



Challenges & Solutions

Private Sector Participation in the Nigeria Maritime Industry

NIGERIA



Introduction

There is no gainsaying the fact the maritime industry plays a prominent role in the economy of most nations. As a matter of fact, events around the world have shown that the maritime sector, when handled rightly, can go a long way in the reduction of poverty, wealth creation, skills acquisition promotion and encouraging entrepreneurship.

The maritime sector, if well harnessed, not only has the capacity to boost a country's economic development but also contribute very significantly to the growth of the national gross domestic product (GDP)¹. Some of the opportunities the sector can bring include: providing a platform for global

shipping and commerce; act as a source of renewable energy; enabling fisheries, tourism, maritime transport and infrastructure, to mention but a few.

In Nigeria, the maritime industry has for some decades now, been bedeviled by myriads of challenges including but not limited to paucity of funding/financing and public private partnership (PPP), inadequacy of the legal and regulatory framework, inadequate incentives for private investors, lack of political will and inconsistencies in policy formulation.

It is against the foregoing background that this publication underscores the need for collaboration between the Nigerian government, industry stakeholders and private investors, with

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Nigeria Maritime Industry

Nigeria, located on the coastline corridors of the Gulf of Guinea and the Bight of Benin, is blessed with a natural maritime endowment base comprising a coastline of over 850kms, an exclusive economic zone of over 200 nautical miles, a vast inland waterways resource estimated at nearly 4,000kms, capable of supporting a vibrant intra-regional trade. With Nigeria's total annual freight cost, estimated at between \$5 billion and \$6 billion annually, there is no doubt that shipping is of great importance to the Nigerian economy (NIMASA 2018).

The maritime industry includes all enterprises engaged in the business of designing, constructing, manufacturing, acquiring, operating, supplying, repairing and/or maintaining vessels, or component parts thereof: of managing and/or operating shipping lines, stevedoring and customs brokerage services, shipyards, dry docks, marine railways, marine repair shops, shipping and freight forwarding services and similar enterprises. Put succinctly, the industry embraces all the maritime related business activities which take place within the country's maritime environment. These include offshore economic activities such as fishing, salvage, towage, underwater resources and on-shore economic activities such as port activities, maritime transport (shipping), ship construction, repairs and maintenance activities.

Maritime Industry Participants

The maritime industry in Nigeria is mostly dominated by the following players; the Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Ports Authority (NPA), Nigerian Shipowners Association (NSA), the Nigerian Shippers Council (NSC), Ministry of Trade and Transportation, operators, finance institution and private investors.

The Legal and Regulatory Framework for the Maritime Sector in Nigeria

In this section, a brief overview of the extant legal and regulatory framework (limited only to principal legislation and potential changes in law) for the maritime industry in Nigeria is provided.

- ⇒ **Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007:** NIMASA Act establishes NIMASA and saddles NIMASA with the responsibility of pursuing the development of shipping and regulating matters relating to merchant shipping and seafarers in Nigeria. Other statutory functions of NIMASA include but not limited to: regulation of safety of shipping as regards the construction of ships and navigation; administering the registration and licensing of ships.
- ⇒ **The Coastal and Inland Shipping (Cabotage) Act 2003:** The Cabotage Act was enacted in response of the increased demand of Nigerian stakeholders within the maritime industry for legislative intervention to stimulate the participation of Nigerians in its domestic coastal trade. The Cabotage Act restricts the use of foreign vessels in domestic coastal trade (including carriage of good and



passengers in Nigerian waters), promotes the development of indigenous tonnage and establishes a cabotage vessel financing fund. Specifically, the Cabotage Act precludes a vessel other than a vessel wholly owned and manned by a Nigerian citizens, built and registered in Nigeria from engaging in the domestic coastal carriage of cargo and passengers within the coastal territorial inland waters, or any point within the waters of the exclusive economic zone of Nigeria. The Cabotage Act provides for Cabotage Vessel Financing Fund ('the Fund') and the Fund is to be used for promoting the development of indigenous ship acquisition capacity by providing financial assistance to Nigerian operators in the domestic coastal shipping.

