

# Sustainable Maritime Transport Vis-a-Vis Capability Gap for Cabotage Operations in Nigeria

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## Abstract

*The tenet of Cabotage operations since its enactment is believed to guarantee rapid industrial and economic developments in Nigeria. In order to experience sustainable development, Nigerian maritime industry must position herself in the committee of maritime nations for all round developments. However, the capability in form of ship building, ship manning, ship registration and ship ownership has been worrisome. This paper has therefore, been set out to investigate reasons for non-functionality of Cabotage Act and identify way forward for sustainable maritime development in Nigeria. Population of stakeholders for data collection through structured goggle forms linked questionnaires comprises ship-owners, oil marketers, seafarers, officials of Nigerian Ports Authority and Nigerian Maritime Administration and Safety Agency (NIMASA). Targeted population of 980 was reduced to 203 using Cochran Formulae for sample size with stratified sampling technique. The statistics of the responses on some major questions were provided in a table. Histogram presented the solutions that can put the Nigerian maritime industry on the right track of sustainable development. It is not certain that Nigeria can fully implement version of U.S Cabotage because of ship building capability rather to develop a unique method in form of partnership that will domicile foreign collaboration with the existing Shipbuilding Companies. Providing refundable loan to indigenous ship owners under Public Private Initiative will go a long way to set the country on the right track. All the factors analysed about the way forward are to be examined with the involvement of relevant stakeholders.*

**Keywords:** Sustainable, Cabotage, Maritime, Nigeria and Capability

## 1.0 Introduction

Sustainable maritime transport can be described as the one that meet the present shipping demands with consistent provision for future development. Olufowobi (2020) examined that Nigeria has a coastline of about 852 kilometer stretching to Atlantic Ocean in the gulf of Guinea and a total area of 46,000 km<sup>2</sup>. The Nigerian Cabotage Law expressed that, the coaster and inland water except in case of first refusal should be carried by ships built in Nigeria, wholly own by Nigerian, registered in Nigeria and manned by Nigerian (Adepoju and Somuyiwa, 2009).

The tenet of Cabotage law was based on giving priority for citizens to engage in shipping trade within the confine of coaster area of the country. Hitherto, the implementation of Cabotage law in Nigeria has not been effective. Among the challenges facing its implementation as noted by Baru (2018) was the issue of terms of trade. This is a situation whereby the principle of Free on Board (FOB) changed to Cost, Insurance and Freight (CIF) in which the buyer of crude oil chooses the vessel to convey their goods. In the words of Madu (2015), exports in Nigeria are based on FOB while imports are based on (CIF). In addition to this, is the fact that, oil rigs are owned and controlled by foreigners which has made indigenous shipping companies helpless. Many others affirmed that, waivers in the Cabotage law; failure to consult indigenous ship-owners, problem surrounding the release of Cabotage Vessel Financing Fund (CVFF) and lack of cooperation between Nigerian National Petroleum Cooperation and Indigenous Ship Owners in Nigeria are the bane to the implementation of the sustainable shipping operations in Nigeria. According to Onogharigho (2016), many indigenous shipping companies are in debt while some have left the shipping business because they trade in foreign currency that its value keeps getting higher than that of the country. It is unimaginable how Nigeria's Certificate of Competency (COC) is being relegated among the committee of maritime nations leading to quest for foreign ones. Nigerian seafarers are sometimes not properly remunerated and people with lower qualifications from foreign countries are given preferences mostly by international shipping companies. Sustainable maritime operation there requires investment by local investors, empowered by indigenous manpower without demeaning the involvement of foreign investors. The manning of vessels by Nigerian even from training and licenses for inland and international voyages are accompanied with serious challenges. Then, sustainable system cannot be said to be in place without infrastructure, manpower and political will. National Seafarers Development Programme (NSDP) was initiated to train seafarers abroad owing to lack of modern training facilities in Nigerian Maritime Academy. In Nigeria, the tendency to identify our problem is usually very clear but always without the will power or modalities to solve them. The criteria for fixing our problem should probably be in form of "if we do not have it, we should outsource for it". If we outsource for it because we do not have it should be with a view to have it. Enormous capital flight has been expended without substantive results in the pursuits of cabotage policy in Nigeria. This paper attempts to seek redress and call for identification of gaps to repositioning the maritime industry's capability especially in the light of blue economy for sustainable economic development.

