

# CHAPTER ONE

## INTRODUCTION

### 1.1 Background

Such therefore are the advantages of water carriage; it is natural that the first improvement of art and industry should be made where this convenience opens the whole world for a market to the produce of every sort of labour ... Adam Smith<sup>1</sup>

The linkage between international shipping and economic performance has been recognised and settled, even at the global level (Gardiner 1992:7). As Adam Smith (1776 (1983: 122) has observed, access to meaningful international trade, and consequent national prosperity, is built on shipping development. Shipping development is at the heart of economic growth, diversification and specialisation. It promotes and facilitates trade. This is self-evident because it is primarily concerned with providing the infrastructure for trade in the global economy, and caters for movement of more than ninety percent (90%) of international trade by weight<sup>2</sup>. For national economies, shipping, and by implication its development, is important to trade competitiveness because it affects the overall cost profile, taken as freight, in international trade, and thus national well-being<sup>3</sup>. With its related services, shipping is perceived as a key ingredient, and perhaps the catalyst, for economic development.

The primacy of shipping to international trade competitiveness has continued to be a central concern to states, and a great influence on policy choices for both rich and poor countries. Using Nigerian example, Filani (2008: 42) has argued that the “importance of the sector (shipping) is attested to by the fact that whether taken as a whole or disaggregated in terms of oil and non-oil traffic, it accounts for over 96 per cent of the physical carriage of Nigeria’s external trade.” It is

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<sup>1</sup>Adam Smith has forcefully argued that without the benefit of cheap transportation provided by shipping, markets would have remained constrained such that specialization and consequent industrial revolution would have been difficult. For a detailed analysis, see Smith, A. (1776) (1983:122)

<sup>2</sup>The proportion of global trade carried by ships has been estimated between eighty to ninety per cent by volume and over seventy per cent by value. Also it is estimated that shipping freight is about six per cent of the value of goods, see Jean-Paul Rodrique et al. (2009: 132); and Gardiner, R and Couper A., (1992)

<sup>3</sup>See Stopford, M. (1997: 37) and for analysis of trends in world fleet and seaborne trade, see Gardiner R., op. cit 7 to 9

therefore not surprising that both developed and developing economies like Australia, Indonesia, India and even the United States of America<sup>4</sup> have continued to seek ways to reform and develop their shipping industry. For most of these countries the motive is economic. However, in other countries strategic and security considerations could be of significant influence. Thus from the statist perspective, the goals of shipping development policy are within the general concern and pursuit of major issues of national interests (Krasner, 1978:13). Nigeria with her vast maritime potential, like other emergent maritime states in the West African subregion, has shown this concern with the state of its shipping industry. As a result, the clamour by major stakeholders for aggressive pursuit of the goal of shipping development has not abated since independence. From an era of direct state involvement in the ownership and operation of shipping concerns in 1958, it has by 1987 swung to a phase of formal enunciation of a shipping development policy. Almost as a rule, these other West Africa countries, with perceived maritime potential, on attainment of independence moved into liner shipping by floating national shipping lines. By 1957 Ghana had floated the “Black Star Line” as her national shipping line, Nigeria followed in 1959 by launching her shipping company called the Nigerian National Shipping Line (NNSL).

These attempts to participate in international shipping recorded little successes. By the 1980s, the shipping industry had started experiencing dramatic changes in technology, design and size putting to test the resilience of the shipping operations and mastery of these developing countries. Due to the inherent cyclicity in shipping market, mismanagement, corruption, incompetence, bureaucratic red-tape and political interference, most of the shipping lines had become distressed and collapsed in the 1990s. Worse still, none of them possessed the financial muscle to embark on aggressive fresh acquisition of modern vessels required for fleet replacement and expansion in response to emerging new technology and market demands. Meanwhile, the various Shipping Conference Lines in the sub region were not easily accessed due to their discriminatory practices wilfully used to resist and even exclude the young national lines from participating in the shipping activities of the trades. Not surprisingly, the developing

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<sup>4</sup>See the Economic and Social Commission for Asia and the Pacific report on the Framework for the Development of National Shipping Policies, 1988, ST/ESCAP/1988

countries blamed the failure and inability of their national lines to compete entirely on these hostile practices and gang-up of the conference lines controlled by the developed countries. The solution was to press for a more favourable international shipping regime.

Convinced that investment in shipping was viable and economically justifiable, these developing countries took the fight for space in international shipping and survival of their shipping lines to the political arena (Iheduru, 1996: 23). They united under a common platform of Group of 77 to advocate for a new international maritime order. They mounted pressure for change within the framework of the United Nations specialised agency the United Nations Conference on Trade and Development (UNCTAD), and were able to secure the adoption of a Convention on Code of Conduct for Liner Conferences in 1974, the so-called UNCTAD Liner Code. The aim of the convention was to strengthen the ability of developing countries to maintain maritime fleet by providing them with access to the liner conferences. By so doing, it created an inherent carriage right for states involved in bilateral trade, thus providing for cargo sharing principle of 40-40-20. Each party in any bilateral trade was, therefore, entitled to lift at least forty percent of their cargo, leaving the cross-traders with a maximum carriage of twenty percent share. This was to ensure fairness and equal participation for nations involved in seaborne trade (Singh, 1978; Iheduru, 1996). It was this provision that offered opportunity for a shift in strategy as well as providing the basis for the emergent maritime nations to enact shipping promotional laws. It marked the commencement of the use of legislation and policy intervention to protect and promote national shipping development by post-colonial states to ensure national participation in shipping.

It was not until 1987 that Nigeria enacted the National Shipping Policy Act (NSPA). Apart from the objectives of redressing trade imbalance, promoting export trade and improving balance of payment position, the Act established the National Maritime Authority (NMA), now absorbed as part of the Nigeria Maritime Administration and Safety Agency (NIMASA). This government agency was charged with the responsibility to implement the Act, including the protection and promotion of Nigerian shipping companies in international shipping. It also conferred special rights on these Nigerian shipping companies classified and registered by NMA as “national

carriers”(NSPA,1987; sec 9). Apart from carriage rights, the Act also aimed at other objectives including the expansion of national fleet and the development of seafarers. Specific programmes were then designed and implemented by the agency to realise the policy objectives.To deal with the policy on a minimum carriage right of Nigeria’s shipping companies, a Cargo Allocation Programme (CAP) was introduced. Ship Acquisition and Ship Building Fund (SASBF) Scheme was floated to render financial support to Nigerian companies for vessels acquisition and shipbuilding. Similar steps were taken for Seafarers Capacity Building including the acquisition of a training vessel to support the sea-training of cadets at Maritime Academy, Oron, who needed a minimum period of training at sea for full certification.

These programmes raised high hopes. Besides promising to support indigenous shipping industry, they assuaged the feeling of lack of maritime fulfilment for a country with so huge a potential. This can be illustrated by the following facts: Nigeria is blessed with an extensive coast line of over 854 kilometres, an extensive network of inland waterways of over 4000 miles and a huge concentration of young virile and vibrant population who inhabit both the coast and hinterland. There is, no doubt, a compelling economic and strategic justification for attention to be paid to the shipping sector, especially to harness the opportunity in international and domestic shipping. However, by 2000 these programmes had all been abandoned, suspended or scrapped. The SASBF scheme was suspended in 1995, with a total outstanding debt of over \$92 million, and millions of naira and pounds sterling(Asoluka 2003:232).Although the purpose of the Ship Acquisition and Ship Building Fund (SASBF) was to provide finance for ship acquisition, by the time of it was suspended, the national fleet or tonnage had infact dwindled(Ekwenna,2003: 214). For the cargo control and sharing programme, there was ample evidence that the actual cargo carriage of Nigerian shipping company had not improved(Asoluka 2003:196-7).Neither did the seafarers’ development programme fare any better. Infact, the number of certified seafarers had not only dropped, but the entire maritime sector, according to Nelson Oyesiku (2003) and M.O. Filani (2008), faced great challenges, especially in manpower training and development.

As Damachi and Zhaosheng have contended, the fact that the Nigerian National Shipping Line was liquidated in 1995 in spite of promotional measures in the NSPA, 1987 and the programmes

initiated by the agency (NMA) was enough proof that “since 1990s, nothing dramatic has happened by the way of pulling it (Nigerian Shipping Industry) out of the mud it has found itself in” (Damachi and Zhaosheng, 2005). Judging from either the perspective of actual cargo lifted by national carriers or the number of vessels in the national fleet, Ifedi (2002) concludes that “in the absence of a viable indigenous shipping company in place, national shipping is at the mercy of foreign lines”. There was indeed need to reform the NSPA, 1987. Even then, the reforms of the promotional policy introduced by the Coastal and Inland Shipping (Cabotage) Act, 2003 and the NIMASA Act 2007 Act have not produced any spectacular results. Rather there is overwhelming evidence that the implementation of the promotional aspects of these Acts is yet to produce the expected outcome.

## 1.2 Statement of Problem

The apparent failure of these promotional programmes to increase the participation of Nigerian vessels and companies in international shipping and overall shipping development deficit has continued to be of great concern to shipping stakeholders. And it is not an isolated case. Other countries in West Africa, which in the dawn of the UNCTAD Code sought to enhance indigenous participation in international shipping, equally recorded disastrous results. This class failure of sorts by the emergent maritime countries has aroused the interest of students of international shipping policies (Iheduru, 1996). They have been sufficiently concerned with analysing the failure of developing countries to engage successfully in international shipping. However, their attempts have largely been to analyse the failure of the new international maritime order as the principal cause for the declining fortunes of developing nations in international shipping. Besides, the analyses have been very strong from ideological persuasions, swinging from either the Marxist (more appropriately *dependencia or dependency school*) to the neo-Liberal (the economist's schools of thought) perspectives. Rather than focus on critical examination of the failure of policy to induce shipping development, the main issues centred on the feasibility and desirability of policy intervention to secure shipping development in those countries.

Even the scholars like Iheduru (1993) who came close to examining the variables that were responsible for the plight of the developing maritime states (DMS) in their quest to use policy intervention for shipping development suddenly moved away from specific country initiative and frustration to concentrate on regional effort towards promotion of a new international maritime order. Thus their concern remained at the examination of the efforts, initiatives and frustrations of regional blocs to change existing maritime order. Consequently, their constructs have fallen short in explaining why some countries, such as South Korea and China, seem to have succeeded in the use of policy instruments to bring about national shipping development, while some others have failed (Sletmo 2002: 471). These competing perspectives have not also fully explained the persistent low participation of Nigerians in international shipping, and indeed coastal trade, notwithstanding its robust potential: existence of viable international and coastal trade, strong promotional policy support, and huge human and material resources.

The Nigerian situation demands closer scrutiny. In a nutshell, the problem of the study is to examine the promotional aspects of the national shipping policy in relationship to shipping development in Nigeria. This boils down to the question of why the implementation of the National Shipping Policy Act (NSPA) 1987, together with subsequent promotional legislations (Cabotage Act, 2003 and the NIMASA Act, 2007) did not lead to the improvement in Nigeria's shipping development. The focal study is on the implementation of NSPA between 1987 and 2002; and also the effect of subsequent legislations on Nigeria's shipping development from 2003 to 2010.

### **1.3 Research Questions**

The study attempted to answer the following research questions:

- What have been the nature and character of shipping in Nigeria that have made it difficult for indigenous participation?

- What were the objectives of NSPA and other related legislations towards shipping development? Have they changed overtime and how well articulated and useful were the programmes derived from the policy during implementation?
- What were the obstacles encountered in the implementation of the policy and the achievement of its objectives to develop indigenous shipping?
- What was the level of resources and capacity of the implementing agency in developing and carrying out the promotional objectives of these legislations?
- Did the implementation of the policy benefit its intended target group and did it achieve its desired objectives?
- How could the entire policy process, from formulation to implementation, be improved?

#### **1.4 Research Objectives**

The main objective of the study was to investigate the implementation of the National Shipping Policy Act in Nigeria together with its kindred legislations, especially the process of implementation of the promotional aspects of the Act as they affected the development of shipping in an emerging maritime state, Nigeria. The study also sought to do the following:

- To examine the promotional aspects of national shipping policy through three pieces of legislations: the NSPA, 2003 as amended and affected by the Cabotage Act, 2003 and the NIMASA, 2007
- To analyse the main policy outputs and programmes of NMA/NIMASA in furtherance of the objectives of NSPA and similar legislations regarding shipping development in Nigeria
- To examine how these programmes were implemented and their effects on shipping development using the proxies of National Fleet Expansion, Carriage Right of Indigenous Shipping Interests and Seafarers' Development Programmes
- To examine the character, attitude and nature of the implementing agency (NMA/NIMASA) and other stakeholders regarding the implementation of the policy.

- To identify the barriers to the implementation process; and
- To proffer suggestions to shipping development policy

### **1.5 Justification of Study**

Although policy intervention in international shipping has been used consistently by states from ancient times, it still has remained a very contentious subject. Apart from its putative effect on the fortunes of international shipping, an unending debate has continued to be waged on the usefulness of national shipping policy in serving the purposes of states, especially the developing countries. Unwittingly, the debate has been narrowed between the shipping internationalists and nationalists, which coincides with the dividing line between the neo-liberal economic theorists and the statist school dominated by political scientist. Two fundamental facts stand out. One is that policy as a national tool for development has now been accepted. Whether from the neo-liberal school proposing the so-called “Washington Consensus” policy-kit on how third world countries should approach economic development agenda or the statist who see the inevitability of policy tools to secure national interests, all have now conceded the right of states to use policy tools.

