

NIGERIA CABOTAGE POLICY AND THE DEVELOPMENT OF INDIGENOUS MARITIME CAPACITY

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Abstract

The paper is a study of cabotage policy and the development of indigenous maritime capacity since its enactment as an Act twenty years ago with so much promises and expectations from various stakeholders in the Nigerian shipping industry. The Policy Implementation theory was utilized as framework for the study. In carrying out this research study, both primary and secondary data were used. The findings revealed that the policy has not met the expectations of the indigenous operators. Despite the existence of the Cabotage policy as enshrined in the Cabotage Act, in addition to the provision of vessel purchase fund, the development of indigenous shipping has not significantly improved. The main problem identified in this study is that the Nigerian Cabotage Act was skewed in favour of foreigners and to the disadvantage of Nigerians. However, the study concludes that the renewed efforts of government, especially NIMASA, if sustained, will change the situation for the better. Also, on the Cabotage Vessel Financing Fund (CVFF), government should make haste to ensure that all impediments to access the Fund by indigenous operators are promptly removed and commence disbursement of the Fund. This will ensure the acquisition of relevant and needed vessels by the indigenous shipping operators, thereby giving them the necessary impetus to actually participate in the cabotage trade to the benefit of Nigerians and the achievement of the objectives of the Cabotage Act.

INTRODUCTION

The maritime industry is playing a prominent role to the development of Nigeria as a nation. 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 sector has the capacity to boost a country's economic development and also contribute very significantly to the growth of the national gross domestic product (GDP). 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. The modern international maritime transport system falls into three zones: interregional transport, which covers deep-sea shipping; short-sea shipping, which transports cargoes of short distances and often distributes cargoes brought in by deep-sea services; and inland transport (Stopford, 2009:50).

In the 1970s, 24 vessels were acquired by the now extinct 'Nigeria National Shipping Line' (NNSL) and the setting up of the 'Ship Acquisition and Ship Building Fund' (SASBF) under the 'National Shipping Policy Act' (NSPA) (1987). All these failed to give Nigeria its rightful place in the world maritime business. The passage of the Cabotage Act, 2003, and the NIMASA Act, 2007 to advance the growth of local shipping commerce in ocean and inland trade; port reforms which led to 'private terminal' operations to encourage effective freight management and discharge; reduction in operation overheads and accretion in cargo volume, are efforts employed by the government to improve and give growth to its maritime industry (Atteh and Nwekeaku, 2016).

According to the 2017 report of the National Bureau of Statistics/Nigerian Ports Authority (NPA), the ship traffic statistics at Nigerian ports has reflected that a total number of 19,833 vessels berthed at the various ports between 2013 and 2016. Similarly, 543,842,425 tonnages were registered within the period under review. Year 2014 recorded the highest number of vessels berthed as well as tonnages registered while the least were recorded in 2016. Tin Can Island Port handle the most ships accounting for 33% of total number of ships that berthed in all ports and 32% of total tonnage registered in all ports. It is closely followed by Apapa port which accounted for 28% of ships that berthed and 25% of total tonnage registered and Onne port which accounted for 15% of ships that berthed and 30% of total tonnage registered. Also, cargo traffic statistics revealed a total of

312,185,808 cargo traffic was recorded at all Nigerian ports between 2013 and 2016. 196,851,236 or 63% of the cargo traffic were inwards while 115, 334572 or 37% were outward (National Bureau of Statistics/Nigerian Ports Authority, 2017).

Cabotage law has also been highlighted to be a framework of transformation, but needs to be properly regulated for the benefit of Nigerians and the improvement of the Nigerian economy. Given the low level of growth and outright absence of indigenous technology, Nigeria cannot afford to operate a strict Cabotage legal regime but a liberal or relaxed Cabotage. So many factors militate against the smooth implementation of the policy. Such factors include policy imperfection, institutional inadequacies like NIMASA's shortcomings, waiver clause, issuance of special license to foreign operators, other regulatory instruments inconsistent with the spirit of the Cabotage Act, and failure of implementing agencies (Njar and Okon, 2018).

The introduction of Cabotage in Nigeria is to significantly utilize the legally entrenched and lucrative shipping opportunities as a result of the riparian nature of the country's geography, characterized by coastal and inland waterways, coupled with the increase in the movement of people, goods, and services due to oil exploration in the country. In addition, Nigeria is an import-dependent country and shipping is pivotal in this regard. Cabotage therefore introduces a market reservation in coastal shipping, especially "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". In view of the importance of shipping in the economic and socio-political development of Nigeria, including its sovereignty, qualitative and exhaustive policy formulation to stimulate indigenous ship owners and its implementation are imperatively introduced in the country (Ajibo, Anozie, Onyeabor, Umahi, Odinkonigbo and Agu, 2019).

In Nigeria, the maritime industry has for some decades now, been bedeviled with myriads of challenges including 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. Oluremi (2011) was of the view that the approach of protecting domestic shipping companies by prohibiting foreign ships from participating in domestic or coastal shipping is one which is recognized all over the world as that based upon the realization that the protection of nation's maritime industry is an avenue for economic advancement and availability of defence/security in situation of national emergencies and crisis. One common method of protecting and promoting the maritime industry is to forbid foreign ships from taking part in the Inland or Cabotage trade. It is equally asserted that ships required for this purpose are to be domestically built, owned and operated. At separate occasions, some policies and programmes had been initiated to assist indigenous ship procurement, to attain a growth level in the maritime sector, and these could not yield the intended goals (Ajiye, 2013).

The maritime industry's productivity in Nigeria is impacted by inadequate infrastructure that undermines port services' efficiency and effectiveness (Ekeada, Obioma & Anyanwu, 2018). It is against this background that this paper would focus on the challenges facing Nigeria Cabotage policy and the development of indigenous maritime capacity from 2003-2021.