## **2.0 Review of related literature**

Cabotage has been defined by different scholars and the general meaning in transport connotes navigating or moving along the coast. It can also be described as having an exclusive right to sea traffic, air traffic, rail traffic or even road traffic within the territory of a country (Igbokwe, 2003). There are strict, relaxed, modified and liberalized cabotage laws all over the world presently. Jones Act of United States and Merchant Marine Acts of 1920 were said to be strict cabotage laws in that, there were no relaxation for the participation of foreigners in merchant coaster shipping for the purpose of protection, promotion and maintenance of U.S domestic merchant marine. Though, India, Malaysia, Australia and Philiphine modified the terms of cabotage by either restrictions through levies, getting license permit or form an agreement.

The U.S governments had realized the impacts of cabotage on her economy and in spite of series of calls for abrogation of Jones Acts, the appeal could not succeed.

Paulose (2013) noted that, government must be involved in transport regulations for three reasons. These are market failure, equity and revenue generation. He maintained that the three are very vital for economic efficiency and sustainability. According to United Nations (2018), shipping has an influence on transaction cost and addressing its operations is fundamental to sustainable development. In his philosophy and treatise on shipping, Adam Smith opined that maritime business has the capacity to maintain sustainable development as it links to the outside world (UNCTAD, 2018). The report of World Bank which ranked Nigeria as one of the countries living below poverty level became worrisome in spite of naturally endowed marine resources. However, in the submission of UNCTAD's fifty years review of maritime transport, it was observed that many nations put barriers against World Trade Organization's directive in their policies (UN, 2018). This has been seen as obstacle to sustainable maritime development.

Alari (2019) explained how Nigeria started Nigeria National Shipping Line in partnership with Palm Shipping line and Elder Dempster. After so many financial and ship building funds it was grounded. Similarly the National Unity Line established in 1995 only to be sold off in 2002. The implementation of cabotage law is believed to enhance sustainable development in areas such as fishing, salvage, towage, underwater resource exploitation/extraction, and onshore economic activities in ports, shipping activities, ship construction, repair and maintenance which till date are yet to be fully grasped in the country (Ndikom, 2012). Ijarshar, (2015) mentioned that cabotage will ensure national security and sustainable economic development. In spite of the numerous benefits accruable to the implementation of cabotage Act by many scholars like Usoro (2003), Ugbokwe (2004), Agbakoba (2004) and Akabogu and Onyuike (2004) there is yet to be more success till now. Nigeria does not have modern technology and political will to build tanker vessels, container vessels and refused to make technology transfer in this respect which invariably made "built" to be mere illusion. Usoro (2003) and Biu (2007) reiterated that Nigeria has about 3000km of inland waterways six major ports and ten crude oil terminals, and several inland ports in Onitsha, Oguta, Opobo, Lokoja, Baro, Jebba. The cargo throughput carried by indigenous shippers is less than 6%.

## **2.1 Theory on policy constraints**

Policies give directions to achieve desired objectives. The United States Cabotage law was partly facilitated for ship building, generation of traffic and provision of employment for 75% seafarers in the country. The Cabotage regime in U.S has waivers but based on peculiarity of the intention of the policy. For instance, there is bilateral agreement between U.S and Brazil; no restriction for registration to carry U.S flag but high charges on domestic operation by foreign vessels will make foreign ships to prefer U.S registration (GOA, 1994). The report cited by Bertho (2009) explained that certain restrictions are enforced within the purview of cabotage in the United States. Some cargoes generated by government, military or facilitating government programmes are to be transported by the U.S flag carrying vessels. In the area of tariff, United States apply the principle of reciprocity. It observes the charges on their vessels in foreign land and applies same to vessels coming to the United States. Regrettably, the exchange rate against

American dollar does not favour most African countries. The report of United States International Trade Commission (USITC, 2002) considered the abolishment of Cabotage law and the response from the industry revealed that 7700 workers and about 3100 workers in shipbuilding will be affected. Nwekeaku & Atteh (2016) opined that, lack of shipbuilding technology will continue to make Nigeria dependent on developed economies where the technology is available.

