access to their needs. A testimonial of significant success of business of state is gained when a state can maintain an increasing curve in both national and international competition. In the eye of public policy, it is no matter, whether the state itself engages in business operation directly or not. A business can be owned and operated by private organization or individuals. But through public policy, state has to ensure

an increased decent life for its citizen which is considered success.”

However, Alam et al. (2010b) have lamented that either for a faulty policy or international policy influence or weak implementation of a policy; many policies have become dysfunctional or reverse-functional.

In addition, within the education sector, in Bangladesh, Alam (2008: 259) observed that international influence and budgetary constraints are key enemies to make public policy functional. According to him,

“Policy is an insecticide used to kill all insects of education, preventing development. However, if the policy is virus affected or any insect kills the policy, there is little hope for an effective education sector. While legislators want to take the advantage of the policy, rules and regulations, the design and implementation of good policy is a nightmare” (Alam et al., 2010b).

This is the reason why the huge responsibility of public policy is not acceptable for many reasons nowadays (Alam, 2009). These observations by Alam in the education sector might as well be valid in terms of the slackness in the implementation of the Cabotage Act

Table 4. Nationality of ships that entered Nigerian ports (including crude oil terminals): 1997-2006.

Year	Nigerian		Non-Nigerian		Total	
	Number	*GRT	Number	GRT	Number	GRT
1997	353	1,650,604	3,232	91,192,737	3,585	92,843,341
1998	680	3,150,594	3,292	94,741,599	3,972	97,892,193
1999	557	778,514	3,205	93,964,177	3,762	94,742,691
2000	421	1,089,292	3,666	121,950,617	4,087	123,037,909
2001	270	2,415,765	4,203	127,597,821	4,473	130,013,586
2002	216	1,180,942	3,927	117,030,100	4,143	118,211,042
2003	223	986,696	4,092	131,401,537	4,315	132,388,233
2004	236	1,151,310	4,317	189,754,244	4,553	160,905,554
2005	269	1,997,996	4,317	143,497,864	4,586	145,495,860
2006	324	1,896,046	4,476	139,559,130	4,800	141,455,776
TOTAL	3549	16,297,759	38,727	1,220,690,426	42,276	1,236,986,185

Figures for 2006 are provisional. *GRT in the table refers to Gross Registered Tonnage.
Source: NPA Statistics Department.

within the maritime sector in Nigeria.

RECOMMENDATIONS

It is therefore, revealed that the course of running shipping business is capital intensive, and no single individuals can afford to provide the needed capital to purchase the required numbers of various vessels in Nigeria. However, the prospect is brighter now with the consolidation of the banks. There could be a sort of consortium to pool resources together for vessel acquisition for the cabotage trade. NIMASA is equally contemplating to invest heavily on vessels. Therefore, the following recommendations are worth considering:

First and foremost the government should motivate local maritime investors by providing effective funding because the business requires enormous amount of money. Hence, no matter the laws or policy in place, without proper funding and support from the government and other agencies, no positive result will surface.

Secondly law should not just be made of the sake of increasing the numbers of legislation by the government. There should be proper enforcement of the law. Enforcement also entails that the laws should be clarified to all stakeholder. While creating laws that are favorable to the nationals, law makers should also see to it that the indigenes are capable of managing the system; otherwise the industry could be placed at a higher risk, which can have a snowball effect on the economy.

Thirdly, there is a need for the nation to invest heavily in technology and technological knowhow. These are areas that have enabled foreign companies to be ahead of the National companies from a competitive point of view. The foreign vessels are more technologically inclined and they have sufficient number of experts to keep the vessel afloat. Therefore the government should

not overlook this point as one of the constraining factor to the growth of indigenous maritime entrepreneurs. More than that, the government should also invest in upgrading most of the port facilities and cargo handling, in addition to more investment in information technology.

Fourthly, there should be an affective training and development of human resources of the indigenous corporations. No workforce can excel without proper training and development. Training can be provided through short courses on maritime business. Additionally, local seamen can be sent on sabbatical abroad to acquire some additional knowledge and skills. Moreover, coaches and mentors from India and other part of Asia can be invited to come and mentor prospective entrepreneurs and employees of the local maritime corporations on the basis of the South-South co-operative initiatives. Training and development will also include proper forecasting and planning of manpower requirement by the industry.

Finally, the country must invest enormously in ship building. Without this, the nation will just continue to be a follower and not a pace setter as far as the maritime business is concern. A nation like India has gone far in the maritime arena owing to her huge ship building factories at Cochin. Therefore Nigeria can emulate India by setting up an industrial city for ship building. Indeed, if the nation is serious about the indigenization of the maritime industry, she must first and foremost start by manufacturing ships locally.

Conclusion

The contention of NNPC and other Multinational National Companies is that the indigenous operators do not have sea-worthy vessels. They posited that the Nigerian vessels do not meet up with their safety, health and

environmental standard. However, the Cabotage Act maintains that ships should be built, owned and if possible maintained by Nigerians. Therefore, how can the laws function effectively if ships owned or built by Nigerians are considered substandard by multinational companies for other reasons? This also explains the reason why Nigerian vessels are not allowed to lift crude oil from Nigeria to abroad. However, with the new law, NNPC and its collaborators should now clarify things to Nigerians.

The truth remains that the magnitude of risk involved in moving this sophisticated goods abroad is quite high for an average Nigerian vessel. The negative aspect is that the Japanese and Singaporean vessels have been flooding Nigeria with illegal goods in the face of the Cabotage law. With this reality, one wonders whether the law is still worth the paper on which it was framed. Nevertheless, if the above postulates are taken into consideration, the nation could achieve a milestone in terms of promoting indigenous participation in the maritime industry in Nigeria.

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