However, the issue of how and where it is to be used has remained unresolved. The second fact that emerges from the literature of national shipping policy is that contrary to the pretension of the internationalists, the history of shipping development among states, rich or poor, can also be seen as the history of national shipping policy. There is abundant historical evidence that at one time or the other, developed maritime states have used protectionist shipping policy to nurture their “infant” shipping industries. Indeed, F. List (1885) and Chang (2003, 2005) insist that policy intervention by state precedes shipping development so they wonder if the advice of the internationalists was not mere hypocrisy and perhaps a conscious scheme by the developed maritime states to hide the secret of their maritime success from the upcoming maritime nations. Having noted that shipping policy could lead to shipping development, it is equally a fact that the enactment and use of such promotional shipping policies have not been of help to many developing countries including Nigeria. The need for further investigation therefore has arisen.

The study examines Nigeria's shipping policy in relation to shipping development, and seeks to answer why the adoption of such policy has failed to bring about development of its shipping potential. It reviews the importance of shipping to national economic development and thereafter examines the various options, and measures, to induce shipping development including the use of national shipping development policy. Rather than toeing the beaten lines in the debate, which has been based on *a priori* assumptions, with either of the schools seeking to justify shipping intervention or to denigrate the use of policy without regard to empirical validation, the purpose of this research is to depart from such ideological contest but combine the merits of both sides.

Apart from assisting policy makers, programme designers and implementers understand the dynamics of public policy; this study joins this on-going debate on national shipping from a fresh perspective of implementation analysis. This is probably the first time national shipping policy would be studied from policy implementation perspective. It is also argued that this approach offers a strong basis for analysing policy outcomes, and it is indeed a *sine qua non* for understanding shipping development of an emergent maritime nation. In addition to bridging research gap, this study may be useful not only in dissecting policy implementation problems, it could also assist both policy makers and implementers understand why policy fails and the way to reduce the gap between policy statement, its implementation and outcome.

## **1.6 Research Methodology**

### **1.6.1 Epistemological Foundation**

This research is essentially a policy-focused empirical investigation into National Policy for the development of shipping in Nigeria. This study examined why the implementation of national shipping policy, which in this case is NSPA and other related legislations, did not lead to shipping development in Nigeria. The list of research questions and objectives of study were informed by the quest to determine whether the policy outputs of the implementing agency and/or the outcomes of the implementation process were consistent with the objectives of the national shipping policy to develop indigenous shipping. No doubt this helped in identifying the types of

data and data sources needed to answer the general questions. In order to be in a position to address the core issues of “what happened’ and “why it happened as it did”, the study, following the guide of Alan Werner (2004; 5), adopted a mixed methodology which was flexible, eclectic and pragmatic. The research design included a survey, which was complimented with in-depth interviews and focus group discussions.

### **1.6.2 Sampling and Data Collection Methods**

The study adopted an implementation framework to analyse shipping policy using a combination of survey and case study method. It used both primary and secondary data sources. A total of twenty (20) in-depth interviews were conducted to determine the issues, challenges, implementation process and outcome of the shipping policy. The respondents for the interview were purposively selected based on the roles the individuals played in Nigeria’s shipping development. They included the following: two former Ministers of Transport, two former members of Provisional Ruling Council/Armed Forces ruling Council, the highest law making authority at the time of promulgation of the NSPA, four indigenous shipowners; two members of the National Assembly including the then Chairman of House Committee on Transport, five former Directors General (DG) of then NMA (NIMASA) ; two Managing Director/CEO of erstwhile Nigeria National Shipping Line, the national line floated in 1959. Others interviewed were the President and Vice President of Indigenous Shipping Association of Nigeria (ISAN), two, one former and the other serving, Executive Secretary/CEO of Nigerian Shippers’ Council, former MD, Nigerdock, the premier ship building and repairs outfit in Nigeria, MD of Shipyard as well as three leading maritime lawyers and two former Directors and two serving Directors of NMA and two leading maritime consultants, the Executive Secretary of the Masters Mariners and the Rector of Maritime Academy of Nigeria, Oron. The selection of these individuals was through purposive sampling to ensure that major segments of the shipping population that constitute the policy makers, implementers, advocates and beneficiaries of the policy were duly represented.

In addition ten (10) different focus groups discussions involving about sixty one participants, in groups between five and seven members, were held. They belonged to identified critical groups and included the following: the staff of NMA/NIMASA numbering ten (10), other regulatory agencies (7), Banks and other service institutions (9). Other groups comprising the shippers and other shipping operators (8); members of the academic institutions, members of the merchant marines and Independent Ship owners' Association of Nigeria ISAN, consultants and lawyers (12), maritime journalists (9) and finally the Shipowners/Shipbuilders (6). These FGDs were conducted in a manner to further elicit the views and insight of participants on key issue areas as well as fleshing out the nature of questions to be addressed in the survey questionnaires. The discussions also helped in throwing light on the opinions, expectations and worries of the various segments of the shipping population. A large portion of these details were first hand account of implementation process (at NMA/NIMASA), experiences and opinions of key stakeholders who have held positions as implementers, beneficiaries of the policy and policy drivers. There was also a roundtable which involved critical stakeholders moderated by the researcher. The final source of primary data were from the survey questionnaires and were concerned with developing statistical generalisations about shipping development in-programme and post-programme stakeholders characteristics, experiences and outcome from a wider range of the shipping population. Four hundred (400) copies of a questionnaire were administered to purposely selected stakeholders in Nigeria's shipping industry. They comprised mainly staff of Nigeria Maritime Administration and Safety Agency (NIMASA), Nigerian Ports Authority (NPA), Maritime Academy of Nigeria, Oron (MAN), Registered Shipping Companies, Nigerian Shippers' Council (NSC), major shippers and key allied institutions like the academia, banks, insurance and cargo-generating interests (shippers).

Secondary data sources, both printed matters and administrative documents, were collected. The National Shipping Policy legislations were obtained from the laws of the Federal Republic of Nigeria, and administrative data from NIMASA formerly known as National Maritime Authority (NMA). Other secondary data were obtained from the Nigerian Institute of International Affairs (especially the Press Section), Nigerian Ports Authority (NPA), Nigerian Shippers' Council

(NSC), Federal Ministry of Transport (FMOT), Maritime Academy of Nigeria, Oron (MAN), Central Bank of Nigeria (CBN), National Bureau of Statistics, International Maritime Organisation (IMO), the U.S. Maritime Administration (Marad), and similar institutions.

### **1.6.3 Data Analysis**

Secondary data and in-depth interviews were subject to content analysis. Survey data were analysed using descriptive statistics. The study investigated the implementation of the promotional aspects of NSPA on shipping development in Nigeria. It used the following proxies as measures of shipping development: the status of national fleet (from 1985 to 2005), that is two years before the enactment of the Act and at the time of suspension of both the SASBF scheme and Cargo Allocation programme, and two years into the implementation of the Cabotage Act; the carriage of Nigeria's seaborne trade from 1985 to 2005, for same reasons as above; and, the seafarer's development using the numbers of seafarers/officers and quality from 1985 to 2005. The NSPA and Cabotage Act offered the two major focus on the national shipping policy. While the NSPA dealt with international shipping, the Cabotage has been concerned with the development of domestic shipping. The NIMASA Act, 2007 is a consolidation of the two policy thrusts and it is too early for any meaningful study as it is yet unfolding. The study also focused on the organisational dynamics and structure of the erstwhile National Maritime Authority, now NIMASA. Here, the attitude and performance of NMA officials as street-level bureaucrats were examined. The data derived from the questionnaire administered to stakeholders in the shipping industry were useful in the determination of the attitude of these stakeholders to the Act, the programmes and their effect on shipping development in Nigeria.

### **1.7 Scope and Limitations**

The study focused on the implementation of the promotional aspects of the National Shipping Policy Act. Its primary period of coverage was from 1985 to 2002, although it was extended to 2010 to cover policies and events of interests that occurred outside the period. Also, the outline and possible implications of subsequent developments in shipping legislations were noted and

analysed. These included the Inland and Coastal (Cabotage) Shipping Act, 2003, the Nigeria Maritime Administration and Safety Agency (NIMASA) Act, 2007 and the Nigeria Content Development and Monitoring Board Act, 2010. Because the NSPA was enacted in 1987, which was during the military era in Nigeria, the study did not investigate the formulation process of the NSPA Act in detail. It dwelt more on analysis of the implementation of shipping development policies.

However, it did not delve into non-promotional aspects of the Act such as issues relating to safety, search and rescue operations, dockworkers, flag state and port state, politics of flag/ship registration, environmental pollution, enforcement, and details of seafarers' training. Apart from time and resource constraints on the study, these issues were handled by a number of government agencies and as such constituted enough problems for another research effort. Being an implementation study of "what happened after policy enactment and why it happened as it did", the research did not dwell on impact study or a detailed analysis of the effect of the Act on the economy, neither did it survey non-shipping population of the economy. Going into these areas in details would have made this research unwieldy, thereby reducing its thematic coherence. Besides the difficulty in accessing critical information and the constraint of time, the study also was constrained by the reluctance of respondents including major stakeholders in returning their questionnaires.

## **1.8 Outline of Chapters**

### **Chapter One: General Introduction**

This chapter provides the study with necessary background to understand the relationship between trade and shipping on the one hand and the inseparability of these critical activities from national economic development. This chapter also discusses here as the problem statement of the study. The chapter also stated the research objectives and questions, its scope and the justification for the study. It also touched on the limitation of the study and outline of chapters.

## **Chapter Two: Literature Review and Theoretical Framework**

This chapter reviews extant literature on the dominant themes of the study. These include definitions and discussions on theories of national shipping policy from both the liberal and protectionist view points. It also examines the role and objectives of national shipping policy intervention in shipping development, especially from the perspective of the developing maritime nations (DMNs). Further discussion on implementation process and the national shipping policy provides the theoretical framework for the study. A number research questions are once more reviewed to guide research which also lead us to focus on an appropriate methodology for selection of cases.

## **Chapter Three: Evolution of Shipping Policy in Nigeria**

This chapter provides a brief historical background of the emergence and nature of seaborne trade and the evolution of shipping in Nigeria, which has been traced back to the demands of the era of Trans-Atlantic Trade. The review spans across pre- to post-colonial Nigeria. The chapter also delves into the structure and dynamics of shipping and shipping development challenges faced by Nigeria during these eras. This provides vital background for a deep appreciation of the challenges and character of Nigerian shipping. It finally identifies public institutions, regulatory agencies and major stakeholders in the shipping industry.

## **Chapter Four: Analysis of the Legal Objectives of National Shipping Policy**

This chapter deals with the formal legislations related to shipping, specifically analyzing the major shipping promotional provisions of National Shipping Policy Act (NSPA), 1987. It also focuses on key reforms and amendments as provided in the Coastal and Inland Water (Cabotage) Act, 2003 and the subsequent amendment legislation of the NSPA as contained in the Nigeria Maritime Administration and Safety Agency Act (NIMASA), 2007 and the Nigerian Content Development and Monitoring Act (NCDMA), 2010. Nonetheless, the analysis deals more with the contents and objectives of Nigeria's national shipping policy, including examining its conceptual clarity and coherence.

### **Chapter Five: Implementation of Shipping Development Programmes: Three Cases**

It examines various programmes, policy outputs and their implementation processes. The crisis situation in the various initiatives are further illustrated by three cases. These include the botched acquisition of a training vessel, MV Trainer, the misapplication of shipping development funds, the Ship Acquisition and Ship Building Fund (SASBF) and the flawed process of cargo allocation to shipping companies. This leads to examination of identified statutory independent variable as provided by our theoretical framework.

### **Chapter Six: Evaluation of the Implementation Process**

This chapter interrogates why these promotional supports administered by the implementing agency have not achieved policy objectives. It presents the findings and analysis of the responses from the survey. The perceived benefits, achievements, obstacles to the promotional objectives of policy are also analysed. The survey findings are supplemented with the opinions gathered from the FGDs and expressed at the various in-depth interviews.

### **Chapter Seven: Conclusion and Recommendations**

This chapter summarises the research findings, draws inferences concerning effects of the policy intervention on shipping development and provides insight for future policy direction. It also suggests areas of further research.

## CHAPTER TWO

### LITERATURE REVIEW AND THEORETICAL FRAMEWORK

#### 2.1 Development and Policy: A Background

There has been a lot of scholarly concern regarding the elusiveness of development in many developing countries (Rist, 2008; Reinert, 2007; Chang H-J, 2003, 2004, 2006; Peet, 1999 etc). It has even been suggested that the “development problematic” began with the decolonisation process, which concerns mainly the South, due to the prevalence of unbearable poverty (Rist, 2008). The broad region referred to as the South includes most of the newly independent states of Africa, Asia and South America. Yet, development has several perspectives as it is evident in several academic disciplines. For instance, psychologists speak of development of intelligence and the photographers of the development of the film. Within their contexts, the references they make relating to the concept seem clear enough. It is suggestive of a process that is yet to be fully matured. However, it is not so clear when it refers to national development, as Rist (2008) has observed that such reference to development is less precise and defined, even in ordinary language when it denotes “either a state or process associated with such concepts as material well-being, progress, social justice, (or) economic growth”.

For the purpose of the study, the Report of the South Commission produced under the chairmanship of former Tanzanian President, Julius Nyerere, is apposite. It defines development as a “process which enables human beings to realise their potential, build self-confidence, and lead lives of dignity and fulfilment. It is a process which frees people from the fear of want and exploitation. It is a movement away from political, economic, or social oppression. It is through development that political independence acquires its true significance. And it is a process of growth, a movement essentially springing from within the society that is developing” (The Challenge to the South: The Report of the South Commission, 1990). The imperative of national development pressure is further underscored by the Human Development Report (1991) which emphasised that the “basic objective of human development is to enlarge the range of people’s choices to make development more democratic and participatory. These choices should include

access to income and employment opportunities, education and health, and safe physical environment”.