In order to have sustainable development in maritime Cabotage operations, Brooks (2009) suggested a shared regulation based control between private and public sector. According to Alari (2019) the responsibilities placed on Nigerian Law Reforms Commission to see to changes in Nigerian Laws cut across criminal, maritime, civil and other laws. The tasks of the legislators with various committees may not be rooted to each of the challenges across the sectors because of the complexity of the job. He opined that, to have a good maritime system will require institutional, legal, implementation reforms in maritime sector. The questions raised by some researchers like Okoroli (2013) and Nwekeaku & Atteh (2016) can Nigeria compete favorably with foreign counterparts even with implementation of cabotage? According to Okeke and Aniche (2012), the unionization of the major European countries under the umbrella of their association (Association of Classification Societies (IACS) which made them to possess 95% of the world's fleet made it difficult for Nigerian operators to beat them due to their strength, capacity and influence. This is because of sustainability issue which may have undesirable effects if we cannot continue in the long run. Usoro (2003) observed that the call on foreign investor and the cabotage policy were seen as contradicting policies. A situation whereby our own Nigerdock has resorted to only ship repairs and the tenet of cabotage stipulates shipbuilding should be a concern.

Sustainable development is based on plans to future economic growth. Agama & Alisigwe (2018) opined that, Nigeria is not fully ready for cabotage implementation because of inadequate capacity in ship building and manpower resources. Hence, a version of cabotage that will enhance the growth of local shipping companies based on our capacity may be the best option. In the present shipping operations where flag of convenience is common, America that started this policy does not benefit from it looking at comparative advantage principle. America used to enjoy cheap labour from foreign countries but cabotage has deprived them of that. Shipping operation is technical and volatile. Investors weigh advantages and disadvantages. For instance, when coaster shipping is restricted to indigenous shipping, it may mean that two or more legs may be required in shipping cargoes bound for international voyages. It increases cost of shipment and economical unproductive. Ship-owners buy ships that can generate income consistently so as to repay loan and make profits. Indigenous Ship owners in Nigeria are not having much problem in getting ships even the standard ones but, consistent cargo lifting in the industry. ROE (2013) expressed that, shipping business is dynamic and therefore should not be based on deterministic policy. He explained that certain factors like taxation, tonnage, sale and purchase market, labour transfer, registration of ship and security threats are critical to shipping business survival. Changes used to happen in the industry and policy review is a means to catch up with the change. According to Adekola (2018) cabotage policy can either be liberalized or rigid. In the research of Osemwegie (2019) countries that practice liberalized form and those that

practice rigid were illustrated. The rigid countries can be termed to be countries like United States though tend to be a bit relaxed after 9/11 incident.

Malaysia cabotage is a bit relaxed as foreigners are to get licensed before they can operate within inland waters. Philippine uses higher taxes to discourage foreigners in operating in their domestic waters. Two conditions for foreigners to operate is either they engage 40% Philipino Shipping Company or the need for specialized vessel not possessed by the indigenous company (Osemwegie, 2019). Indonesia maintained rigid cabotage policy after it has tested relaxed policy abd realized the development in the rigid type on local shipping development.

### 3.0 Methodology

Questionnaire was structured to elicit information on the reasons Cabotage Act has not taken root as presumed in Nigeria maritime industry. The questionnaire contains both closed and open ended questions. Ship Owners Association of Nigeria who are directly involved about the Coaster shipping and the major oil/gas marketers formed the targeted population of this study. A copy of the Inland and Coaster Shipping Act, 2003 as enacted and the implemented in 2004 was critically observed. Targeted population of 980 was reduced to 203 using Cochran Formulae for sample size with stratified sampling technique because of the peculiarity of the targeted population as related to the subject of this study. The strata involve the government institutions controlling maritime activities, ship owners, oil marketers and ship building companies. 203 structured closed and open-ended questionnaires were sent to the respondents and 187 responses were retrieved.