- ⇒ **Nigerian Ports Authority (NPA) Act:** The NPA Act empowers the NPA to maintain, improve and regulate the use of the ports; ensure the efficient management of port operations; provide and operate ports facilities; form, establish or incorporate subsidiaries or affiliate companies with other persons or organisations for the purpose of carrying out any of its functions.
- ⇒ **Merchant Shipping Act, 2007:** This Act provides for merchant shipping in Nigeria and allows only registered Nigerian ships to operate commercially in the Nigerian to the exclusion of others except for statutory exempted cases.
- ⇒ **Potential Change in Law:** There are currently some bills pending before the National Assembly capable of affecting the maritime industry when passed. They include: the Anti-piracy Bill; the Establishment of the Nigerian Marine Development Bank Bill; Inland Fisheries Act (Amendment) Bill 2017; the Deep Offshore and Inland Basin Production Sharing Contract (Amendment) Bill 2016; and the Cabotage Act (Amendment Bill) 2017.

KEY CHALLENGES FACING THE MARITIME SECTOR

Some of the key factors that influence the development of shipping industry in Nigeria include: inadequate financing, inefficient ports infrastructure, deficit in maritime infrastructure, inefficiencies, lack of transparency and sharp practices.

Inadequate Financing

- ⇒ The maritime industry is highly capital intensive and financing is very pivotal to increasing private sector participation in the maritime industry. This is true for the maritime sector in Nigeria.
- ⇒ Disappointedly, the nation's maritime industry has been marked with stunted growth until recent times. The stunted growth can be mostly attributed to inadequate financing. Paucity of funding or inadequate financing has brought about inefficiency and ineffectiveness in the management of maritime industry services. Thus, affecting investments in maritime infrastructure and equipment, which are critical to the efficient delivery of services in maritime operations.
- ⇒ The near absence of special financing arrangements to support the growth of indigenous shipping also leaves much to be desired. Notably, years after the Cabotage Act established the Cabotage Vessel Financing Fund (the fund) to provide financial assistance to indigenous operators, the fund is yet to be disbursed.

Inefficient and Inadequate Port and Shipping Infrastructure

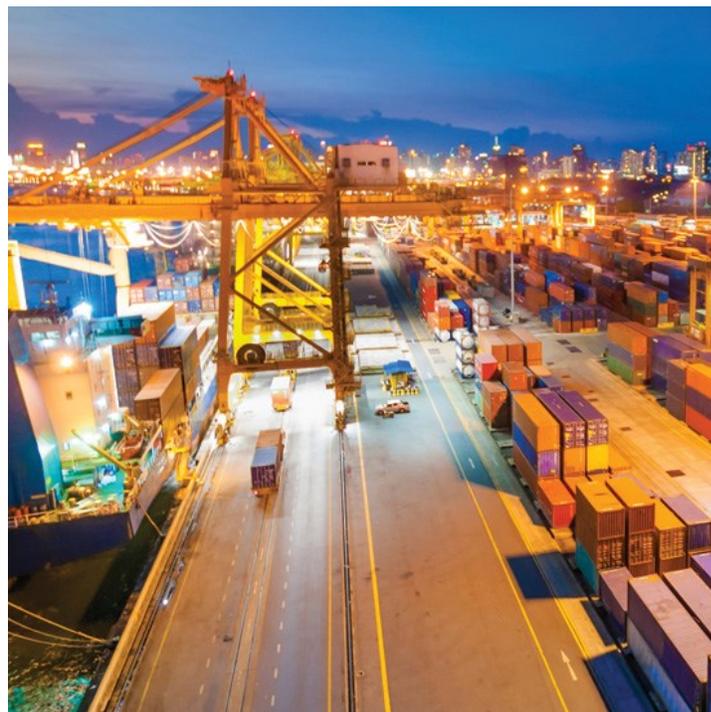
- ⇒ Decaying port infrastructure is another challenge facing the maritime sector in Nigeria.
- ⇒ Port infrastructure, as used in this context includes: Ports, terminals, cargo handling equipment, channels and harbours, warehouses, ports access roads, inter-modal transport involving rail and roads interfacing with ships and badges, utilities, information communication technology (ICT), deep seaport and scanners.
- ⇒ The current bad state of port access roads, especially to the Lagos Port Complex, Apapa and Tin Can Island Port, is rather unsettling. One question begging for answer is: Should the one mode of transport not give way to the wisdom in intermodalism (multiple modes of transportation)?