The situation has arisen where developing countries now seek to break from the cycle of poverty afflicting their people and fully participate within the international system to promote and secure their interest. Moreover, it is the prerogative of every government to pursue economic development for the improvement of the people’s welfare. It is essential then for each country to articulate and consolidate its policy in the overall context of national economic objectives vis-a-vis its potential. It should also work out the best way of the goals are to be achieved. One way states adopt a rather rational approach to attain agreed-upon goals, in this case development, is through formulation and implementation of economic development policies. Therefore, whether states should use policy instruments to induce development is no longer in debate (List, 1885; Peet 1999; Chang, 2003; Rist, 2008).

Indeed, the current pressure on the developing countries is rather on the choice of policy paradigm. The prescription, or “solution package”, from the developed world and its international development establishment is for the developing countries to adopt a set of “good policies and institutions” in order to foster development. Referred to as the Washington Consensus, the main thrust of the policy prescription generally relies on restrictive macroeconomic monetarist policies, liberalisation of international trade and services including shipping and investments, privatisation and deregulation (Chang, 2003). These policies are then to be delivered by good institutions similar to those found in the developed countries. They include democracy, “good” bureaucracy, an independent judiciary, protection of property rights, transparent and market-driven corporate governance and financial institutions. Liberal theorist including Walt Rostow (1960) and Simon Kuznets (1965) drawing from the history of developed countries have outlined the numerous stages of development through the tortuous route to industrialisation. However, the journey to the development destination has not been an easy ride. Over the years, the expected results have not been achieved as the impediments are legion.

First the so-called institutions are hardly in existence in these states and attempts to replicate them have not been successful. There is also the argument of historical contradictions between the policy advice bandied by the liberal theorists and the journey to industrialisation and development of the developed countries. Based on historical facts, List (1885; cited in Chang, 2005) has repudiated the validity and empirical basis of the advice often given to the developing countries. These views naturally seek to an ordered transition where, using the developed countries as a mirror, certain structures are regarded as sine-qua-non for development. As always, these developing countries are encouraged to adopt liberal prescription for their economic development. List's view is that in the presence of more developed countries, backward countries cannot develop new industries without state intervention, especially tariff protection – hence he is commonly known as the father of “infant industry argument”, (Chang, 2005; 3). After reviewing trade and industrial policies in the major developed countries in their quest for economic development up to his time in the nineteenth century, he concludes that Britain was actually the first country to perfect the art of infant industry promotion, which in his view is the “principle behind most countries’ journey to prosperity” (Chang, 2005; 22-4). But once these countries attain this height, List observes that they change position. He is worth quoting extensively here:

It is a very common clever device that when anyone has attained the summit of greatness, he kicks away the ladder by which he has climbed up, in order to deprive others of the means of climbing up after him. In this lies the secret of the cosmopolitan doctrine of Adam Smith ..... Any nation which by means of protective duties and restrictions on navigation has raised her manufacturing power and her navigation to such a degree of development that no other nation can sustain free competition with her, can do nothing wiser than throw away these ladder of her greatness, to preach to other nations the benefits of free trade, and to declare in penitent tones that she has hitherto wandered in the path of error, and has now for the first time succeeded in the discovery of truth (List, 1885; as cited in Chang (2005; 4).

This point is further reinforced by Alexander Gerschenkron who, in his seminal essay “Economic Backwardness in Historical Perspective” (1963) has argued that the political and economic requirements of countries which industrialise early, “when they have few competitors

are different from those that seek to industrialise when competition already exists.” The more advanced the world economy, the greater is the entry cost and so successful transition based on adherence to such advice would likely be abortive. It is evident that rather than arising from value free and sound theoretical position, the advocacy for the neo-liberal policyagenda is laden with capitalist preferences of the developed countries. It is therefore challenged as, and alleged to be, sheer hypocrisy because such position only favours the strong. Chang has captured it more rhetorically as he states that: “it is fair to ask whether the developed countries are somehow trying to hide the secret of their success”, (Chang, 2005; 2) by its advocacy of the path that consigns the developing countries to play second fiddle. This, in a way, brings to question the relevance, and appropriateness, of various development theories proposed as solutions to the myriad of issues facing third world countries. This section will, therefore, embark on a review of literature on national shipping policy in relation to shipping development, which will provide the study with a framework to examine shipping development policy. The study will further explore the utility of the implementation process and models in analyzing promotional aspects of shipping policy.

## **2.2 Shipping - The Economy and International Trade**

Shipping is an economic activity undertaken within the environment of trade. Within the context of international relations, shipping has also been noted to feature prominently in military campaigns defining the powers and control of states. Such was the influence of shipping within the realms of commerce and power that Sir Walter Raleigh (1650; cited in Stopford, 1997; 421) proclaims that “whosoever, commands the sea, commands the trade; whosoever commands the trade, commands the riches of the world; and consequently the world”. The history of shipping occupying strong and even dominant role in the rise of nations has therefore been quite long.

From the great voyages and discoveries undertaken in the name of Kings and God, to the history of Phoenicians, Romans, Vikings, Spanish, Portuguese, British and many other countries, there can hardly be any hesitation to regard shipping as both a vehicle of commerce and warfare. In terms of commerce, it does not just facilitate trade, especially international trade it is also an

instrument and a means of development. (Sletmo 2001: 476-7). Apart from state involvement, there is ample evidence of intensive private sector participation such that in the medieval era, pirates received licenses granting them freedom to attack fleets of other nations while the spoils of such pirating activities were shared with the licensing State (see Beckman, Kapare, Strockhom and Forlag, 1945). As far back as 1600, Robert Hakluyt had demonstrated the intimate tie between trade and shipping. Francis Bacon followed the trail as he notes “the proficiency in navigation and discoveries may plant also the expectation of the further proficiency and augmentation of all sciences” (Bacon, 1605 cited in Sletmo, 2002). Shipping has also been seen as a symbol of both technological advancement and military power (Sletmo, 2001). Gold (1981) has noted the dominant role traditional maritime powers played in the late 19<sup>th</sup> century. By 1914, for example, the United Kingdom controlled forty one per cent of world fleet, Germany over eleven per cent followed by United States four and a half per cent and France with four per cent. Eight of them controlled over seventy-five per cent of total world tonnage, (Sletmo, 2001).

Greece by 1998 controlled nearly eighteen per cent of world fleet with just over one fifth of one per cent of world export. In sum, the top ten maritime nations in the world control about fifty per cent of global fleet with less than twenty four per cent of world export, and excluding the United States, the share falls below thirteen per cent (Sletmo, 2002; 474 ). In spite of globalization and deregulation, shipping is still dominated by a few countries and it has continued to support economic growth, globally and nationally. Viewing shipping as part of the economy, nations have become conscious and desirous of converting this resource to their use. They are no longer content with being kept off from shipping where there is potential for its development. Chang (2003) makes the case when he argues that, “a country should mainly rely on the strength and wisdom of its own people, control its own economic lifeline, make useful use of its own resources, work hard, increase production, practice economy and develop its national economy step by step and in a planned way”.

Stopford has noted that modern shipping is one of the world’s most international industries and has provided “the vehicle for an extraordinary growth of trade”, (Stopford, 1997). He, therefore, sees the link between trade and economic development as having brought about a consistent

trend and interaction where “developments in shipping and developments in the world economy” continue to be closely tied. Implied in this is that shipping not only responds to trade demands but the very nature of such demand also influences the pattern of shipping development. This has been changing overtime. From the traditional system of “break bulk” liner, the pressure of increased volumes necessitated the introduction of palletization and containerization of cargo in order to speed up the cargo flow. In the bulk shipping market, bigger, faster, and more efficient ships have continued to play critical roles. Over a period of 50 years from 1945 to 1995, oil tankers have become fifty times bigger and dry bulk vessels ten to fifteen times bigger (David and Brendan, 2001). However, the growth of international shipping has not resulted to the development of shipping in most third world countries. Shipping development in these countries is, therefore, concerned with the use of maritime potential of a state for the purpose of advancing economic growth and national development.

In this regard, shipping is seen as a vital national industry and therefore needs to be developed. As Goss and Marlow (1993; 46-56) have observed, shipping development is expected by its proponents to be beneficial to any country in the following ways:

- Building of local shipping capacity to carry trade
- Contribution to balance of payment
- Generation of employment
- Defence purposes (i.e. provide shipping capacity during military conflict)
- Need to participate in international organizations and conferences, hence involvement in international policy decisions. (Goss, Marlow and Gwilliam, 1993).

As desirable as shipping development is to national economic development, it is, however, a subject of so much contention. The central issue of debate between the “nationalists” and “internationalist” has been whether shipping development can be induced by national policy or should best be left to market forces. Expectedly, the literature on shipping policy seeking to justify one position or the other has been growing. And it has been for quite sometime. From the ancient times to this era of globalization, the perceived fruits of shipping have been too tempting

to be ignored by states and individuals. Whichever school of thought one belongs to, the use of policy, rules or laws to regulate conduct is not new, even in shipping. In the Holy Bible, God in the book of Genesis directed Noah to construct a ship, Noah's Ark, based on certain standards either for safety and/or space, (Genesis 6:14 and 15 verses). But policy is not just about regulation. Jantscher in his study of United States shipping policy has identified three key areas of maritime intervention. These include services providing navigational aids, dredging channels and ports; regulation on safety, work conditions, rates, and promotion of national maritime industries, (Jantscher, 1975). The position has been further stressed by Sturmev (1975) who argues that policy as a promotional tool "encourages, permits, or formulates measures to interfere with, or control the free play of market forces in regard to the employment of shipping".

International shipping, Gold (1981) observes, has always been under one shipping regime or the other. He goes on to trace the use of regulation in international shipping back to ancient times. He notes that even the modern *Law of the Seas* was a policy that coincided with the great expansion in shipping undertaken by Europeans in the 16<sup>th</sup> and 17<sup>th</sup> centuries. Perhaps the intellectual origin and justification for the freedom of the sea concept can be traced to the earlier works of Hugo Grotius (1609;cited in Gold; 1981). This regime created the space for the growth of imperial sea power. Around the same period, a counter-force to the liberal foundation of shipping policy had also emerged. Hakluyt has demonstrated the strong linkage between, and indeed inseparability of shipping and trade. This observation heightened interests of entrepreneurs and governments in international shipping, thus heralding the rise of shipping nationalism (Sturmev, 1975). Ever since, it is not surprising to see countries speaking from both sides of their mouth: on the one hand, they act as strong advocates for freedom of the sea while on the other hand they support their national shipping industry and only use advocacy for open seas as a means to increase their trading opportunities.

Progressively though with discernible ambiguity, policy intervention has become issues defined at different spatial levels, dichotomized between issues of protectionism or liberalism, at one level, and those of regulations for safety of lives and ships (Roe, 2002). Also important in the current debate is the effect of such policies on the state of international shipping (Sletmo, 2002).

This study discusses the evolution and nature of national shipping policy, its objectives and implementation. It specifically examines why the implementation of national shipping policy, which in this case is NSPA, has not led to shipping development in Nigeria. And this concern necessarily takes us to the concept of national shipping policy.

### 2.3 National Shipping Policy and Shipping Development

The term ‘shipping policy’ can be interpreted loosely to cover the entire maritime sector, or in a restrictive sense to cover trade and services related to shipping policies. Even when it is narrowly defined, it extends and has implications to a wide range of concerns including ports development, infrastructure and ancillary services. Jantscher in his study of United States shipping policy identified three key sources of intervention in international shipping. These include services providing navigational aids, dredging channels and ports; regulation on safety, work conditions, rates, and promotion of national maritime industries, (Jantscher, 1975). Gunnar Sletmo (2002) in his seminal work titled *The Rise and Fall of National Shipping Policies* proposes a four-cell typology of regulations in international shipping. See Table 2.1 below.

**Table 2.1: A Typology of Regulations in International Shipping**

	<b>National</b>	<b>International</b>
<b>States’ Rights &amp; Obligations</b>	Labour laws; Cabotage; Competition; Ownership & flag rules	Flag State & Port State Inspections; Law of the Sea; Safety & environmental regulations
<b>Commercial Operations &amp; Practices</b>	Cargo reservations; Labour laws; Ship registration; Taxation	Cargo liability (e.g., Hamburg Rules); International labour rules; UNCTAD Code for Liner Conferences

Sources: Based on OECD (2000), *Regulation Issues In International Maritime Transport*.

The first cell accommodates national regulations on States' rights and obligations such as labour laws, Cabotage, competition, ownership, and flag rules. Still on national regulation, he identifies the second genre of regulation with emphasis on commercial operations and practices as comprising cargo reservation laws, taxation, ship registration, and labour laws. The third and fourth are international in nature and affect (1) the States' rights and obligation consisting Flag State and Port State control and inspections, Law of the Sea, Safety and Environmental regulations; and (2) the commercial operations and practices involving regulations on Cargo liability (e.g. Hamburg Rules), International Labour rules, and UNCTAD Code for Liner Conferences. Although one particular difficult area in international shipping is related to the question of cargo and vessel liability in certain situations including oil spillage, there is still a consensus on the need for regulation. Under such a comprehensive maritime policy are a range of issues of port infrastructure, safety of life and protection of marine environment, ancillary maritime services, human resource development, competitive shipping services for trade and the development of national shipping capabilities (Framework for the Development of National Shipping Policies, United Nations, 1999).

The twin issues of developing shipping capabilities and provision of competitive shipping services are more or less targeted to promote and protect national shipping interests. Shipping interests here may include both those involved in shipping services provision such as shipowners and those consuming such shipping services, which include shippers. With the wave of deregulation across the globe, states are moving away from direct investment and ownership of shipping services. They are now more concerned with the use of policy tool to induce shipping growth and development. Governments have resorted to use a wide range of incentives (financial and fiscal), subsidies and other promotional and protectionist policies to support their shipping interests. And this has become one area of policy that is in dispute. This deals with the traditional form of shipping policy based on perceived needs aimed at promoting and protecting national fleet. (Consider the on-going debate between the shipping nationalists and internationalists). A broad term for the attempt to use policy or legislation to promote and protect national shipping is what is regarded here as national shipping policy.