Statement of the Problem

Nigerian maritime industry is the second in revenue generation to the Nigerian government after oil. The shortage in human resource, ship building, foreign dominations in manning and supplies of crew men in the Nigerian maritime industry poses a lot of challenges to the growth and development of this sector. Due to the need to develop domestic shipping in Nigeria through empowering indigenous ship operators to participate as well as acquire the capability to handle and manage all aspects of coastal and inland waterway transport, the Coastal and Inland Shipping (Cabotage) Act was enacted in May 2003 (Cabotage Act). Despite the existence of the Cabotage policy as enshrined in the Cabotage Act, the development of indigenous shipping has not

significantly improved. More so, the expected fleet expansion has not necessarily been achieved, while the attendant development of the shipbuilding subsector has not taken place. Prior to the Cabotage Act, which was enacted to address the prevalent challenges of the Nigerian shipping lines dominated shipping business to the tune of over 75 percent. Shipping industry is highly technologically based among others and Nigeria is still lacking in those areas.

According to the Cabotage Implementation Guidelines (2007) for example, Nigeria had about 22.5 billion Cubic Meters of crude oil, 3.5 trillion cubic meters of gas and 42.7 billion cubic meters of bitumen. These statistics depicts that Nigeria should have a whole lot of trade opportunities across the globe. Nigeria generates more than 70% of the cargo throughput in West and Central Africa but presently, the sector is characterized by the domination of foreign flag vessels especially those of developed market economies of Western Europe and America. Available data show that as at 2013, about 98 percent of the sea freight in Nigeria was still done by foreign companies and that foreigners make up about 85% of the maritime workforce in Nigeria (Global shipbuilding Market Report, 2013).

Even though the Nigerian government has initiated programs for the digitalization of the maritime industry, the continued use of outdated technologies in the sector has led to poor national revenue mobilization and weakened Nigerian infrastructure seaports. Maritime industry challenges in Nigeria may be due to problematic attitudes and behaviors regarding the acceptance of updated technology among industry stakeholders in various African nations. The social problem is low technology acceptance and use among Nigerian maritime industry stakeholders has led to the maritime sector's weakened capacity to drive national sustainable development. This is the problem that informs the need for the study.

Research Questions

- i. What are the challenges facing the implementation of the Cabotage Act and the development of indigenous maritime capacity in Nigeria?
- ii. What are the measures government take to curb the challenges facing the implementation of Nigeria Cabotage policy and the development of indigenous maritime capacity?

Objective of the study

- i. To examine the challenges facing the implementation of the Cabotage Act and the development of indigenous maritime capacity in Nigeria;
- ii. To evaluate the measures taking by government to curb the challenges facing the implementation of Nigeria Cabotage policy and the development of indigenous maritime capacity.

Research Propositions

- i. Lack of adequate technological infrastructure has significantly undermined the Nigeria Cabotage policy's efficiency and effectiveness in the development of indigenous maritime capacity.
- ii. The measures taking by government to curb the challenges facing the implementation of Nigeria Cabotage policy has not in any way help the development of indigenous maritime capacity.

Conceptual Framework

Concept of Cabotage

Cabotage simply means transport or navigation along the coastal areas of a country. It is the carriage of goods and passengers within the coastal waters of a particular country. Igbokwe (2006:1) defined cabotage as "the carriage of goods and persons by ships between ports on or along the same coast or between ports within the same country and the exclusive rights of a country to operate sea traffic within its coasts". In similar vein, Ndikom (2010) defined cabotage as "an inland trade along coastal water. It is the trade along a country's coast; the transport of goods or passengers from port to port in the same country".

It can be seen that cabotage, essentially, is all about coastal shipping within a country's waterways. However, the exigencies of national interests, national security and agitations by the citizens are some of the determining factors deciding what type of policy the government of a particular state is going to adopt, with particular reference to cabotage.

According to Ademuni-Odeke (1984), cabotage is a "nautical term derived from Spanish, literally denoting navigating from cape to cape along the coast without going out into the open sea". On his own part, Akabogu (2004), saw cabotage as "navigating or trading along the coasts of a territory, between the ports thereof". There are basically two options:

1. Shipping liberalism
2. Protectionism

Shipping liberalism, according to Chrzanowski (1985), recognises the principle of free and fair competition in sea transport, irrespective of the flag the ship is flying. Under such policy, shippers have the right of a free choice of carrier; either home or a foreign-flag vessel. Hence, the basic principle of shipping liberalism is that the merchant marines operate on the freight market without any intervention of the public bodies/governments or their agencies. Government non-intervention is thus the very essence of the concept of liberal policy in shipping.

Protectionism, on the other hand, is the adoption of some form of policy, aimed at giving preference and protection to the local or indigenous shipping companies in that state so as to ensure that they partake in the shipping activities of the country, being shielded from the undue advantage of foreign shipping companies in terms of better technical ability and competence.

Concept of Capacity Development

The concept of "capacity" has been defined as the power to perform or produce or improve. From the UNDP's perspective it is the ability of individuals and organizations or units to perform functions effectively or efficiently and sustainably. The past decade has witnessed a resurgence of interest in the issue of capacity development and with it the redefinition of the concept, with the intent of moving away from the traditional acceptance of capacity development based on technical training and foreign expertise and to capture the concept in its complexity and entirety.

The United Nations Development Programme (UNDP) defines capacity development as the process through which individuals, organizations, and societies obtain, strengthen, and maintain the capabilities to set and achieve their own development objectives over time (Ngubane, 2016). The point is that, capacity development has to do with the realization of organizational or institution's goals through the inputs of resourceful human and technological resources. It involves both individual and the society at large improving their skills and wider knowledge for the purpose of development of any kind.

The United Nations Disaster Risk Reduction Office (UNISDR) defines capacity development as the process by which people, organizations and society, systematically stimulates and develop their capability over time to achieve social and economic goals, including through improvement of knowledge, skills, systems, and institutions within a wider social and cultural enabling environment. For the Organisation for Economic Co-operation and Development/Development Assistance Committee (OECD/DAC) capacity development is the process whereby people, Organisations and society as a whole unleash, strengthen, create, adapt and maintain capacity over time (Katsouris and Sayne, 2013).