Maritime Infrastructure Deficit

Inadequate development of seaports as well as the inefficient supportive logistics infrastructure is another challenge facing the maritime industry in Nigeria. The need to increase vessel size present challenges, both for ports and shipping companies. The need to accommodate greater numbers of larger vessels does create challenges for ports where the capacity to accept such ships is conspicuously non-existent.

Loss of Revenue

Our research reveals that Nigeria is currently losing N15b or \$101m annually and even more disturbing is that Nigerian ownership accounts for less than 8 percent, which is far less percentage contemplated in extant legislative enactments.



Inefficiencies and sharp practices

- ⇒ The maritime sector is plagued with operational inefficiencies, unpredictability in maritime operations, sharp practices and lack of transparency in day-to-day engagements and activities.
- ⇒ Unnecessary delays for ports shipment seem to be the norm and prompt delivery of shipment the exception.
- ⇒ Absence of collaboration by stakeholders (regulators and operators alike and non-alike) to combat these ills through global best practices, innovative technologies and ingenious ways still remain to be seen.

THE CHINESE AND THE PHILIPPINES EXAMPLES

China

- ⇒ In taking the maritime industry in Nigeria to enviable heights, lessons can be drawn from China which is currently being ranked as the [2018 world's leading maritime nation](#) due to its top four ranking in all of the maritime pillars (shipping, finance and law, maritime technology and ports & logistics).
- ⇒ Research conducted by our analysts reveals that China is specially strong on ports, logistics and shipping pillars, with the current record of world's largest container and bulk ports.

Philippines

- ⇒ A lot can be learnt from the Philippines by the Nigerian maritime industry which has achieved the reputation of a global supplier of sea farers, creating millions of jobs for her citizen and boosting foreign exchange earnings.
- ⇒ The time is now to not grow indigenous ship ownership, but also increase funding crucial to boosting the sector.



Efficiency, Transparency and Global Best Practices

- ⇒ There is need for improved efficiency in maritime operations in Nigeria to improve global competitiveness. Improved predictability and transparency in maritime operations will go a long way in boosting confidence in the sector, which in turn will bring about increased revenue.
- ⇒ Collaboration must be sought through Public Private Partnership (PPP) in implementing strategies and adopting global best practices, innovative technologies and ingenious methods in resolving the ills that currently plague the maritime industry.
- ⇒ With a view to increasing revenue in Nigeria's shipping sector, unnecessary delays in maritime operations can be drastically reduced through use of sophisticated or innovative technologies funded by the private sector.

PROBABLE SOLUTIONS AND RECOMMENDATIONS

Increased Investment in Port Infrastructure

There is need for increased and sustained investments in port infrastructure. Port facilities should be upgraded and modernized for quick discharge of consignments. Port infrastructure, as used here, entails all facilities that support and enhance the maritime transport sector, making it efficient, productive, safe and environmentally friendly, with a view to making the sector achieve its fundamental objectives.

Increased Financing

Given how capitolly intensive the maritime sector is, there is need for increased financing by the private sector. Intervention funds, through the Central Bank of Nigeria and disbursement of the Cabotage Vessels Financing Fund can be made accessible to concerned industry players.

Increased Maritime Infrastructure

- ⇒ There is need for development of critical maritime infrastructure. Taking concrete steps in development of railway system, airport and seaport structures or facilities, construction and repair of road network and their interconnectivity will go a long way in improving intermodal transport in Nigeria.
- ⇒ The state of infrastructure (modes of transportation include) in the maritime industry calls for more involvement by the private sector.
- ⇒ Public Private Partnership can be explored to provide funds for maritime infrastructure that can turn around the fortune of the nation's maritime industry.