## 2.4 Neo-Liberal Critique of National Shipping Policy

The point of debate now is on whether policy intervention should be applied to shipping, especially in the era of globalization and free trade (Sletmo, 2002). Another issue revolves on the outcome, and overall effect, such intervention would have on global shipping development. To chart a course for this discussion, Florence (1957) has argued that shipping policy is just an aspect, or a special form of policy, which is “a syllogism” involving three steps. First is definition of some ethical purpose deemed desirable (e.g. shipping is in the national interest), followed next by “scientific statement providing test of above (e.g. cause and effect analysis) in industrial policy. In this respect, he proposed a policy development concept which views policy formulation showing ‘value’ of shipping in the scheme of national economic development. Finally, legislation is enacted or rules adopted to achieve stated purpose (e.g. allowing public financing of shipping, protectionist measures, etc.)” (Sletmo 2002).

Adopting this framework, a school of thought comprising mainly economists dismisses the ethical purpose of policy and doubts if legislation can achieve economic end. It sticks to the second, namely focusing on the economic criteria as its only concern in policy evaluation. It, therefore, posits that policy intervention is inimical to international shipping (Sturme, 1975). It further argues that neither the State nor the people benefit from the use of such policy intervention as instrument of shipping development. Whatever benefits accruing from the intervention, the school asserts, are wiped off by the attendant losses, waste and higher transportation cost passed on to exporters due to the misallocation of resources and the resultant inefficiency. In the end, the few jobs and foreign exchange these states would have earned from shipping as a result of resort to policy would be erased by reduced export earning, (Sturme, 1975). Applying this approach to Sturme’s formulation above, there is then no basis for use of policy intervention hinged on perceived national needs, and with the aim of maximizing the size of national fleets through protectionist and promotional means. As a consequence, such policy should be dead (Sturme 1975). This school, therefore, concludes that the use of policy to induce shipping development is not only anachronistic but is doomed to fail. Viewed from this perspective, the experiment of NSPA and subsequent policy interventions to develop shipping in

Nigeria would fail. National shipping development should rather rely on its comparative advantage.

However, neither logic, history of shipping development nor contemporary empirical evidence supports this sweeping claim by the liberal school dominated by economists. As plausible as its argument may be, this school's insistence to scrap policy support instruments simply on *a priori* grounds, Sletmo observes, has not been received by all, (2002). Indeed, Gilbert Rist has noted this shortcoming in a more poignant way, stressing the point that "Economic science has nothing scientific. It is no more a battle of opinions, which fluctuates according to the conjecture in ways that enable the strongest to impose their will", (Rist 2008: 261). It is not empirically and historically correct to assert that state intervention in shipping has failed to produce result. On the contrary, the history of shipping development is replete with accounts of nations relying on state interventions and aid to support their nationals to develop their shipping sector. This argument will be presented later as the study reviewed the various forms of regulations and government aid to national shipping by leading maritime nations. Suffice it to state that the neo-classical school has also failed to recognize the inherent right and duty of states to self-preserve and develop. As Li Chiang (1975) noted earlier, states have a duty to deploy their resources to serve their people<sup>5</sup>. Attempting to define their interest from the general principle of the desirability of free international shipping either begs the question or is plainly insensitive to varying national interests of sovereign states.

Indeed, the primary concern of any state lies in its survival and the improvement of the welfare of its citizens. There is no reason to hold and subscribe to the argument that general international prosperity canvassed by free-traders could mean the improvement in the living standards of all nations. Nothing can be farther than the truth. To borrow the cliché of the philosophers, the argument is tainted with fallacy of division – the fact of an excellent team does not imply that every player in the team is excellent. In other words, the economists fail to realize that

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<sup>5</sup>This statement is credited to Li Chiang's speech at the UN General Assembly in 1975, in defence of the Chinese Shipping Policy. For more on this comment, please see Heine, I. M, and (1989) *China's Rise to Commercial Maritime Power*; (Westport Connecticut: Greenwood Press Inc.)

every development policy like “politics is local” and only has meaning to the extent it improves the competitiveness and opportunities of its target group. Finally, the conclusion of the neo-liberal school that policy intervention cannot lead to the shipping development of any nation does not only suffer from reductionism – as the entire process is prejudged - it also neglects the striking evidence of the past showcasing the rise of Britain or the contemporary rise of Chinese and Korean shipping industries through the instrumentality of policy. The argument should anchor more on nation’s competitive advantage and effective catching-up strategy and sound policy implementation process.

## **2.5 The Statist View on Shipping Policy**

There is yet another school of thought that sees shipping in terms of power relations, a link between economics and politics. Largely made up of political scientists, this school’s core position is, as Iheduru (1996: 21) has captured, that: “Most international political economy researchers have accordingly recognized the fact that shipping, as a basic infrastructure of international trade, is a key source of influence in world politics”. In a world order where power is unevenly distributed, the lack of success in using policy to transform developing countries’ shipping is blamed on international conspiracy. The dependency theorists buttress the position, which is a variant of the school of political scientists, who argue that shipping is merely a part of the larger development debate. Development and underdevelopment they see as characteristics of the global system which is functionally linked and has “therefore interacted and conditioned each other mutually” (Ake, 1996: 10).

Referred to as “centre- periphery relationship”, the centre, comprising developed countries, is capable of “dynamic development responsive to internal needs”, while the periphery only enjoys “reflex development that is constrained by its incorporation into the global system and that results from its adaptation to the requirements of the expansion of the centre” (Iheduru, 1996; Ake, 1996). In simple language, the development of the periphery is induced by the needs and terms of the centre, which is the primary beneficiary of the global link. In terms of shipping, unless there is a new world order as canvassed in the 1970s through to the 1980s, and

demonstrated by the United Nations Conference on Trade and Development, UNCTAD, resolution of 1974, (NIEO,G77), there is no way out for a developing country to fully harness and enjoy its maritime resource. Iheduru summarizes this position thus, “the maritime sector has ...become a major source of conflict between the North and the South. Shipping is therefore one clear example of the efforts of the weak to change the international system to their favour, and a very important example of why and how poor countries fail in this struggle to achieve their objectives in an international system where power is unevenly distributed”(Iheduru,1996).

It is equally begging the question to suggest that a grand conspiratorial design by the developed countries has led to the failed attempt by the developing countries. By this position, the United States of America’s shipping policy would have recorded consistent growth and dominance. This has not been the case. Jose (1999) has argued that shipping is a strategic sector and should not therefore be allowed entirely to free forces of the global market place. The United States interest in shipping is based on this premise. Using Cargo Preference policy, Jones Act and other legislations, the US government has continued to support its shipping interests without regard to any international opinion<sup>6</sup>. According to Herberger (1995),this support stems from the fact the United States considers the merchant marine as “vital for national defence”. The inability of United States, a super power in the international arena, to dominate global shipping services paradoxically exposes the lie in any conspiratorial theory.

Either this school of thought dominated by political scientists rejoiced too soon or it conveniently avoided embarrassing empirical evidence. It merely continued to blame external forces for the inability of third world countries to develop their national shipping lines in spite of factors of comparative advantage and government support. It also has unwittingly exaggerated the potential of international shipping vis-à-vis national endowment. Potential and mere policy statements are not enough. There is a gamut of evidence of the development of South Korean shipping industry and the rise of Chinese shipping companies in spite of not belonging to the centre. Their

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<sup>6</sup>For more interesting discussion on this, see Jose, J (1999),.Also, see Herberger, A.J. (1995).

experience has been that they sought to work out their policies within the overall context of their economic objectives and shipping potentials; and assiduously implemented such policies.

It underscores the fact that analysis of shipping policy success should side-step a bit on its reliance on dogmatic linkage between shipping development and the power relations among states. The facts are difficult to reconcile with the core position of this school. The failure of shipping development effort therefore cannot be solely explained by the power-relations theory and therefore requires a fresh approach devoid of unbridled ideological rigidity, assumptions and biases. Instead of playing up the innocent victim argument, the major issue crying for explanation is why policies which succeeded in certain countries fail woefully in others. Perhaps, a case by case assessment has become necessary before any voyage toward a grand theory of shipping development backwardness or success.

## **2.6 Selective Industrial Policy and Shipping**

Shipping policy is a genre of industrial policy and is directly in favour of developing the shipping sector. Some have argued that “selective” industrial policy that targets specific sectors or even firms does not work for a number of reasons. First, it often distorts market signals. Secondly, it is difficult to manage and finally, it is very prone to abuse as it is liable to interest group capture and corruption (Bhagwati, 1987; Balassa, 1988). Even if all these are admitted, we cannot abandon the use of policy simply because some have failed or have become abused. The point is no longer whether such policy should be specific but “how to be specific in the right areas in the right manner, given the overall industrial policy objectives”, (Chang, 2005; p 32). As Ha-Joon Chang (2005) has rightly noted, the great pressure is on developing countries, from the developed world, to adopt a set of “good policies and good institutions” to foster their economic development. Perhaps, the absence or presence of these “initial conditions” provides explanation for the reason while some policies succeed in a country and fail in another. However, the success of the East Asian countries has drawn attention to, and indeed queried the assumed role of institutional factors in determining the success of selective industrial and trade policies, which encapsulates the thrusts of shipping policy (Chang, 1998, 2003, 2004, 2006).

Thomas (2001; p 7) has also suggested that policy success may hinge on the degree of alignment between specific policy and the underlying theory as the determinant of outcome. Given that well aligned policy must also be directed toward a purpose, Roland Hope, Sr.(1996) has cautioned that “the formulation and implementation of development policy, however, must also entail appropriateness”. By this he explains that “if development policy has scientific merit but lacks appropriateness, then it is doomed to failure and the process of development will remain elusive in the Third World, ad infinitum”. What is paramount, he concludes, is “promoting the national economic interest, on the one hand, and building management capability for changing needs, on the other”(Thomas 2001 and Roland 1996).

This approach stops short of postulating a neat framework for using policy evaluation approach to investigate the cause of unfulfilled shipping expectation. Yet it is essential noting as Soludo(2004: 34) observes in his *Nigeria: The Political Economy of Policy Process, Policy Choice and Implementation*, that policy documents in Nigeria are not short in nationalistic rhetoric, “the implementation process can almost be completely explained by the public choice model – almost complete capture by personal and special interests”. It is not enough to assume that policy objectives well couched and enacted would automatically become solutions. It is important to understand how the policy is implemented, the attitude and response of the various groups and individuals who constitute the critical stakeholders; and the incentives and sactionsthat drive their actions remain critical to an evaluation of certain policies and why they are chosen or how implemetation outcomes are shaped. Interestingly, Chang’s (2006) findings equally stress the same point and question the importance of the so-called initial conditions and institutions that are requiredfor development, as stipulated by the Washington Consensus School.

Contrary to the view of this school, it has sufficiently been implied that policies and other conscious human actions are more important than historically-inherited or structurally-determined initial conditions in determining the developmental outcome. Infact, Chang (2005) has remained emphatic that “the success of ...policies is critically determined on the one hand by the detailed forms of these policies, and on the other by the ability and willingness of the state to

implement these policies.” In his study of the Indian shipping development, Baldev Raj Nayar (1996; p 76) observes that “The record of accomplishment of China, South Korea, Taiwan and Malaysia in the last two decades nonetheless demonstrates that states can foster and advance their shipping capacity within the structure of existing international system, precisely because it is not so market-based as it is proffered to be.....Ultimately, therefore, it is the domestic structures of sovereign states that have priority in explaining performance in regard to shipping.”

The major objective of Nigeria’s shipping policy is to develop its shipping capabilities. The study will therefore follow the lead proposed by Chang and Nayar. It shall examine the national shipping policy outcome by investigating the nature and objectives of the Nigerian national shipping policy on the one hand and those conscious human actions especially within the National Maritime Authority (NMA), now renamed Nigerian Maritime Administration and Safety Agency (NIMASA), in the implementation process. While this is probably the first time national shipping policy is analysed from the broad policy implementation angle, it is also argued that this approach offers a strong basis, and indeed a *sine qua non*, for understanding shipping development of an emergent maritime nation. Rather than indulge in the debate, which has been based on *a priori* assumptions, with either schools seeking to justify intervention or to denigrate the use of policy without regard to empirical validation, the purpose of this research is to depart from this ideological contest. The study seeks to conduct an empirical examination of shipping policy implementation geared towards developing national shipping capabilities. The core issue has remained the role of policy in the determination of shipping development.

## **2.7 Catching-up Strategies: Shipping Development Policy and Regulations**

In this section, we will attempt to examine some aspects of shipping policy designed to develop national shipping capabilities. Shipping policy in the main aims at trade competitiveness and, or, developing national shipping capabilities. Iheduru (1996) has rightly noted that major variables influence the outcome of the shipping policy, which includes the timing of entry of the country into the world shipping countries, intra-regional competition and the nature of state-society interaction surrounding the making and enforcement of national and regional shipping policies.

Broadly speaking, the late industrialisation theory has similarly argued that late entrants into a given industry are often confronted with changed sets of circumstances which “early developers” did not have to deal with (Gerschenkron, 1963). From rich historical evidence, Fredrick List (1885; as cited in Chang, 2005) and Chang (2005) have argued that it is legitimate for states to ignore some of the rules and prescriptions of the developed world. Apart from the inherent constraints late entrants face, the imposition of new rules which make no provisions for the fact that states are not evenly matched in the so-called free market is exploitative and not reflective of how these developed countries attained great heights and position.