LITERATURE REVIEW

Charlie (2014) lamented that one of the key factors that militate against the actualisation of the objectives of Cabotage in Nigeria is the absence of funds coupled with inadequate investment by government in the shipping

subsector of the country's economy. Equally absent is an adequate private sector investment in Nigerian shipping. It is common knowledge that shipping is one of the most technically and financially demanding industries in the world and, therefore, requires sufficient funding and investments from government, private sector, and Public Private Partnership (PPP) in order to thrive. Against this backdrop, it is submitted that Nigeria still lacks adequate funds and investments in spite of government seemingly good intentions and attempts to revitalise the Cabotage regime in the country through legislations, regulations, and policies. While it is trite that the Cabotage Vessel Financing Fund (CVFF) may not be sufficient to tackle the issue of ship acquisition by indigenous ship operators in Nigeria, it is incomprehensible that the fund is still domiciled with the Central Bank of Nigeria, years after the Cabotage Act was enacted. The fact that the fund has not been accessed nor yielding interest is a testament to the inherent challenges in accessing the funds and by extension, the implementation challenges enveloping the Cabotage regime in the country.

Nweze (2006) argues that the Cabotage law has been highly acclaimed as being the best thing that happened to the indigenous shipping industry in Nigeria to date, given the associated benefits accruable to the local shipping companies. Therefore, there was so much expectation that once the implementation of the law commenced, the situation would change, and the indigenous companies would take over control of the coastal shipping sector and thus begin to reap the benefits inevitably (Ajiye, 2013).

However, when the actual implementation of the Act began, it was evident that it was not yet the time to celebrate the Cabotage laws. It began to dawn on the stakeholders, especially the indigenous shipping companies that the much expected lucrative cargoes from the oil and gas business would not be coming; the much-touted employment opportunities for Nigerian seafarers were not being provided; the expected increase in indigenous tonnage did not materialize and the increase in the shipbuilding and repairs capacities of the available shipyards that was envisaged by the Act did not come to fruition (Lazarus, & Ukpere, 2011). In addition, the much talked-about disbursement of the Cabotage Vessel Financing Fund (CVFF) to the indigenous shipping operators for acquisition of vessels for the Cabotage operation did not happen and thus the stakeholders began to understand that there was a whole lot of difference between the ideal and reality (Anonymous, 2000).

Ndikom (2006) concurs with Nweze (2006) that the law faced numerous challenges in its implementation and some of the problems it encountered are discussed below. Despite that the Cabotage law was meant to protect demand and supply for the local ship operators, it was evident once the policy was implemented that the domestic ship owners had no capacity to handle Cabotage cargo. Thus, foreign firms had to be sourced through the granting of waivers to provide the services and enhance efficiency in the sector. The Cabotage Act outlined that only vessels that were owned, built and manned by Nigerians would be allowed to operate in Cabotage trade. However, the Nigerian sector was faced with acute shortage of shipbuilding and repair services, and thus lacked the capacity to build or repair the vessels independently. Conversely, lack of proper cooperation among the government agencies derailed or rather disappointed the practical implementation of the laws. Despite that NIMASA was the designated agency that was mandated with the implementation of the policy, it required the support and cooperation of other relevant government agencies to actualize its mandate (Adenekan, 2010).

Ndikom (2010) argued extensively that lack of adequate shipbuilding and repair services was another challenge that jeopardized the implementation of the act. The act stated that only vessels that were owned built and serviced by Nigerian nations were to be allowed to offer Cabotage services. However, when the implementation of the Act commenced it became evident that the capacity of Nigeria firms to build or service ships was inadequate or rather the sector was inconsequential as it did not have the required infrastructure and skilled manpower to provide the services. Thus, some provisions of the Act had to be overlooked since it was impractical to implement them because they did not match with the reality on the ground. For the act to be implemented, the local people had to be trained in shipbuilding technologies to have the capacity to undertake

operations for the provision of the act to be realized. Thus, this posed significant challenges to the implementation of the Act (Anonymous, 2009).

The act's restrictive nature aimed at creating value to the indigenous ship owners to benefit from the Cabotage trade. However, even after some section of the cargo had been earmarked exclusively for the Nigerian's vessels, the locals could not lift the cargo due to lack of capacity, the required technology and manpower. Therefore, due to lack of capacity, the locals would not handle cargo dealing with oil and gas because they require specialized technology; hence, necessitating the granting of a waiver to foreign firms to offer the services. However, such a bottleneck would have been overcome if NIMASA that is mandated with implementation of the Act did enough to build capacity in the local shipping industry by financing the locals to acquire more vessels and handling equipment as well as training maritime workers on maritime technology to enhance their skills to provide the services (Balouga, 2012).

Ndikom (2008) argued that the Cabotage laws had technical defects, in the manner in which some of their provisions were drafted; hence, hindered or made the proposals unrealistic in actual practices. For instance, section three of the Act provides that only vessels that owned and built in Nigeria would be allowed to undertake Cabotage trade. In the real sense, the capacity of Nigeria's shipbuilding and repair sector was inconsequential due to lack of capacity that is likely to take up to two decades. Thus, the provisions spelt out in the Cabotage laws provide a disjoint to the reality on the ground. Similarly, section 9-11 of the law bestows power on the Minister of Transport to grant waivers. Since ministers are political appointees, they often abuse their powers since they are not conversant with the technicalities involved in granting waivers. Additionally, the Cabotage laws conflict with the National Inland Waterways Act in terms of registration of vessels a situation that has led to a double registration of domestic vessels in Nigeria. Finally, despite the Cabotage law providing for the Cabotage vessels financial fund, the fund are not being disbursed as expected due to past negativities that have been associated with such resources (Ihenacho, 2006).

In view of the lack of fund to purchase vessels and reflecting on the growing opportunities available at the downstream sector of the Nigeria's petroleum sector due to the country's three refineries are operating below capacity, it has been argued that most of the vessels operating in the downstream sector "are owned by foreigners, with Nigerians only acting as agents." In furtherance of the above, local financial institutions in Nigeria, like commercial banks, which are the depositories of the CVFF, lack proper understanding of transactions in shipping, which directly affects shipbuilding and ship acquisition for coastal and inland waterways activities. Hence, this local financial institution is "incapacitated to providing investment and financial advice for investors; and foreign bankers on their part always cite inadequate collateral together with socio-political instabilities, as impediments to loaning Nigerian shippers" (Nwokedi and Igboanusi, 2015).