### 4.0 Results and Discussion

#### 4.1 The extract from responses

The responses from the survey questionnaires indicated the opinions of the stakeholders regarding the implementation of the Cabotage Act (see Table 1).

Table 1: Various reasons for non-implementation of Cabotage Act

Why has Nigeria not been able to implement Cabotage Act since its enactment in 2004?

|   |  |  |                                     |   |      |
|---|--|--|-------------------------------------|---|------|
| NNPC refused to patronize indigenous shipping company | The cabotage law is defective and gives leeway to foreigners | Nigeria lacks the capacity to build ships and non-recognition of our CoC | Enforcement of cabotage law is weak | Inability to access CVFF by the indigenous shipping companies |      |
| 28%   | 39%  | 52%  | 40%                                 | 41%   | 200% |
| 14%   | 19.5%  | 26%  | 20%                                 | 20.5%   | 100% |

Source: Author’s survey (2021)

In the Table 1 above, the critical issue in the Cabotage problem is the capacity to build ship which is one of the major tenets of the Act. As indicated, it has about 26% of the challenges in

the implementation of the Act. It can further be carefully observed that, following the shipbuilding capacity is the funding as indicated by 20.5% occasioned by the inability to access the Cabotage Vessel Financing Fund (CVFF). No doubt, that lack of shipbuilding capacity and non-recognition of Nigeria’s Certificate of Competency in international coaster waters were to be addressed by the CVFF. It can be fathomed that, already the solution to capacity in shipbuilding has been provided through CVFF. However, it becomes another problem when the fund is not accessible, available or used for the purpose that it is meant to achieve. The 20% and 19.5% actually showed that, the Cabotage Act needs to be modified so that its content can foster the aim and objectives of its tenets. Apart from that, there is need to properly enforce it. If laws or Acts are enacted and there is no enforcement, it is a waste of time. With the number of years past of its enactment, stakeholder’s summit and workshops can further redefine and provide a modern solution to coaster shipping without recourse to gullibly adapting foreign policy that may not produce result peculiar to Nigeria as a nation. The incoterm which stipulates the terms and conditions for the delivery of oil and gas mostly on Free on Board (FOB) or Cost, Insurance and Freight (CIF) should be addressed. Although, it has been noted that, buyer has the right to use carrier of his choice under CIF. The position of the country in this regard should be jointly looked at by the stakeholder as good vessels by Nigerians will go a long way to assuring the NNPC and major marketers in the maritime and oil and gas industry. This can be seen with 14% shown in the table 1 above.

Understanding the fact that, Nigeria is yet to attain the height of one of the best maritime nation in Africa continent, therefore the solution to challenges inhibiting this goal must be addressed. In addressing this, the descriptive statistics was gathered from the responses of the respondents. Respondents are at liberty to state more than one solution or express their opinions regarding how the identified problems can be solved. The summary of all the solutions mostly expressed in the open-ended questions are seven as depicted in the figure 1 below.