The late entrants owe themselves the duty to develop. They must study the history of the early developers, break rules if they must and resort to deliberate catch-up strategy. This practice is also rampant in shipping, where the now liberal maritime nations were once the champions of protectionist shipping policy. It would seem that after attaining substantial maritime advantage and superiority over other states, these maritime powers now advocate open seas and liberal international shipping to fully exploit the fruits of their sea dominance. A look at shipping catch-up strategy use(d) by some of the developed countries in developing their respective shipping sector is examined from two standpoints. First is to emphasise the point that it is a legitimate route, which the experiences of some of the leading Western countries in their emergence as maritime power show. Secondly, the experiences of these countries will illuminate, enrich and guide the policy of the late entrants. What they practise(d) are almost opposite to their position on global shipping, and indeed the out-worn mantra of free international shipping as currently being canvassed and recommended to developing maritime nations.

## **2.8 Government Aid**

Frankel (1982) has sought to provide justification for states to intervene in their shipping industry as well as itemise the nature of such government aid – direct and indirect – used by countries to support their shipping industry. The major reason for this support is largely to the notion that marine transport is an area of particular national interest. Accordingly, states have sought to protect such national interests by formulating specific policies and regulations toward

shipping development in line with national objectives. Because the key fundamentals to successful shipping business include the certainty of cargo and consequent freight revenue, it is sustained by such services delivered at competitive costs. The cost areas are broad and the cargo domain is large. A combination of measures is adopted from time to time to encourage the development of national fleet and shipyards. Through policy instruments, governments favour their shipping industry by providing a number of carrots to them and stick to outsider shipping interests. In the main, Frankel has identified and categorised the policies and regulations according to the following underlying goals:

- Those to meet government transportation requirements in a cost-effective manner
- Those to handle a substantial portion of the foreign trade of the country and thereby affect the balance of payments in transportation revenues
- Those to effect shipping with particular reference to differential rates in inbound and outbound cargo
- Those to maintain the quality of shipping and to generate employment opportunities
- Those to provide a market for national shipbuilding sufficient to maintain an economic base
- Those to provide ocean transportation properly integrated with domestic services; and
- Those to encourage technological development in the shipping industry (Frankel. 1983; 37).

UNCTAD Secretariat report on “the nature and extent of cargo reservation”,(Singh, 1978) which provided basis for the adoption of Resolution 15 (IV) indicated that governments have over the years granted assistance to their national shipping industries two in broad categories. One was through subsidies and the second is by cargo preference or reservation. While subsidies involved some kind monetary support in cash or in kind, thesecond category was governments indirect support to shipping. They included restrictive policies and regulations such as cabotage and cargo preference applied to bestow and enhance national maritime standing. It is instructive that these tools have been and are still being used by some of the developed maritime countries.

### **2.8.1 Government Aid through Subsidies**

Government aid through subsidies have in the main focused on certain grants and assistance deliberately introduced to lower the financial cost of shipping operations of national carriers. The scheme is designed to strengthen their competitiveness. Some of these have been identified as follows:

- a) Direct subsidies for construction, purchase and improvement of ships
- b) Scrap and build scheme
- c) Loans at low rates of interests
- d) Accelerated depreciation provision and investment allowances and grants
- e) Exemption from income tax and other tax privileges
- f) Reimbursement of harbour dues, pilotage expenses, canal dues etc. paid overseas or in home ports
- g) Losses of State-owned fleets or shipyards borne by general taxation
- h) Contracts for the carriage of mail on favoured terms; and
- i) Payment of freight at rates above charter rates for government cargoes in national flags, (Frankel, 1983, pp 48, 51-2)

### **2.8.2 Cargo Preference**

There are two types of cargo preference practices. The first type was extensively used a means adopted by erstwhile liner conferences aimed at reserving cargoes for their members. By limiting and eliminating “inter-se competition between conference members and by resisting admission of new members in respect of closed liner conferences, and by operating loyalty arrangements for shippers which restrict the chances of outside shipping lines competing on equal term with members of liner conferences” (Singh, 1977: 109). The second type of cargo preference practice which is of interest to national shipping policy is where governments exercise their right to promote national shipping industry at the “infant stage of their development” (Singh, 1977; 108) by offering policy support that seeks to guarantee freight and demands of shipping services offered by national carriers.

These include:

- a) Legislation, regulations or other administrative measures, including informal measures, for government-owned or sponsored cargo and commercial cargo to be carried on national ships
- b) Bilateral treaties and regional agreements or arrangements which include provisions for reserving cargo for ships of contracting parties
- c) Use of terms of shipment, i.e. buying f.o.b. and selling c.i.f. to promote the carriage of goods by national flag ships
- d) Exchange control measures, such as blocking of foreign currencies earned by foreign ships or converting it at an unfavourable rate, compelling foreign vessels to pay their dues in foreign currency or local currency converted at unfavourable rates; compelling foreign lines to accept freight payments in convertible local currency or convertible at an unfavourable rate
- e) Refusing import or export licences and bank credits for goods carried on foreign flag ships
- f) Higher dues and charges for foreign ships; higher fees for foreign ships and high taxes and fees on cargoes carried on foreign flag ships
- g) Priority in berthing accorded to national vessels; allotment of superior berths to national vessels; elaborate health checks for foreign ships' personnel resulting in delays and hence an increase in the cost of their operation; elaborate time-consuming documentation for foreign ships(Singh, 1978; 107).

### **2.8.2.1 Comparative Cabotage Policies**

Cabotage is a special form of cargo reservation policy, which restricts the shipment of coast cargoes and services to indigenous shipping interests. In Black's Law Dictionary (2004; 215), *Cabotage* under international law is defined as the "carrying on of trade along a country's coast". This suggests coastal trade where the "privilege to carry on this trade is usually limited to vessels flying the flag of that country". It is also instructive to note that the French word "*caboter*" means "to sail along a coast". *Cabotage* has, therefore, come to be known as "coastal trade" or "coasting trade" or "coastwise shipping"; meaning 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, or to operate air traffic, road traffic or rail traffic within its territory. Igbokwe (2006) defines a maritime Cabotage Law as a

legislation empowering navigation and trading within a country's coasts or from port to port within a nation to be reserved exclusively for and carried on by its national flagships and nationals.

From the above, it is indicative that cabotage relates to the regulation of domestic shipping as opposed to international shipping. Domestic shipping in the strict sense includes coastal shipping, navigation and trading including a country's inland waterways. It may be contained in a single shipping legislation, or in a combination of two or more shipping legislations of a country. At times, the concept of cabotage in may be extended beyond domestic shipping to Short Sea Shipping or Regional Shipping; which is concerned with the transportation of goods and/or passengers between ports of a given group of countries within a specific economic grouping (e.g. Mercosur, and the EU) by way of coastal ships, ferry services and/or port services such as tugs, dredgers, maintenance and repair of craft, pilotage launches, bunkering and supply of vessels, etc. Cabotage policies are applied in such regions or sub-regions instead of an individual country, and as a result of inter-governmental agreements in order to favour local or regional employment and to control regional and/or sub-regional coastal trade.

There are basically two types of Cabotage regimes – strict cabotage laws and relaxed or modified or liberalized cabotage laws. The adoption and application of any these types by a state is determined by national economic and shipping interests, the socio-political, and other local conditions. In a “strict” maritime Cabotage regime, certain key elements of restriction apply. These are that domestic shipping trade is restricted to *ships built, owned, crewed and operated solely by citizens* of the country applying the Cabotage policy to the exclusion of foreign-built, foreign-owned or foreign-crewed and operated vessels. Maritime Cabotage laws are said to be relaxed, modified or liberalized when some of these elements are not strictly enforced. For example, a regime that permits that ships could be registered and built outside the cabotage domain has to some extent allowed foreign ships to operate within the area, thereby some levels of foreign participation either in the ownership or building of the ships used and nationality of the operators involved, or of foreign-registered ships' involvement, in a nation's coastal shipping (Igbokwe, 2006). Many countries especially in Europe, North and South America including the

USA and Canada, and South East Asia have already adopted one Cabotage law or the other in order to attract the benefits derivable from a Cabotage policy. Greece and the United States of America have “strict” Cabotage laws, whereas India, the Philippines, Malaysia, Australia, and Brazil, among others, have liberalized Cabotage laws.

## **2.9 Research Proposition**

The burden of the study has been to investigate why the legal objectives of shipping development enshrined in the various legislations comprising Nigeria’s national shipping policy have not been achieved since 1987. Following the path pioneered by Baldev Raj Nayar (1996) in studying the fortunes of the Indian shipping industry, we shall for our purpose focus on state power as translated into policy as a viable instrument and a “key determinant in the success of a state in guiding the economic development of a country” (Raj Nayar, 1996; 145). State power, he further clarifies, has two analytically distinct elements, which are the state autonomy and state capacity. By state autonomy, he refers to the “ability of a state to formulate its preferences and policy goals independently of the preferences of the chief economic interest group. The ability is a function of the degree of consensus within the state”. The state capacity, on the other hand, relates to the ability of the “state to implement its chosen preferences, and it is a function of ‘the effectiveness and cohesiveness of government institutions” (Raj Nayar, 1996; 145).

Thus, the study critically examined three propositions. First, it is hypothesised that the more a developing maritime nation exhibits lack of autonomy and capacity for effective implementation, the more likely its shipping development goals will not be realised (Ibid; 45). Second, following Iheduru (1996; p 38), we speculate that the “style of political management” affects implementation of shipping policy and consequently “responses from those segments of the civil society involved in shipping.”

The third is that state policy is central to shipping development in a less developed country given international dependency and international competitive advantage the developed world has in shipping.

## 2.10 Theoretical Discourse

An appropriate starting point for studying public policy implementation is to formulate an explanatory framework to guide the analysis. For shipping development in Nigeria, which is typical of a post-colonial state grappling with issues of economic development, there is need to move away from the ideological debate (Iheduru, 1996; pp 24-5) for a more substantive framework to analyze the implementation of NSPA. The promotional aspects of NSPA were designed and implemented supposedly to improve Nigeria's shipping industry. An interrogation of why it has not realised its legal objectives will perforce focus on the nature and character of the implementation process. Policy formulation is just the beginning of the process and can only have meaning when the solution is successfully applied. There is the need to probe what happens at the implementation stage. This is consistent with the position of Harold Lasswell (1951), arguably the father of policy science hence implementation theory, which suggests that policy implementation should be viewed as one of the necessary steps or stages in policy process (Dunst, 1993). Following the trend, policy analysts have, in their implementation studies, come up with a number of theories and approaches.

Using policy implementation framework, this research will investigate why the implementation stage seemed problematic and the factors that constituted barriers in the process. Shipping development within this period did not record significant growth or improvement in Nigeria's shipping industry, and three indicators will be used. They include the number and state of national fleet, cargo rights or carriage share of Nigeria's shipping companies in sea-borne trade and the number and standard of Nigeria's maritime manpower, especially seafarers. By using these proxies to measure shipping development, *which are regarded in this study as the dependent variables*, we will then be able to analyze the effects of the implementation of the NSPA, *the independent variables*.

### 2.10.1 Policy Implementation

Policy implementation, according to Dunst et al (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 fall into two types. The first subgroup here which include eminent policy scholars like Daniel Mazmanian and Paul Sabatier (1983) 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 Frank Smallwood (1980), and Paul Berman (1980), their approach has taken a strong resort to empiricism, which as a result created the impression that this generation of policy analysts are 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 intersubjectively 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/top-down 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 advocate that appropriateness of strategy is contextual and dependent on the contingencies surrounding the particular policy issue (Sabatier and Jenkin-Smith,1993). Taking a cue from the state of existing literature, the study will now consider a general implementation framework in order to determine the appropriate modification, which will serve as the theoretical framework for this research.

### **2.10.2 Policy Implementation Model**

In their seminar book, *Implementation and Public Policy*, published in 1983, 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. 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 helps 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.

Independent variables speculated to affect policy outcome are divided into distinct categories such as the tractability of the problem, capacity to structure implementation and what they refer to as non-statutory variables. These groups, though further subdivided, are held to determine the outcome of act or statute, implementation of decisions, compliance of the target group, policy impacts and revision process of the original policy. Since the model presents a comprehensive approach to study policy execution, and offering explanatory tool to determine policy outcome, we consider it very useful to this study. However, due to its narrow definition of success as the achievement of policy objectives, we deem fit to expand it to include the nature of success.

Strengthening the model with modifications suggested by Soren Winter (1990), we will propose 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 adopts this model but combines it the Advocacy Coalition Framework (ACF) to study shipping policy implementation in Nigeria.

### **2.10.3 Advocacy Coalition Framework (ACF)**

Advocacy Coalition Framework developed by Sabatier is applicable to the study of shipping policy overtime, particularly with the enactment of Cabotage legislation, for its focus on coalitions and their roles in the entire policy process. Based on policy subsystem rather than any specific governmental organization, the “actors” or coalition members from a variety of public and private organizations are actively concerned with a policy problem or issue such as shipping. The subsystem is influenced and constrained by two sets of exogenous forces, one stable and the other dynamic. In the stable set of factors, we have basic constitutional structure, fundamental socio-cultural values and structure, distribution of natural resources and basic attributes of the public area. The second set of factors, which are exogenous to the subsystem that are more likely to change, include policy decisions and impacts from other subsystems, changes in the systemic governing coalition and changes in the socio-economic conditions.

The advocacy coalition comprises members from various governmental and private organizations that “share a set of normative and causal belief and engage in a nontrivial degree of co-ordination over time” (Sabatier and Jenkin-Smith, 1993). These beliefs of the coalition are three: the *deep core*, the *policy core* and the *secondary aspects*. The deep core relates to the entire political arena and it includes basic ontological and normative beliefs, such as individual freedom and social equity. Policy core beliefs deal with coalition’s basic normative

commitments and causal perception held by members of the subsystem. These include value priorities, such as economic development, basic perception sharing seriousness of the problem (shipping development) and principal causes and strategies for realising core value within the subsystem, i.e Cabotage. This is regarded as the glue that holds the coalition.