Presently, it is also a common knowledge that Nigerian commercial banks and other financial institutions lack the capacity to monitor and oversee the operation of ships because it is a specialised area. The outcome of these factors is that both local and foreign financial institutions will not fund or invest in the shipping industry in the country which will invariably corrode the objectives of encouraging acquisition of vessels by local ship operators in Nigeria. Moreover, local financial institutions' lack of requisite expertise in the shipping industry compounds the existing challenges in financing shipbuilding and ship acquisition in Nigeria. More so, the introduction of a 2% surcharge in the Cabotage Act undermines the objective of the Cabotage policy of encouraging indigenous ship operators to engage in Cabotage (Obed and Ndikom, 2013).

In their own view, Nwekeaku and Atteh (2016) disagreed with the surcharge system by stating that "it is to a large extent anti local content. Thus, no matter the degree of the percentage, surcharge implies a kind of punitive measure, which is entirely inconsistent with the aims and objectives of the Cabotage Act." It is beyond any reasonable contestation that one of the measures to encourage indigenous shipping operators to engage in Cabotage is through "tax and surcharge reprieve for reasonable period of time so as to accommodate the

developmental challenges innate in such a huge project like coastal industry.” A corollary to the above is the lack of state of the art facilities and infrastructural development in the maritime sector in Nigeria. This is exemplified by the scarcity of world class shipyards and the grossly inadequate dry dockyards in Nigeria. This is a testament to the paucity of infrastructural development due to shortage of funds, misappropriation, and mismanagement of available funds, and lack of investments in the maritime industry in Nigeria. It is evident that the existing legal regime and policy framework in shipping in Nigeria do not recognise, encourage, and fund research and infrastructural development of shipyards in the country.

Uchenna (2011) posited that Nigerian government has not deemed it necessary to introduce fiscal policy to stimulate the exploration and refining of raw materials needed in shipbuilding. More so, there is no policy framework to introduce or update existing curricula for training and retraining of shipbuilding engineers, naval architects, and technicians in Nigeria’s maritime institutions. Despite the existence of Nigerian Maritime Academy (NMA), graduates from the institution are unemployable as seamen due to lack of training ships. It is irrefutable that though the objective of the Cabotage policy is to encourage the participation of indigenous vessel owners in Cabotage in Nigeria, the provision of waivers and the ineffectual conditions for obtaining such waivers by foreign shipping companies under the Cabotage Act undermine such goal. It is understandable to include waivers in the Cabotage regime in Nigeria due to dearth of local shipping operators.

Nonetheless, Ajiye (2013) observes that the conditions prescribed for obtaining a waiver by foreign firms are less challenging. And with the level of rent seeking and corrupt enrichment by both the officials of maritime and petroleum institutions in Nigeria, including political office holders, there will be little or no effort toward changing the status quo either through amendment to the existing legislations or introduction of proactive policies. Another factor that has impeded the advancement of coastal and inland waters transport in Nigeria is inconsistent and absent of direction in the implementation of shipbuilding and repair projects in the country. This state of affair is traceable to rent seeking, politicisation, mismanagement, lack of direction, absence of maintenance culture, and personal aggrandisement by officials of government and its maritime agencies. There are instances where government began economically viable shipbuilding projects which were subsequently abandoned, leading to colossal waste of time and resources. A case in point is the collaboration between NIMASA and South African Shipyard (SAS), in which SAS agreed to finance the development of modern shipyards in Nigeria and operate them with the use of Nigerian labour and local content as much as feasible. Despite the fact that the project would lead to transfer of marine engineering technology from South Africa to Nigeria and the training and skill development of Nigerians at the SAS facility in Durban, the development of the shipyards was abandoned (Usoro, 2010).

In addition to the above, NIMASA’s inability to appreciate and act upon the absence of interface between the capacity of relevant institutions to monitor compliance and enforcement of Cabotage adversely affects the actualisation of the objectives of the coastal and inland waterways transport. This is clearly illustrated when NNPC, DPR, and PPMC fail to implement the provisions of the Cabotage Act by regularly engaging foreign owned, manned, registered, and built vessels in their operations. On its part, NIMASA abdicates its oversight responsibility to ensure that relevant institutions and foreign ship operators comply with the provisions of the Cabotage Act and continues to show lack of political will and determination toward the implementation of Cabotage in Nigeria (Theophilus and Igboanus, 2015).

Gaps in Literature

It is over a decade and a half that Cabotage act was implemented in Nigeria. There have been numerous studies and scholarly written articles concerning Cabotage implementation in Nigeria. Njar and Okon (2018) wrote on the impacts of Cabotage law implementation on Nigeria’s indigenous shipping industry: a study of the Onne sea port, Rivers state, Nigeria. Ajiye (2013) analysed the prospects and challenges of Nigerian Cabotage. Atteh and Nwekeaku (2016) investigated factors militating against the utilization of the Nigerian Cabotage Act 2003

to revamping the ailing shipping industry. However, issues relating to the challenges of Nigeria Cabotage policy and the development of indigenous maritime capacity from 2015-2021 have not received the needed attention.

Therefore, this study attempted to fill the gap identified in the literature by employing a cross sectional survey approach and country data of Cabotage policy to measure its challenges on the development of indigenous maritime capacity in Nigeria. To the best of the researcher's knowledge, no work has been undertaken recently to specifically investigate Nigeria Cabotage policy and the development of indigenous maritime capacity from 2015-2021. This study therefore attempted to fill this gap by investigating challenges Nigeria Cabotage policy and the development of indigenous maritime capacity from 2015-2021 taking into account the the challenges facing the implementation of the Cabotage Act and the development of indigenous maritime capacity in Nigeria as well as the measures government should take to curb the challenges facing the implementation of Nigeria Cabotage policy and the development of indigenous maritime capacity.

Theoretical Framework: (Policy Implementation Theory)

Policy implementation theory, according to Dunst, Trivette and Starnes (1993), is concerned with "strategies used to translate policies into practice, and the analysis of the implementation of existing policies to determine whether they are achieving stated goals or solving the problem(s) that the policy is intended to alleviate". The strategies or actions, he further argues, may be taken by public and private individuals or groups so long as they are directed towards the "achievements of objectives set forth in prior policy decision".