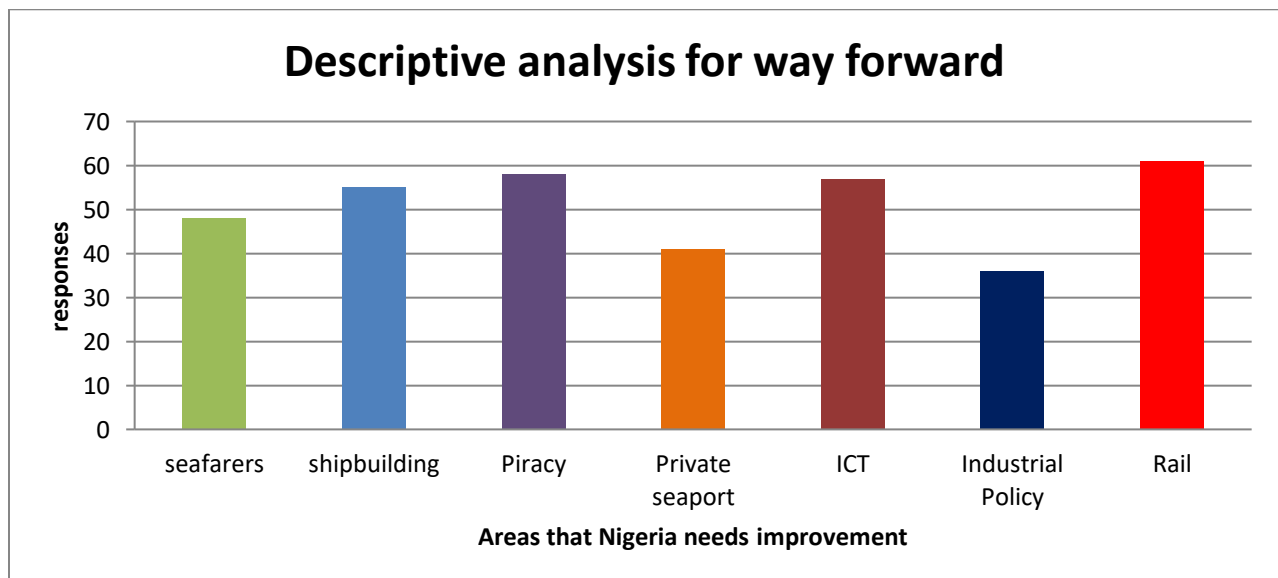


Figure 1: Way forward to challenges in Nigeria's maritime industry against sustainable development

Source: Author's computation (2021)

The figure 1 presented the way forward to solving challenges in maritime sector and put Nigeria on the path of sustainable development. It is very important to know that rail transport has a significant impact in ensuring that, Nigeria's maritime transport becomes sustainable. This is indicated in the figure with responses of slightly above 60. The second factor here is the solution to the problem of piracy. The responses suggested that, piracy especially in the Eastern part of the country hinders the sustainability of the maritime sector as indicated with 58 responses. Information and Communication Technology (ICT) to synchronize shipping activities has been observed to be the third factor as it has about 58 responses. The shipbuilding is the next for Nigeria to be on the track for sustainable development. It can be realized from the figure as it has about 55 responses. Development of seafarers that will be acceptable among international maritime nations with the recognition of Certificate of Competency (CoC) is crucial to sustainable maritime transport in Nigeria. It has been indicated based on the responses on the need for training competent seafarers and recognizing their certificates in international community. This was illustrated with about 48 responses. The second to the last is the development of private seaports or jetties in order to really maximize the potentials of Nigeria's waterways. The last factor is about policy. This policy is based on compelling industries that are involved in maritime transport on the need to accommodate local shipping companies before any other consideration as noted in (first refusal of cabotage act). This enactment should be properly enforced with penalties on its infringements. It has 36 responses as indicated in the figure 1 above.

## 5.0 Conclusion and Recommendations

This study has been able to examine the gaps in Nigerian Coaster and Inland Shipping Act (Cabotage Act) and identified some of its challenges which hindered its effective implementation. Therefore, the findings of this research should be given attention and stakeholders' forum should be called to achieving a sustainable development goal. Specifically, shipbuilding, and other factors that have been pointed out to be the solutions to the challenges are to be looked into. All efforts to ensuring that Nigerian seafarers are recognized should be taken. Whatever that is not giving the country the required level of training to attain the relevance status should be done. Similarly, the Oil and gas industry is to be given that condition of first refusal and ship-owners are to be given repayment loans to be able to compete with foreigners in Nigeria. The Nigeria as a country has the market and resources which should benefit the economy provided the enabling laws and policies and enforced.

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