The last in the belief system of the coalition is the secondary aspect which is typically narrower than the subsystem. It relates to various causes in different setting, regulations and design of specific institutions. Of the three beliefs, the most resistant to change is the deep core while the secondary aspect is more amenable in the light of changing circumstances. Because this analysis dwells mainly on understanding the formulation and implementation of the Cabotage policy, as a reform and consolidatory policy to strengthen shipping development objective, it is appropriate to identify members of the coalition, not as strictly members of the iron triangle<sup>7</sup> as proposed by earlier studies but all stakeholders joined in their varying interest in Cabotage policy (Sabatier, P.A., 1991). The focus is on the events between 2001 and 2007.

#### **2.10.4 The Stakeholders' Mapping**

Cojoined with Stakeholder Analytical Framework advanced by Mason and Mitroff (1981), the members of the coalition as proposed by the Advocacy Coalition Framework (ACF) can be identified. Stakeholders in an issue or matter, following Edward Freeman (1984), can be defined as “any group or individual who can affect or is affected by the achievement of a firm’s objectives”. For the purpose of this study, the resolution of the following questions below would help to identify such groups or individuals:

- Who is affected by the policy?
- Who has an interest in the policy?
- Who is in a position to effect the policy formulation or execution?
- Who has expressed opinion on the matter? and

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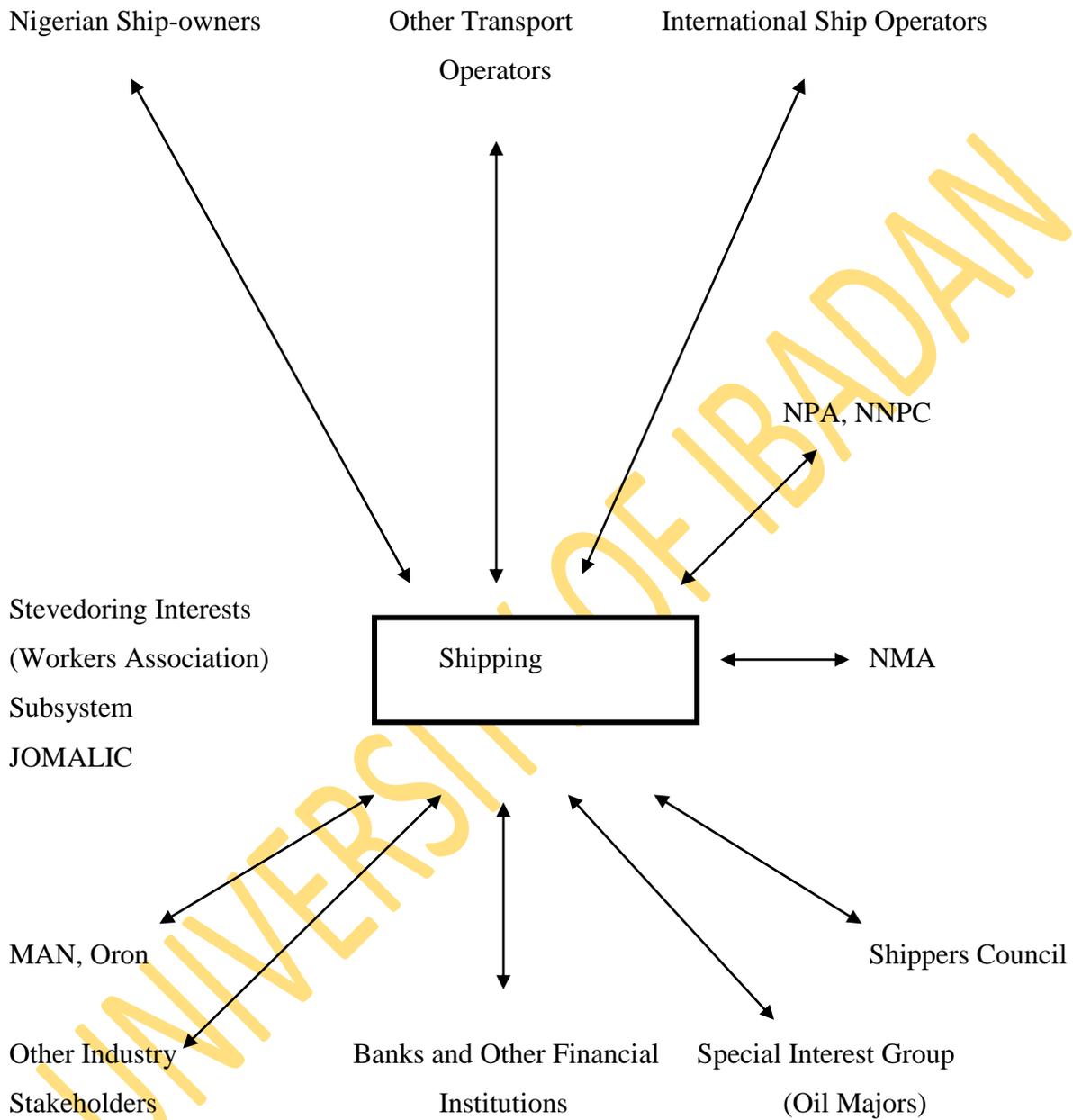
<sup>7</sup>For incisive discussion and application of the ACF, see Sabatier, P.A and Jenkin-Smith, H (1993), Sabatier, P.A. (1991).

- Who, based on the demographics or other characteristics, ought to care about the policy outcome? (See Manson and Mitroff 1981, Freeman 1984)

In a simplified form, therefore, the stakeholders in this study are those groups or individuals who affect the formulation and execution of the shipping policy, and/or are affected and can be affected by the implementation of the policy. Using this reconstructed framework based on the ACF, Stakeholders' Analytical framework and lead provided by Adesanya (2008), this study proposes a developing shipping capability coalition map where the major stakeholders are identified as in figure 1.

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**Figure 1: Stakeholder Mapping Identifying Various Groups in the Shipping Subsystem**



Although in reality a much wider range of stakeholders have an interest in the Subsystem including the Nigerian public, Figure 1 outlines a good range of stakeholders who have various interests in Nigeria’s Shipping Subsystem.

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## LIST OF STAKEHOLDERS

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1. Sovereigns including the presidency, National Assembly and judiciary
2. Major maritime nations, especially the European Union
3. West African Countries
4. International and supranational institutions and agencies dealing with maritime matters
5. International Ship Operators
6. NMA/NIMASA
7. Other Govt. Agencies including NNPC, NPA, NIWA, NSC, NCS
8. Shippers (exporters and importers) including manufacturers and allied bodies
9. Special Interest Groups (Oil Majors)
10. Banks and Other Financial Institutions
11. Various Industry associations
12. MAN, NACCIMA
13. JOMALIC and Other Stevedoring Interests (Various Workers' Associations)
14. Nigerian Ship-owners, ship operators including navigators, naval architects, engineers, seamen and other maritime workers
15. Other modes of Transport Operators
16. Media, especially those with maritime desks
17. Institutions of Higher Learning.

The stakeholders identified here are based on the submissions made to the House Committee on Transport during the Public Hearing sessions in 2001 and the suggestions on constituents of the critical shipping stakeholders reached by some of the FGDs. Moreover, the study has also relied on opinions and views expressed by various groups and individuals on the issue within the period under review.

## 2.11 Theoretical Framework

What are the critical factors that account for the outcome of policy implementation? In other words, what are the key factors that affect the success or failure of policy implementation? Why would the implementation of the national shipping policy fail or succeed in achieving its set legal objectives of shipping development? To address these questions, it is important to establish a framework for the critique of the implementation of the national shipping, which not only identifies the key variables that affect the implementation process but also indicates how they do affect outcome. We propose an eclectic reconstructed theoretical framework which is adapted from the Policy Implementation Model (PIM), (Sabatier and Mazmanian, 1983) and the Advocacy Coalition Framework (ACF) (Sabatier, 1987). While the PIM guides the study in identifying major obstacles in the implementation process of the NSPA, 1987, ACF assists the examination of the implementation of subsequent legislations which had enjoyed strong shipping subsystem support during the process of formulation. It, therefore, helps us address the issue of dwindling support or what happened to shipping coalition after successful advocacy for policy change. Gaining an insight to the state of shipping coalition in turn assists us to understand how it affects the outcome of the reform legislations. Both will, however, incorporate and analyse how the attitude and role of the major stakeholders as identified earlier affected outcome.

The Policy Implementation Model adopted is mindful of the criticism that the “top-down” approach as represented in Sabatier and Mazmanian implementation model concentrates on the policy makers to determine whether an implementation process will succeed (Benny Hjern et al 1979, Hjern, 1983). It has, therefore, become essential for the proposed framework to incorporate a broader approach by conducting and determining the range of critical stakeholders who could affect implementation through mapping (Mason and Mitroff, 1981) and the role of major stakeholders. Similarly the ACP recognises these stakeholders as important variable, and the adoption of a unified approach makes for a more inclusive study, where the models complement and reinforce each other. For instance, while the implementation model (PIM) guides us in the identification of the key variables that shape implementation, the ACF explains how the relationship among stakeholders can affect implementation outcome. The identification and role

assignment of stakeholders draws heavily from Stakeholders' Mapping proposed by Mason and Mitroff (1981). Put differently, a combination of these approaches assists us not only in identifying the key variables, but also the relationship existing among them. The reconstructed framework is therefore expected to be of immense benefit to the study. It provides scope and direction which helps to better understand the positions and attitude of the stakeholders on the formulation and, more importantly, the implementation of the shipping policy.

Mazmanian and Sabatier (1983) have listed six conditions for effective implementation. By incorporating relevant stakeholders and developing policy networks (Hjern, 1979), we shall sufficiently enrich the framework; hence attention is paid not only to those at the "top" but to all those whose continued support are essential for successful policy implementation. This will help explain why particular variable is important to the examination of the implementation of the national shipping policy, and why it is considered critical to an evaluation of implementation process. Consequently, our framework begins with the examination of those conditions which Mazmanian and Sabatier 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. (Ibid: p 41).

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. This study in the later chapters analyse the legal objectives of the policy against the backdrop of the six conditions contained in the framework. First, it is in line with the argument that focuses on the importance of examining the content and objectives of a policy, especially the intentions of policy and their critical provisions, together with the structure and initial actions of the implementing agency, against the background of “its impact in the world of action” (O’Toole; p 273). This is helpful given that, as Mary Lennon and Thomas Corbett (2003; p 41) have argued, “discrepancies between original design and subsequent operations may occur because of some failure of implementation, but they often reflect normal organisational responses to operational experiences” (emphasis added). How well suited was the original design to meet squarely the task of inducing desired change? In the sections that follow, the study will as well be guided by the theoretical framework developed earlier in assessing the national shipping policy. The construct is adapted from Sabatier and Mazmanian and combines a number of implementation models; it encapsulates the key position of Sabatier’s Advocacy Coalition Framework (ACF) and also identifies critical shipping stakeholders using Manson’s stakeholders mapping method. With these modifications, our framework has become more robust and useful

in reviewing shipping policy possible impediments or critical factors as they affect changes over time, or what Aaron Wildavsky has termed “strategic retreat from objective”<sup>8</sup>.

Second, by reviewing the implementation process of Nigerian national shipping policy, we are drawn even closer to examine certain characteristics and influences of states which have become cankerworms in the policy implementation process rampant among third world countries. This institutional virus, which Iheduru (1996; pp 41, 176-7) has termed “organisational technology”, has affected the shipping policy implementation by the very “style of political management and the consequent responses of those segments of the civil society involved in shipping” (Ibid; 38). The approach is therefore intended to assist us understand the two major concerns of the study, which are: first is to interrogate why Nigeria’s national shipping policy has not been able to deliver its promised goal of shipping development. Second, the study seeks to uncover those impediments in the implementation process, which are responsible for the failure of national shipping policy to induce shipping development in Nigeria.

In the later chapters the study will review the programmes and operations of the implementing agency in its effort to bring about shipping development as stated in the legal objectives of the national shipping policy. The programmes include i) the Programme on Cargo Control and Sharing, ii) the Programme of National Fleet Expansion and the Use of SASBF, and iii) the Maritime Manpower Development Scheme. The goal of the Act has been, among others, to support and assist the development of indigenous shipping capacity in terms of increasing national fleet, enhancing national carriers’ access to cargo and the promotion of training Nigerians in maritime transport technology and as seafarers.

Having identified the major groups in the shipping sector, as seen in fig 1 above, it is possible to analyse the implementation problem of the shipping policy by examining the positions of these groups on those promotional aspects of the policy. Guided by the hypotheses put forth by the ACF, we can examine the nature of the core policy belief, seeking to find out if there is any dispute. From the first hypothesis of ACF, it is speculated that when policy core belief is in

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<sup>8</sup>Aaron Wildavsky has termed “strategic retreat from objective”, see Pressman J and Wildavsky, A (1984)

dispute, the positions of allies and opponents tend to be stable over periods of a decade or so. Could the differences among stakeholders in their policy core beliefs be affecting the implementation of the policy? Concerning change in policy, the ACF postulates that the policy core will not be revised by the street-bureaucrats that instituted the programme unless the change is imposed by a hierarchically superior authority.<sup>9</sup> One implication from this is consistent with the prospect theory positing that actors weigh losses more heavily than gains. This is more felt among bureaucrats who naturally suffer some sort of implementation inertia. Has the failure of NSPA been affected by the attitude of NMA/NIMASA in its implementation of the laws? We will examine the nature of secondary aspects of the groups in order to see whether differences here have affected the implementation process. ACF further hypothesizes that actors within a coalition will show substantial consensus on issues pertaining to policy core, although less on secondary aspects. Still relying on the cohesion of the stakeholders, it is expected that policy formulation and indeed implementation will be much easier if there is common understanding, consultation and focus among the key stakeholders.