Peter deLeon and Linda deLeon (2002) have identified three generations of policy implementation research.

The first-generation implementation studies are largely case study analyses and placed heavy emphasis on activities between policy formulation and execution. Here the concern lies more on the precision and language to judge the effectiveness of policy. Being driven to finding the best way to move policy proposal to successful execution, they proposed models generally based on what is often concentrated on, and reflective of, a "top-down" perspective. This categorisation is not cast in stone.

The second-generation genre easily falls into two types. The first subgroup here which includes eminent policy scholars like Mazmanian and Sabatier (2017) have often be classified as "top-down" theorist given their penchant for paying so much emphasis on the policy and legal objectives. However, together with others like Robert Nakamura and Smallwood (1980), and Berman (1980), their approach has taken a strong resort to empiricism, which as a result created the impression that this generation of policy analyst is more sophisticated and "consciously more theoretic". The other school known as "bottom-up" orientation places more attention on street-level bureaucrats and a commitment to the development of an inter-subjectively reliable methodology and a concern with policy areas. The contribution of this variety rests on the claim that the top-down approach ignored, or de-emphasised, the role played by street-level bureaucrats on whose shoulders the planning and execution of policy laid.

Consequently, bottom-up proponents argue that for implementation research, attention and a useful approach is better focused to capture the entire picture of the implementation process. However, it is to be noted that a blend of the two has been suggested viewing the bottom-up/topdown controversy as unnecessary since they could be nothing more than "different ways of looking at the same phenomenon". Because of the difficulty in imposing a standard explanatory kit for all purposes, Maitland (1995) cautions that different conditions might require different implementation strategies. For this reason, he with other Contingency theorists advocated that appropriateness of strategy is contextual and dependent on the contingencies surrounding the particular policy issue (Sabatier and Jenkin-Smith, 1993).

In their seminar book, *Implementation and Public Policy*, Mazmanian and Sabatier formulated the Policy Implementation Model which focused on what happens after policy has been enacted. Not concerned with issues of policy design and formulation politics, the model goes straight to identify key variables that affect

success, or outcome, of policy implementation. In analyzing the outcome and impact of implementation process, the parameter which determines success or failure is based on the extent to which the stated legal objectives in the policy were met or fulfilled.

Strengthening the model with modifications suggested by Winter (1990), here is a framework that incorporates four key socio-political conditions of:

- (1) The character of the policy formulation process prior to the law,
- (2) The organisational and inter-organisational implementation behaviour,
- (3) Street-level bureaucratic behaviour, and
- (4) The response by target group. The aim of a model, Soren Winter states, is “to identify and integrate the most important variables for the purpose of getting a comprehensive view and stimulating future theory development”. This study will adopt this model to study Nigeria Cabotage policy and the development of indigenous maritime capacity.

Mazmanian and Sabatier (1983) have listed six conditions for effective implementation provide as follows:

1. Clear and Consistent Objectives: The enabling legislation or other legal directive mandates policy objectives, which are clear and consistent or at least provides substantive criteria for resolving goal conflicts. This helps in providing standard for evaluation of the policy, which also serves as an important legal resource to the implementing officials.
2. Adequate Casual Theory: The enabling legislation incorporates a sound theory identifying the principal factors and casual linkages affecting policy objectives and gives implementing officials’ sufficient jurisdiction over target groups and other points of leverage to attain, at least potentially, the desired goals.
3. Enhancing Compliance: The enabling legislation structures the implementation process so as to maximize the probability that implementing officials and target groups will perform as desired. This involves assignment to sympathetic agencies with adequate hierarchical integration, supportive decision rules, sufficient financial resources, and adequate access to supporters.
4. Committed and skilful Implementing Officials: The leaders of the implementing agency possess substantial managerial and political skill and are committed to statutory goals.
5. Support of Interest Groups and Sovereigns: The programme is actively supported by organized constituency groups and by a few key legislators (or a chief executive) throughout the implementation process, with the courts being neutral or supportive.
6. Changes in Socio-economic Environment: The relative priority of statutory objectives is not undermined over time by the emergence of conflicting public policies or by changes in relevant socioeconomic conditions, which weaken the statute’s causal theory or political support (Mazmanian and Sabatier, 2017).

The crux of the research is then reducible to a central concern. The study speculate that the likelihood that legal objectives (shipping development) enshrined in the national shipping policy will be attained is essentially rested on the extent to which the conditions stated in the framework are met. Reflecting on the number of agencies and groups that are involved as shipping stakeholders in Nigeria, the role of the implementing agency, NIMASA, will be crucial in forging a common shipping front. However, inter-agency ego, territorial mindset and differences in the core policy arena could pose difficult for NIMASA’s coordinating role.

By using different groups of independent variables to explain outcome, the concern of the study to investigate the causes of the failure of national shipping policy comprising the NSPA and cabotage act is satisfied. Additionally, this model will help us to address three key issues. First, it throws light on the compliance or conformity of outcome with policy objectives. Next, it provides us with insight in the implementation process such that we can verify whether policy goals or objectives were altered. Finally, we can identify the primary variables that affect policy outcome.

METHODOLOGY

This study used a mixed research design which entails both qualitative and quantitative approaches. The population of the study stood at 5,610 which were derived from the staff of Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Ports Authority (NPA), National Inland Waterways Authority (NIWA), Nigerian Shippers Council (NSC), Indigenous Shipping Association of Nigeria (ISAN) and Nigerian National Petroleum Commission (NNPC). The sample size representative of the target population in this study is **361**. It is determined based on the Krejcie and Morgan method of calculating sample size which is the same as using the Krejcie and Morgans sample size determination table.

Purposive sampling was employed for the interview. For the questionnaire, simple random sampling was used to select specific departments in the organizations that are saddled with the responsibility of Nigeria Cabotage policy and the development of indigenous maritime capacity.