Capacity Building

Maritime training institutions in the country will largely benefit from improved and modern simulators and equipment of professionals and employees engaged in the maritime industry. This will go a long in not only providing the human capital needed for the efficient running of the maritime industry but also provide opportunity. PPP will come in readily in this instance in providing the means for building the capacity of maritime professionals needed to take the country's maritime industry to the desired height.

Increased Agitation for Disbursement of the Cabotage Vessel Finance Fund

There is need for private sector participants in the maritime industry to put pressure on the government to disburse the Cabotage Vessel Finance Fund (CVFF) provided for in the Cabotage Act. The disbursement of the CVFF is long overdue. Disbursement of the CVFF will definitely go a long way in providing succor to ship owners who have acquired huge debt over the years and at the brink of insolvency (occasioned by poor ship finance).

Marine Tourism: Tourism demand is increasing worldwide, and there are opportunities for investors to exploit Nigeria's coastal and maritime resorts for revenue generation and job creation. These opportunities include the creation of a marine mall, cruise ships and the fostering of marine sports. Driving the growth of marine tourism through increased investment can be a huge area of opportunity for private investors.

ROLE OF PROJECT FINANCE

We recommend the use of project finance through private sector involvement in financing infrastructure development for the maritime industry.

In a Project Finance context, three steps are involved in **opening an infrastructure sector to private participation**:

- creating the framework for private participation;
- defining the project(s) to be tendered; and
- conducting bidding process(es).

The process occurs in three distinct phases:

- ⇒ **Origination of a project**, usually a capital-intensive facility, by securing a conditional right from a ceding authority pursuant to a tendering process or an unsolicited proposal to build the facility.
- ⇒ **Negotiating and formalizing the needed project agreements** with major project participants that serve the purpose of defining the technical, economic and commercial outlines of the project.
- ⇒ **Mobilizing required financing** through own resources, or jointly with lenders, as well as supervising the management organization, construction and successful commissioning of the facility.
- ⇒ The above phases can further be broken down into three distinct stages namely: the **pre-bid stage, contract negotiation stage and money-raising stage of project development**.
- ⇒ Private companies will respond to each of these three steps with activities of their own:
 - identifying projects that may be commercially attractive based on own studies;
 - preparing an unsolicited bid, as and if permitted by the framework; and/or
 - participating in a formal competitive bidding.

Throughout the three-step process defined above, the sponsor(s) has the following key issues to resolve:

- Selecting the right project;
- Determining whether to submit an unsolicited proposal, if this is appropriate.
- Selecting the "right advocacy, i.e. taking on the "right" local partner. (In theory, the sponsor(s) should be left to make a decision as to whether to take on a local partner. It is often the case, however, that government will require a certain level of local participation in an infrastructure facility.)
- Conducting a technical feasibility study with the purpose of arriving at a reasonable estimate of project costs.
- Estimating the time it will take to fully negotiate the project.

Alternatively, an **unsolicited proposal** can be submitted by an interested private entity.



Unsolicited Proposal

- ⇒ An **unsolicited proposal** is prepared under the initiative of a private entity and directly submitted to a ceding authority. An **unsolicited project** may be highly advantageous to the developer.
- ⇒ Unquestionably, the resulting competitive edge and promise of a quicker negotiation or lower cost development are often irresistible lures. Such a project, however, may also have adverse consequences.
- ⇒ If the negotiation with the ceding authority is not perceived to be transparent, or involves an obvious loss of bargaining power for the government, a strong public outcry could arise. If pronounced enough, the adverse reaction may create delays in the implementation of the project.
- ⇒ There are instances of unsolicited projects initially accepted by government but abandoned subsequently after excessive public outcry and delay.

Technical Feasibility Studies

There is need for technical feasibility studies often conducted by in-house staff of the sponsor(s), hiring technical consultants and/or conducting informal discussions with a handful of short-listed turnkey engineering, procurement and construction (EPC) contractors. The objective of a technical feasibility study is to consider the appropriateness of the facility's design relative to the needs to be served; capacity and phasing; cost under current or projected market conditions at one or more sites; construction schedule; and price, availability and transportation requirements of major inputs.

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