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. Hence, we hypothesize that inter-agency issues and weakened cohesion among coalition partners may likely introduce complexity in the implementation of national shipping policy and are likely to whittle down inter-agency and coalition cooperation. This leads us to examine the role of the sovereign, which is considered crucial in providing a common platform and command for speedy implementation of policy. All of this will require political will, astute administrative and strategic skills, absence of which will affect the implementation process. In his outstanding article, *Implementing a Human Services Programme*, Chase (1979) admits that "95 per cent of the obstacles that made prison reform so hard to implement were predictable beforehand". Why then has it taken so long for policy

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<sup>9</sup>ACF postulates that only at the level of hierarchically superior sovereign can attempt be made to change the "policy core". See Sabatier P.A and Jenkins-Smith, H, Op cit, pp 117 – 126.

implementers to learn and predict the implementation scenarios together with obstacles, and coming out with some sort of strategic map to navigate our shipping policy ashore? This is of interest to the study.

## **2.12 Conclusion**

The study has drawn on a number of important anchors for use from the review of the literature on development policy, especially the national shipping policy. It was clear that although international shipping policy, with its inherent politics, has been around from ancient times, it still has remained very contentious. The debate between the internationalists and the nationalists coincide with the line drawn between the neo-liberal theorists and the statist school. Two fundamental facts stand out. One is that policy as a development tool has all been accepted. Whether from the neo-liberal school accommodating the Washington Consensus with their policy advice on how third world countries should seek to record economic development or the statist who see the inevitability of policy tools to secure national interests, all have now conceded the right of states to use policy tool. However, the issue of how and where it is to be used remain unresolved. The second fact that emerges from the literature review is that contrary to the pretension of the internationalists, the history of shipping development among states can also be seen as the history of national shipping policy. Apart from the fact that at one time or the other, developed maritime states have used protectionist shipping policy to nurture their “infant” shipping industries. Indeed, F. List (1885) and Chang (2003) wonder if this hypocrisy was not a conscious scheme by the developed maritime states to hide the secret of their success to the upcoming maritime nations. Or could it in List’s phraseology be a deliberate “kicking away the ladder”?

Since each nation is entitled to propose its policy in order to enhance its development tempo, the resort to national shipping policy in Nigeria, and indeed most emergent maritime nations has been abortive. This has led us to examine critically three major propositions. First, it is hypothesised that the more a developing maritime nation exhibits lack of autonomy and capacity for effective implementation, the more likely its shipping development goals will not be realised.

Second, following Iheduru (1996; p 38), we further speculate that the “style of political management” affects implementation of shipping policy and consequently “responses from those segments of the civil society involved in shipping.” Finally that coalition partners’ behaviour over time affects the realisation of the shipping development objectives. Thus crux of the research is then encapsulated in 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.

Having noted that shipping policy could lead to shipping development, we explore the field in order to develop an explanatory tool to investigate why the national shipping policy has not led to shipping development in Nigeria. By reviewing the position of the selective policy advocates, it became clear that not only are policies deliberately used to kick-start and protect development of a preferred sector; such policies also must meet implementation tests. The pursuit of an appropriate framework began with considering various implementation theories and models, with the aim of establishing one overall theoretical framework to analyze the implementation of Nigerian shipping development policies from 1987 to 2010. Having developed a theoretical framework to guide our analysis, we are now more equipped to discuss, analyse and evaluate the policy, implementation process and outcomes of the various case studies of the Nigerian national shipping policy and subsequent legislations. But we must first of all examine the structure, character and potential of the shipping sector in Nigeria.

## CHAPTER THREE

### EVOLUTION OF SHIPPING POLICY IN NIGERIA

#### 3.1 Introduction

Previous chapters have set the stage for the study in a number of ways. Chapter One has established a strong linkage between international trade and shipping. It also demonstrated the centrality and dominance of shipping transport in the relationship. Chapter Two followed immediately by reviewing the importance of shipping to national interests issues, especially economic development of any emergent maritime nation. It outlined other derivatives a state enjoys from shipping. Both chapters have thus concluded that the promotion of shipping development, as a preferred sector, has been an age-long practice, which could serve as a catalyst for developing maritime states eager to harness their resources for economic development. The developed maritime nations have also at some time in their maritime history adopted similar measures. Some of them like the USA are still jealously protecting their national carriers and have remained keen to develop national tonnage for economic, diplomatic and defence reasons<sup>10</sup>.

However, not all policy interventions have translated to shipping development. Why is it that some succeeded while others have failed? What factors account for successful use of national shipping policy as a tool to develop national fleet, improve national share of seaborne cargo and eventual development of maritime manpower and allied activities? Why is shipping potential as a factor not enough to bring about such transformation? And how do we determine shipping potentiality of a state? What are those other factors that have defined the shipping character, and the nature of challenges a nation faces? These are some of the issues the study will focus on. Tracing the evolution of shipping in Nigeria is, therefore, an important background step for a number of reasons. The first burden of the study was to investigate whether Nigeria has had a shipping history before trans-Atlantic trade, and to determine what has been the underlying structure of Nigerian shipping. This could determine whether there has been a maritime culture,

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<sup>10</sup>See Gibson A. and Donovan A (2001), *The Abandoned Ocean* (University of South Carolina), p 131 Jantscher, G (1975) *Bread Upon Water: Federal Aids to the Maritime Industries* (Washington, DC: Brooking Institute); and Frankel, E (1982), *Regulation and Policies of American Shipping* (Auburn House Publishing), p 41 and Frankel E.G, (1982) *Regulation and Policies of American Shipping*. Auburn House Publishing Company

or what Stromme Svendsen(1996)refers to as “vigorous shipping milieu,” to support shipping development in modern Nigeria.

First, by investigating the sort of shipping activity or relationship in the pre-colonial Nigeria, some light is thrown on the shipping potential of Nigeria and how that has been utilised or neglected over time. It will also lead us to examine the nature and character of shipping as it historically evolved from pre- to post-colonial Nigeria. This will strengthen our understanding of the Nigerian shipping environment together with its structural changes, dominant issues and challenges that eventually necessitated policy intervention. The aim, therefore, is to probe the underlying factors, processes and impacts with respect to the development of indigenous capacity. This historical approach will highlight the issues militating against the development of the shipping sector. And perhaps how these also have continued to affect shipping.

The chapter is divided into six sections. The next section will examine trade and transportation pattern of the various groups in the pre-colonial Nigeria, particularly tracing the evolution and use of water crafts, boats, as precursors to shipping. The next section discusses shipping and the state of its development in the trans-Atlantic trade, its effect on subsequent precolonial Nigeria’s trade and shipping relations. Section five focuses on the emergence of imperialism and colonialism, its effect on Nigeria’s international trade and indigenous shipping. Under this exploitative trading and shipping relationship, indigenous shipping development was stifled. The chapter also discusses post-colonial Nigeria’s shipping development challenges, shades light on the emerging shipping industry and government policy responses. It finally sets the stage for the analysis of national shipping policy and the evaluation of the implementation process in the following two chapters, both of which will seek to explain how “great expectations” raised by the National Shipping Policy Act, 1987, were “dashed at” the implementation stage (Pressman and Wildavsky, 1984).

### **3.2 Evolution of Trans-Atlantic Trade and Shipping in Nigeria – A Background**

The central concern of the study is to examine the effectiveness of government's policy responses to protect and promote indigenous fleet, and by so doing achieve its shipping development goal. Shipping development here is defined in terms of enhancing indigenous shipping interests and capability. From the previous chapters, we advanced the argument that the proxies to measure shipping development should include the size of national fleet, the state of manpower development and the volume of seaborne cargo carried by the national fleet. The research investigates the factors which militate or hinder the translation of policy intention of developing national shipping capability to reality. Again, the national shipping capability is indicated by the development of a strong national fleet, which carries substantial volume of its cargo and is manned by its people with requisite maritime skills. In other words, the study seeks to interrogate whether the use of policy intervention can induce such development; and the factors that are critical in shipping development of an emergent maritime nation.

We are not, however, unmindful of the fact that the nature of the seaborne trade defines and determines the shipping requirement for the trade. In addition, seaborne trade passes through phases and as an activity involves trading parties, who are conscious of, and eager to protect, their respective economic interests. What was the shipping situation in the pre-colonial Nigeria? What has been the nature of this relationship among trading parties over time? Was there a flourishing shipping industry at that time? In other words, is shipping a new phenomenon, which has neither roots nor culture in terms of defining the ways and means of livelihood and survival of Nigerians? Can it be said that the state of shipping in Nigeria has been poor because it is alien to the people, so much so that they neither understood the business nor the opportunities it offered. Or was it that Nigeria did not possess maritime potential?

### **3.3 Trade and “Shipping” in Pre-colonial Nigeria**

Blessed with over 4000 miles of extensive river networks and creek, more than 823 kilometres of coastline, a huge young and vibrant population, and its enormous agricultural and mineral resources, Nigeria has all it takes to become a key maritime nation. Moreover, its rich hinterland

has recorded overflowing local trading activities in all manners of commodities. With its vibrant social networks, intermarriages and active internal trading among its peoples, even if a robust transport system did not exist, it would have been invented. From the diffusionist historians point of view, shipping in Nigeria may have been as a result of intervention of the trans-Atlantic trade just as the trans-Saharan trade introduced horses and camels. But a critique of this position pointedly demonstrates that diverse human vocations spring up because “they offer solutions to problems which arise for mankind out of the conditions in which it has to live” (Falola and Heaton 2008:32). Following the suggestion of Onabamiro (1983) in his highly informative piece, “A Sketch and a Peep into the History of Nation”, it is useful and important to probe the past shipping activities, and indeed the history of Nigerian shipping, in order to ascertain whether or not there was any developed aquatic culture. Apart from enabling us to fully understand the structure and factors affecting Nigerian shipping over the years, it is also likely to impact on the implementation of some of today’s shipping policy.

The story of shipping evolution in Nigeria rests on the evidence of a thriving local riverine trade in the pre-colonial Nigeria. Isichei (1983) reports that pre-colonial Nigeria indeed was a beehive of trading activities and one that could be described as “a dense network of markets and trade routes”. Sometimes these transactions involved not only high volume of exchange but also linked diverse people, communities and regions separated by long distance, hundreds of miles apart, and rivers such that there was need for efficient transportation system to move goods. She further identifies three modes of transportation complexes in these pre-colonial times, including the canoe complex, the pack-animal complex and the portage system Isichei (1984:84). Of interest to this study is the canoe complex, which served the purpose of moving goods and persons across the navigable rivers and coastal lagoons for internal trade. Polly Hill (1972) notes that the local trade was basically of two varieties; the regular but informal exchanges among neighbours and the other which constituted high volume of local trade.

Nonetheless, there were still substantial and variegated range of commodities exchanged among various regions and communities. A.G. Hopkins (1973) has reported, for instance, that out of thirty-one items on sale in a market close to Lagos in 1891, only two were important to overseas

trade. This implies that the rest of the commodities were traded locally. These local trade exchanges were mainly food and food-related commodities though it was not unexpected to find other items such as salt, natrons and valued luxury goods (beads, special cloths etc.). The trade at times involved long distances based on the forces of demand and supply. A classic complementary trading relationship based on comparative advantage or contrasting natural endowment was that between the Niger Delta region and the Igbo interior. From the Niger Delta region which produced salt and protein food which were in short supply, shipment was directed to the hinterland, while the interior region on the other hand supplied them with main staple food stuff. Canoe and boats were mainly used for the riverine and coastal transportation (Isichei 1983:85). This mode, Pereira (1937) reports had reached a high level of developments by the beginning of the sixteenth century. For illustration, he describes a system of robust exchange, which had existed for sometime, transported in canoes large enough to “hold eighty men, and they come from a hundred leagues or more up this river bringing yams in large quantities ... they also bring many slaves, cows, goats and sheep, which they exchanged at Bonny for locally produced salt” (Isichei, 1983).

The traffic in water-borne trade was not restricted to the coastal areas. Laird had expressed surprise to learn from “Dr. Briggs that there appeared to be twice as much traffic going forward of the Rhine” as it was in the delta and riverine region of Nigeria Laird and Oldfield (1837:85). For instance, there was a major market forty-eight kilometres north of Iddah. The market was called Bocqua or Hickory, and was “attended by Eboh and Attah, and even Bonny traders from the south, and those from Eggan, Cuttum-Curaffee, and Funda (Funtua?) on the north” (Pereira 1937). Another account by Dapper corroborates the high traffic in the use of canoes in the seventeenth century, and describes these canoes as being between fifty and seventy feet long with the capacity for 60 to 80 people to underscore the sophistication and size, he reports that these canoes had facilities for cooking and sleeping! (Crowther and Taylor 1859:85). The Landers brothers shared the same experience. They described the Nupe houseboats as “thatched with straw, and in which fires are kindled, food prepared and people sleep and indeed live together and travel long distance down the Niger” (Gibson and Donovan 2001). Crowther in

1850s gave a similar account of the big Nupe houseboats, with “their boards joined by iron staples, which could make 13 – 15 miles upstream, against a strong current”. He added that these Nupe ferries, sometimes measured up to fifty feet by five, and could take six to eight horses or donkeys, plus their owners”.

One significant development was that canoe making (precursor to modern shipyards!) had become an important localised industry. A description of the role of western Ijaw as canoe exporters has been documented by E.J. Alogoa (1970; 371). Similarly Isichei (1984, 84) has narrated the story of a visiting missionary who described activities at the western Ijaw canoe-making centre of Igbobini, in 1873 as follows:

There is a regular establishment of shipbuilding as it were on the bank of the river; the canoes are surrounded by large bamboo leaves, which stand upright; having cut out the inside of a tree, they know how to open it gradually by means of the rays of the sun...and by means of fire within the tree. They sell the canoes at Brass.