Three hundred and sixty-one (361) copies of questionnaire were distributed to the respondents who are staff of Nigerian Maritime Administration and Safety Agency (NIMASA), Nigerian Ports Authority (NPA), National Inland Waterways Authority (NIWA), Nigerian Shippers Council (NSC), Indigenous Shipping Association of Nigeria (ISAN) and Nigerian National Petroleum Commission (NNPC). However, three hundred and forty-nine (349) copies of questionnaire were filled and retrieved. Thus 349 out of the 361 copies of questionnaire were used to analyze the data. Data were analyzed using 5-point Likert scale in descending order of SA, A, D, SD and U to determine the level of responses. The responses from questionnaire were presented according to the objectives using charts and frequency table (frequency, count and percentage).

Interviews were held with senior staff from the above-mentioned organizations. The interview results were supplemented with information from the extant literature, including newspapers, reports, official documents and were analyses using content analysis.

DATA ANALYSIS AND INTERPRETATION OF RESULTS

Challenges facing the Implementation of the Cabotage Act and the Development of Indigenous Maritime capacity in Nigeria

Table 1: Challenges facing the implementation of the Cabotage Act and the development of indigenous maritime capacity in Nigeria

Responses	Frequency	%
a. Lack of administrative competency/poor enforcement of the Cabotage act	59	17
b. Absence of adequate technology	60	17
c. Policy contradictions	81	23
d. Lack of relevant infrastructural facilities	61	18
e. Corruption and lack of transparency	88	25
Total	349	100%

Source: Field Survey Data, January (2023).

Findings from table 1 reveal there are numerous challenges facing the implementation of the Cabotage Act and the development of indigenous maritime capacity in Nigeria. Corruption and lack of transparency constitute the majority with eighty-eight (88) respondents representing twenty-five (25%) percent. This is followed by policy contradictions with eighty-one (81) respondents representing twenty-three (23%) percent. Sixty-one (61) respondents representing eighteen (18%) percent indicated lack of relevant infrastructural facilities; sixty (60) respondents representing seventeen (17%) percent choose absence of adequate technology while fifty-nine (59) respondents representing seventeen (17) percent pointed to lack of administrative competency/poor enforcement of the Cabotage act as the challenge facing the implementation of the Cabotage Act and the

development of indigenous maritime capacity in Nigeria. Interviews with the respondents revealed several challenges:

If the Nigerian maritime Cabotage policy were to be fully and beneficially implemented the opportunities available in dredging and movement of dredging equipment would be enormous. But because some provisions of the Cabotage Act are contradictory to interventions of government in enacting the law, all vessels involved in dredging presently, are foreign owned, and that includes manning. There is a lack of infrastructure to support the implementation of Cabotage in Nigeria. This is so because there is still overwhelming dominance of the maritime industry by foreigners. Much is still being desired of the ports by way of reforms, laws on trade liberalization needs be expanded and strengthened. Laws that will help in channeling money toward non-oil sectors need be enacted to boost the nation’s transportation system which by extension will make the Cabotage trade a huge success (Interviewed 20th January, 2023).

The above responses are in tandem with the position of Nwokedi, Kalu, Igboanusi, Addah & Odumodu (2019) who submitted that several factors such as lack of funding, lack of skill and technical know-how, excessive taxing, bureaucratic and regulatory challenges, low market patronage, lack of infrastructure and ship research centers, cost, and pricing constraints, among others, account for the inadequacy of the Nigerian maritime industry to carry out shipbuilding, recycling, and repairs in Nigeria.

The issue of funding is one of the most inhibiting factors in realizing the objectives of the Cabotage regime in Nigeria. A laudable inclusion in the Cabotage Act to obviate the challenges of funding is the creation of a special fund, the Cabotage vessel financing fund (CVFF), for purchasing vessels by indigenous operators in the Nigerian maritime industry. The fund is to encourage and assist indigenous ship operators in Nigeria to acquire vessels. Though the Act provides for this special fund, inaccessibility, mismanagement, and the insufficient amount set aside for ship acquisition have impeded Nigerian indigenous ship owners from using the fund to acquire vessels.

Thus, the vessel fund has not contributed in transforming the maritime sector in Nigeria. While Akodu (2016) observes that one of the reasons why the fund has not been disbursed is due to policy inconsistency by government, political interference, corruption, dearth of infrastructure, and lukewarm attitude of NIMASA and other relevant institutions have contributed in depriving Nigerian ship operators the opportunity to access the fund so as to acquire their own vessels. Adenekan (2010) further supported the argument that it is regrettable that the huge economic benefits flowing from the maritime aspect of the Nigerian oil and gas industry have not been domesticated for the economic advantage of the country”.

Table 2: Classification of some identified constraints/bottlenecks to ship building

Bottleneck	Example
Physical infrastructural	Non-availability/poor condition of ship building and repair facilities and research centers, equipment
Physical Bottlenecks	crunch/unavailability, poor and non-optimal layout and design of existing infrastructure that limits job flow and productivity, employee and exposure to physical hazards, in the workplace, space crunch etc.
Policy Bottlenecks	Non- availability of /Poor Government Regulations, Lack of blue print for the development of the sector, government policy inconsistency problems, poor company policies and procedural problems, etc.
Marketing and market related Bottl	Poor Sales, Poor patronage for ship repair and recycling jobs, supply cost challenges, low demand new

enec ks	building contracts, globalization induced competition for market share, differential costs and prices induced by market forces, etc.
Human related bottl enec ks	poor employee skills and technical know-how, poor management skills and strategies, training challenges and non-availability of institution teaching and impacting skills on naval architecture and ship building cum repair, etc.
Operational bottlenecks	Use of crude implements and technology which impede quality of output, poor job design and facility layout, poor ship yard operations planning management strategies, time management constraints, etc.
Financial const rains	Lack of investment capital for ship building development, lack of easy access to credit facilities by ship yards, Non-existence of any viable public funding programme for ship building and ship yard development in Nigeria, Non-existence of any maritime bank or financial institution specialized in maritime finance and funding of ship building projects, high insurance costs, high costs of operation, etc.
Environmenta l bottlenecks	External and internal environmental constraints, challenges of environmental hazards posed by ship building and recycling operations and occupational accidents in work places, etc..

Source: Researcher's compilation from the field (January, 2023).

There must be at least one or few principal constraints that pose the greatest risk in any given system; this could be internal or external to the firm, organization or system. It is internal constraint when it is inherited from within the firm, organization or system and is external when it is caused by outside elements that the firm, organization or system may not be able to exercise direct control over it. The idea drive is to try to increase the output and productivity from the constraint using what's already available. Since idle time in the bottleneck/constraint reduces overall output and productivity, we need to eliminate non-value adding or utility creating work, limit process interruptions, provide great tools and materials, or prioritize work.

It is evident that the existing legal regime and policy framework in shipping in Nigeria do not recognise, encourage, and fund research and infrastructural development of shipyards in the country. Nigerian government has not deemed it necessary to introduce fiscal policy to stimulate the exploration and refining of raw materials needed in shipbuilding. More so, there is no policy framework to introduce or update existing curricula for training and retraining of shipbuilding engineers, naval architects, and technicians in Nigeria's maritime institutions. Despite the existence of NMA, graduates from the institution are unemployable as seamen due to lack of training ships. It is irrefutable that though the objective of the Cabotage policy is to encourage the participation of indigenous vessel owners in Cabotage in Nigeria, the provision of waivers and the ineffectual conditions for obtaining such waivers by foreign shipping companies under the Cabotage Act undermine such goal. It is understandable to include waivers in the Cabotage regime in Nigeria due to dearth of local shipping operators (interviewed 17th January 2023).

Nonetheless, Ajiye (2013) observes that the conditions prescribed for obtaining a waiver by foreign firms are less challenging. He argued that it is likely that more foreign ships will be granted waivers to engage in Cabotage in Nigeria. It has been argued elsewhere that "...the process of waiver consideration and approval will be subjective and thus undermines standard." In addition, "with the background knowledge of the dearth of Nigerian vessels and resultant desperation for foreign supports, there is every tendency that innumerable foreign shippers with 'juicy' application files will influence the Minister to compromise standard." And with the level of rent seeking and corrupt enrichment by both the officials of maritime and petroleum institutions in Nigeria,

including political office holders, there will be little or no effort toward changing the status quo either through amendment to the existing legislations or introduction of proactive policies.

Another factor that has impeded the advancement of coastal and inland waters transport in Nigeria is inconsistent and absent of direction in the implementation of shipbuilding and repair projects in the country. This state of affair is traceable to rent seeking, politicization, mismanagement, lack of direction, absence of maintenance culture, and personal aggrandizement by officials of government and its maritime agencies. There are instances where government began economically viable shipbuilding projects which were subsequently abandoned, leading to colossal waste of time and resources (interviewed 19th January 2023).

In all, it is pertinent to state that government bureaucracy, including innate corruption by government agencies, further hampers the finance of ship acquisition and shipbuilding in Nigeria. In a typical case, previous attempt by the Nigerian government to disburse funds for the purpose of purchasing vessels by indigenous ship owners culminated in the embezzlement of the fund by indigenous ship operators, coupled with the inability of relevant authority to monitor the use of the funds, thereby rendering nugatory the objectives for setting up the fund. Little wonder experts in the shipping industry "...advised that the bureaucracy and issues of mistrust surrounding the disbursement of the Cabotage Vessel Finance Fund (CVFF) can be laid to rest if the Nigerian Maritime Administration and Safety Agency (NIMASA) absolves itself of the responsibility of overseeing the process".

Table 4.18: Ways that the Cabotage policy implementation can be improved

Responses	Frequency	%
a. Review of the act	85	24
b. Creation of Maritime Development Bank and establishment of maritime resource centres & Programmes	31	9
c. Adequate and accessible funds	101	29
d. Create an enabling ground	59	17
e. Human capacity development	73	21
Total	349	100%

Source: Field Survey Data, January (2023).

Respondents were asked to find out ways in which the Cabotage Act could become more effective in enhancing the development of indigenous maritime capacity. Majority of the respondents numbering one hundred and one (101) or twenty-nine (29%) percent indicated the provision of adequate and accessible funds. Eighty-four (84) respondents representing twenty-three (23%) percent agreed to review of the act as the best way to improve Cabotage policy implementation. Seventy-three (73) respondents accounting for twenty-one (21%) said human capacity development, fifty-three (53) respondents representing seventeen (17%) percent indicated creating the provision of an enabling ground while thirty-one (31) respondents representing nine (9%) percent said the creation of Maritime Development Bank and establishment of maritime resource centres & Programmes will serve as best way to improve the proper achievement of the maritime policy. It can be seen from the various challenges highlighted above that effective implementation of the Cabotage Act is easier said than done. One of the respondents tried to suggest ways by saying:

In order to entrench a vibrant and result oriented Cabotage policy in Nigeria, there is need to amend the Cabotage Act to depict the genuine aspirations of the local ship operators who are supposed to be protected, encouraged, and supported under the policy. Hence, the section of the Cabotage Act that imposes surcharge on indigenous ship operators should be expurgated. Additionally, the conditions for obtaining waivers by foreign shipping operators should contain safeguards for local shipping companies and the transfer of technology. These objectives can be achieved by including in the Cabotage Act the consultation of ISAN before waivers can be granted to foreign shipping companies. Moreover, granting of waiver should be done on case by case bases and must be engendered by the collective interest of Nigeria. Therefore, the extant Cabotage Act

should be amended to reflect these positions. Beyond the legal framework, adequate and accessible funds should be provided to local ship operators to really encourage and bolster Cabotage in Nigeria. First, the CVFF should be increased in order to sufficiently take care of many Nigerian ship operators (Interviewed January 17th 2023). Another participant noted that:

The fact that NIMASA is objectively exploring other means of advancing the Nigerian maritime industry by sourcing for offshore funding for the benefit of indigenous ship owners is a step in the right direction. Besides, the Nigerian government should not only increase funding and incentives to the sector... to create and facilitate maritime interests among Nigerians but also establish measures for proper appropriation of such funds and incentives. To complement the above efforts to fund Cabotage, especially the CVFF, it is suggested that the Nigerian government should create a Maritime Development Bank (MDB), which will specialise in funding ship acquisition, development of shipyards and dry dockyards, and other sundry maritime projects in the country (Interviewed January 19th 2023).

The establishment of this special bank would reduce the issue of inadequate funds in the implementation of Cabotage in Nigeria. In view of the development of shipping infrastructure in Nigeria, the proposed plan to build US\$1.5 billion ship repair facilities in Badagry, Lagos State, is a laudable development that should be supported by government and its agencies in the maritime and petroleum sectors. This project will boost shipping infrastructural development in Nigeria, thereby contributing in the realisation of the objectives of Cabotage in the country (Interviewed January 13th 2023).

It is incumbent on the government of Nigeria to provide guarantee for such funds. Owing to the importance of steel in shipbuilding, the Nigerian government should fund the exploration of iron ore, including other natural resources abundant in the country, to produce steel needed in shipyards and dry dockyards in the country. Having said that, it is propounded that forth with the moribund Ajaokuta Steel Complex, as well as the Delta Steel Company PLC, should be revived by both federal and state governments, respectively, and put into operation to be able to supply the raw materials needed in shipyards and dry dockyards in Nigeria (Interviewed January 13th 2023).

Further, government should introduce fiscal policies that will provide tax incentives for companies that would engage in the exploration, extraction, and production of steel and other locally available raw materials pivotal to shipbuilding in Nigeria. This will not only create jobs for the teeming unemployed graduates but also immensely contribute to the realisation of the objectives of Cabotage, including local content policy in Nigeria. Technology and innovation are key to developing shipbuilding and repairs in Nigeria. Consequence upon that, the Nigerian government should place high premium on research and development in building shipyards and dry dockyards and upgrading the existing ones. In addition, the introduction as well as standardisation of training curricula for shipbuilding engineers, naval architects, and other technical workers is imperative in developing shipbuilding and repairs (Interviewed January 18th 2023).

Government policy in port infrastructure and concession in addition to the improvement on safety at sea which have not reached the needed threshold should be reconsidered, while efforts should be geared towards aggressive amendments. The law of carriage of goods by sea in line with Hague, Hague-visby and Hamburg rules and containerization should be harnessed in Nigerian maritime laws for effective navigation and resulting liabilities along the coasts. Shipping technology should be pursued as necessary measures to help the success of the policy. What is required, and quickly too, is the articulation on the adequacy, effectiveness and relevance of the existing framework to take the Nigerian maritime Cabotage policy out of the woods. To critically evaluate all ancillary institutions and extant maritime laws that can bring success beneficially to Nigerians. This can be achieved by playing down on the registry requirement, granting of waivers, etc. These glaring inadequacies with the difficulties in owning, crewing and managing of Cabotage vessels work against smooth and beneficial implementation of the Cabotage policy since its coming into force 20 years ago. The area of special fiscal and

financial inadequacies can be stemmed by establishing a Cabotage bank to facilitate the building and owning of ships by Nigerians. A fiscal frame work is not to be over-emphasized in this regard (Interviewed January 20th 2023).

Anele (2017) suggested that it is equally important to robustly pursue the development as well as updating of skills in maritime training institutions. Therefore, the Nigerian government should introduce a policy that will encourage the creation of curricula for the training of shipbuilding engineers, naval architects, and technicians in the maritime institutions in the country and adequately fund such programmes.

Findings

The study has observed that weak application, inadequate manpower, inadequate shipbuilding and repair capacity and underfunding of the Cabotage Vessel Financing Fund has slowed down the implementation process and encouraged the continued foreign domination of the coastal businesses. This has further frustrated the indigenous operators' hope of participation. Equally absent is adequate private sector investment in Nigerian shipping. It is common knowledge that shipping is one of the most technically and financially demanding industries in the world and, therefore, requires sufficient funding and investments from government, private sector, and PPP in order to thrive. Against this backdrop, it is submitted that Nigeria still lacks adequate funds and investments in spite of government seemingly good intentions and attempts to revitalize the cabotage regime in the country through legislations, regulations, and policies.

The main problem identified in this study is that the Nigerian Cabotage Act was skewed in favour of foreigners and to the disadvantage of Nigerians. The solution to this lies in an attempt at making provisions to benefit and protect Nigerians. For example, the insertion of the waiver clauses and issuance of special license to foreign-owned ships, have rendered the policy too relaxed and open to all, contrary to the spirit of the law. This is not so in other climes like the United States of America or France, where the policy and regulation is deliberately couched to make the terrain more difficult for foreigners, and to make indigenous operators to thrive. Therefore, research proposition four (4) that states that lack of adequate technological infrastructure has significantly undermines the Nigeria Cabotage policy's efficiency and effectiveness in the development of indigenous maritime capacity is valid.

The findings are in agreement with earlier study conducted by Okeke and Aniche (2012) who submitted that the shipbuilding subsector of the industry remains hollow and beset with numerous problems that lie outside the control of the key players in the maritime industry. Shipbuilding requires huge financing and is a highly technological driven heavy industry that cannot be effectively managed without an efficient service sector and steel sector. The lack of infrastructural facilities like power, rail, inland container deposit, etc, is compounding these problems making it more economical to acquire a ship from abroad than building it in Nigeria. Poor ship financing has also been a major problem confronting the shipping subsector, because very few Nigerian banks have the strength and capacity to finance the acquisition of ships given the huge amount involved in acquiring a standard vessel from abroad. In the absence of a virile shipping Subsector, any efforts made to protect the indigenous players in the maritime sector would be futile.

RECOMMENDATIONS

Based on findings during the course of this study, the researcher hereby puts forward these recommendations.

- i. Recent efforts made by NIMASA in collaborating with the Indigenous Shipowners' Association of Nigeria (ISAN) in ensuring effective implementation of the law as well as providing necessary assistance to the indigenous operators is laudable. However, government should intensify its efforts in this direction by ensuring the approval of the proposal on a fiscal incentive programme to encourage indigenous participation in shipping, submitted by NIMASA. This will encourage more investment in shipping, enhance capacity building, lead to improved infrastructural facilities in the

existing shipyards and enhance the opportunities of the indigenous operators to lift available Cabotage cargoes, especially in the oil and gas industry.

- ii. It must be looked at as a temporary solution to fix an inherent defect or emergency. Waivers are created as temporary solutions or contingencies which a government will apply within the time it will take to solve a long-term problem.

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