Other shipyards included the “Boughiye, famous throughout the country for the superiority of the vessels that come from its boatyard”; and Isichei’s account of Hopkins which describes “Abassa...dwellers on the banks of the Niger as the main exporters of canoes to Bonny and Okrika”. The underlying truth in all this remains that before the colonial rule significant internal trade had developed among peoples who later were grouped under colonial rule as Nigerians. Not only did they generate large volumes and quantity of commodities which created demand for various modes of transport services, the local shipping industry in the form of canoe had developed to the point that they had created a fleet of “local ships” and had acquired independently a “shipbuilding technology” and some enviable degree of specialisation and market differentiation. Besides, the industry was robust enough to accommodate allied services and interests.

Yet the standards were not compromised. Seaborne trade at that time flourished with these regulations and control, to the extent that the compliance level ensured mercantile tranquility and respect for territorial rights. The operators of the canoe complex observed certain territorial limits

as the lower Niger commercial waterway was dominated by the people from Aboh and Idda (in today's Nigeria's Delta and Kogi States). Indeed, the account of Elizabeth Isichei on the respect for, and control of, territorial waterways is graphic:

Aboh traders took goods from Brass and Bonny to "Igala Bank", near Asaba, where they exchanged them with the produce from the interior brought by the Igala. There was another forty-eight kilometers north of Iddah, called Bocqua or Hickory "attended by Eboe and Attah, and even Fundah on the north.

Isichei further confirms the limited navigation rights as she gives account of waterway traffic and trade prevailing at the confluence above Rivers Niger and Benue. She narrates that on the Niger, "Nupe canoes do not go beyond Kakanda, according to market regulations, as also between Igbera". This encouraged the development of trans-shipment points. This was strictly enforced. Samuel Ajayi Crowther (1859, as cited by Isichei, 1984) reports confirmed the restrictions. He narrates how he manoeuvred to avoid transshipment inconvenience, by "travelling with a canoe man who was half-Igbo and half-Igala" because "the Ibo canoes are not allowed to go below Abo" unless if undertaken by some one with some "privilege" to go beyond such limits (Isichei 1984).

Isichei has identified other points as "Abitshi (Abinsi near Makurdi) and Rogan-Koto" as "trans-shipment points for freight from the upper and lower Benue". Also the trading and shipping pattern had created other activities. The business of merchant cum shipping interests had in spite of their growth encouraged some layers of middlemen to sprout. Isichei (1984, p 84) further reports the experience of M. Laird as follows:

The Eboe (Aboh) people take up the river, powder, yams, beads, cloth, iron bars and knives. These articles are conveyed to Bonny by the palm oil traders, and thence pass through the hands of three or four merchants into possession of the Eboe dealers. They receive in return, slaves, rice, goats, fowls, calabashes, mats, country beads, horses of a small breed, and elephants' teeth; they also trade in Goora nuts. Cowries are the best medium of exchange.

Isichei has described the same interlocking system of middlemen at Igbebe, near the Confluence, and also by the account of an Ijebu ruler, as it applied in Yorubaland, in the 1870s as follows:

“The Lagos people sell to the Jebus, and to their neighbours and the neighbours to the interior and vice versa to the Coast”.

On the whole, the internal trade in pre-colonial Nigeria was active. It was strongly supported by the canoe-complex which to all intents and purposes matched both trade demands of the time and the existing shipping technology, organisation and sophistication of the period. Apart from facilitating regional exchanges which improved the quality of life of the people, one other positive effect of shipping brought about by internal trade was the massive development of localities into fledging shipping centres and some sort of *entreport*. The internal trade had robust capacity and was based on a mutually beneficial and symbiotic relationship where new classes of wealthy parties were created. In addition to improvement to the general living standards, solid ship-building industry and city ports emerged providing trading volumes and facilities and empowerment, all of which prepared the ground for the Trans-Atlantic Trade. This period, in the opinion of this researcher, presented as a conducive stage for local shipping development. It recorded tremendous indigenous resourcefulness and will, which met the shipping demands of the time. What went wrong? This is the concern of the next section.

### **3.4 The Trans-Atlantic Trade: The Slave Trade and Indigenous Shipping Industry**

There is evidence that the booming internal trade described earlier preceded the Trans-Atlantic trade. Isichei has put forth the case that part of the bronze artifacts of Igbo Ukwu included shell, not snail shell, which of course originated from coastal areas of Niger Delta, buttresses the fact of long standing trade relationship among the people of Nigeria (Isichei, 1984; 84). This evidence shows the antiquity of the commerce that existed between Niger Delta region and the Igbo interior. It is instructive that the thriving internal trade and by extension waterborne trade had developed strong shipping and port infrastructure and trading environment, well laid out for an intensive and extensive trans-Atlantic trade. It was only a matter of time for the curious explorers on their voyage of discovery to berth their ships and plunder the seemingly well-organised trade and distort shipping development in Nigeria. The advent of the Portuguese to the coast of southern Nigeria in the 15th century marked the commencement of “new phase of

Atlantic relationship”, which took advantage of the existing internal trade (Isichei, 1983). As a matter of fact, Onabamiro (1983) reports that the “Portuguese had mastered the detailed navigation of coastal waters of Southern Nigeria” indicating of course the already existing maritime infrastructure. Pereira in his book entitled *Esmeraldo de Situ Orbis* published in 1506 detailed full description of the rivers system and peoples of Southern Nigeria to the extent that he even identified the King of Ijebuland, whom he referred to as “Agusale”; a corruption of “Awujale” (Onabamiro, 1983; 6). From his records, it was also clear that five key rivers for slave trade had been identified, surveyed and even provided navigational instructions to Portuguese pilots on “how to sail their frail ships into those rivers along whose banks were the slave markets which were their destination” (Onabamiro, 1983). They included Rivers Mahin, Benin, Escravos, Forcados and Ramos. Although these rivers, only two the Benin and Forcados were considered viable slave markets, Pereira still warned his compatriots against going inland through the Benin river because of its dangerous bar. He advised that the Forcados River was the safest and therefore considered it the most suitable for entering into Nigeria for the Portuguese ships at that time.

What was the nature of the trans-Atlantic trade and how was shipping organised in the pre-colonial era? The voyages of discovery by the Portuguese adventurous seafarers, notable among them was Vasco da Gama, had reached their golden age between the 15th and 16th centuries. They had discovered the Americas, the West Indies, West Africa and particularly the islands off West African coast. The latter point is significant. These islands provided transshipment ports which made it possible for the smaller ships which easily gained full access to the nooks and crannies of West Africa. Records suggest that the first European traders were initially engaged in the internal African trade. The main items of merchandise were slaves, cloth and Akori beads (Isichei, 1983) which they took to Gold Coast in exchange for gold. Other commodities included pepper, Elephants’ teeth and palm oil. Cowries were used for currency although barter trade was also used for exchange. It was, however, the Portuguese who were the first to import a shipload of cowries to Nigeria. The shipping route used combination of small vessels, under 20 tonnes dead weight, and a much bigger mother vessel berthed at the trans-shipment ports to maximize

the European imperialistic and exploitative seaborne trade and shipping to the detriment of the locals.

Having set the stage for massive trans-Atlantic trade, between the 16th and 17th centuries, the multiple character of the trans- Atlantic trade was beginning to change Niger Delta area and its hinterland. It soon had become dominated by slave trade. Onabanmiro describes this as tragic as it paved the way for the decay “among the people of West Africa, in general, and Nigeria in particular”. What gave rise to the trade has been traced to the demand for slaves to work in plantations by Europeans in countries outside Nigeria. The initial mode of distribution of the few slaves bought from the region and other parts was to sell some in Gold Coast, a few sent to Portugal and another batch despatched to Sao Tome and Principe (Isichei, 1983). Onabamiro (1983; 6) narrates the voyage of a Portuguese ship on its slave-trading trip to Forcados in 1522. The first step was for the trader who was based in Sao Tome was to secure the ship on a lease agreement from the King of Portugal, as it was then customary. The contractor, as the lessees of the slave-ship in return paid a fixed sum annually to the royal treasury. The arrangement was to achieve two objectives: first was to use this mechanism to create employment for the Portuguese mulattos who were deliberately stationed in Sao Tome as residents. Being better adapted to the climate of the tropics, they were deployed to emphasise the influence and control of Portugal and the consequent exploitation of such island possession. Secondly, these small vessels taking off from the island ports were flexible and could easily be used for short sea transshipment movement, shuttling between the island and the mainland to supply commodities to the much bigger mother-ships which would have difficulty crossing the shallow waters. It was this mother vessel that carried on the deep sea trade. The transshipment took less than three weeks but it took up to thirteen weeks to load the human cargo at the Forcados port (Onabamiro, 1983).

These slaves were classified. There were boys and girls under 18 years of age, men and women between 18 and 30 years, each group commanding different price tags. The boys were sold at a price (3,500 cowries), about 80 cowries above the tag for girls and the men were about one and half times the price of a boy. Again, women were sold a little less than the price of men. At times, the exchange was by barter, exchanged with goods (pieces of cloths) on ridiculous terms

determined by the Europeans, (Onabanmiro, 1983). These slaves were transported in the ships entirely owned and operated by the foreign interests and these activities lasted from early sixteenth century to the middle of the nineteenth century. From being a trade traffic between Nigeria and Portuguese islands of Sao Tome, where the slaves were used for cheap labour in the sugar cane and tobacco plantations, it had spread to the entire length and breadth of West Africa. Three centuries of slave trading had depleted the West African population, especially the young and vibrant class by about twenty million.

The huge profit accruing from the trade was expropriated to Holland, England, France and Spain who were deeply involved in the trade. While Liverpool was largely built and developed as a modern port on the proceeds of the trade, a major shipment port, Lagos, notorious in its involvement remained so underdeveloped that Captain John in his *Sketches Taken During Ten Voyages to Africa Between 1786 and 1800* narrated that: "The town swarms with water rats from the lake, which burrow in the ground and are so audacious that they, not infrequently, make their appearance under the dinner table of Europeans before the cloth is removed". This was not the only the negative effect. It systematically stifled indigenous shipping development as well as created a miserable and debilitating condition that further made it inconducive for its rehabilitation.

First, the terms of trade were determined by the Europeans, the consequence was detrimental to local interests. Onabanmiro reports that "five pieces of very small cloths, each only two-thirds of a yard, was the price of a female slave!" Second, the forceful evacuation of between "a few millions to over hundred millions", (Rodney 1972: 104). The bulk of this number comprised mostly the young population most of whom were from the riverine sea-faring communities wiped away a veritable source of shipping resource. Besides, the incessant slave drives and kidnapping activities created a state of insecurity and migration of whatever number that was left in the areas. The indigenous shipping industry including ship-building was completely destroyed. The local entrepreneurs divested into slave trading serving as middlemen so as to be part of the more lucrative business. Rather than provide impetus for the growth of local shipping industry, the trans-Atlantic trade ushered in total domination of shipping by foreign interests and eventual

death to local shipping entrepreneurship. In summary, the Trans-Atlantic Slave Trade destroyed the foundation of indigenous shipping, drained its seafaring capacity, and misdirected its trade flow and cargo rights, leaving the Nigerian shipping industry prostrate and comatose. After centuries of trading in Nigeria, the Niger-Delta was a classic case of wealth without development. Quoting Captain Moloney, Governor of Lagos, 1882, to buttress her point, the renowned historian Elizabeth Isichei, concludes that “if they (the Europeans) left altogether tomorrow, they would not leave behind, as far I could observe any cause for the country’s gratitude” (Isichei, 1983:103). The stage was set for the continued exploitation of the pre-colonial Nigeria and the destruction of the once flourishing shipping industry.

### **3.5 Imperialism, Colonialism and the Nigerian Shipping Industry**

By the middle of the nineteenth century, Britain had taken the lead to proscribe and abolish the infamous trans-Atlantic Slave Trade. In addition, she had positioned her naval force to enforce the abolition law by policing the West African Coast and instituting a Vice Admiralty Court in Freetown, Sierra Leone in 1818. As difficult as it was, some progress, however, was made. By 1838, some two hundred and eighty-two ships had been caught. To further tighten the loose ends of the Abolition law, there was need for amendment of the legislation. The aim of this amendment legislation passed in 1838 was to make it an offence for ships to carry any “slaving equipment such as manacles and numerous feeding utensils, thus combating the heinous crime of slave dumping by ships avoiding arrest. It yielded dividends. Within ten years, another two hundred and eighty four ships were arrested and detained; and in one year, 1845 for example, thirty ships were caught! These measures resulted in the dramatic change in the pattern of international trade, hardly understood by the local chiefs. According to Onabamiro, a certain Captain Hugh Crow, a former slave trader, recounted the surprise expressed by the King Pepple of Bonny when he rejected to deal in slaves but in palm oil. The king was retorted to: “We tink trade no stop, for all the Juju men tell we so for dem say you country can niber pass God Almighty” (Onbamiro, 1983).

What was the motive for the abolition of slave trade and how did it affect the indigenous economy, especially its shipping development? While some historians have suggested that it arose out of the humanitarian motive of William Wilberforce, MP, Thomas Clarkson and Granville Sharp who were so concerned and agitated by the evil of slavery that they led some sort of revolt to champion its abolition. However, some analysts have traced the economic origin of the move to abolish slave trade. They contend that a number of forces could have combined to bring about the abolition of slave trade. Apart from the supposed moral factor, historians like Eric Williams in his ageless book, *Capitalism and Slavery*, has forcefully argued that it was economic interest and not moral conviction that led to the abolition of slave trade. Others have as well pointed out the impact of the French Revolution, the growing crescendo of slave rebellion in the New World, the inter-imperialist competition and the changing economic conditions in the development of capitalism (Harman, 1999: 6).

Onabamiro, for instance, has pointed out that three factors of steamship, cotton plantation and the Lancashire textile factories brought about dramatic change in the pattern of international trade as far as the British business interest was concerned. There was then the need for a deliberate policy of systematic domination and exploitation of Nigeria and other colonies, by Britain. So at the root of the British change of heart was vested economic interest and imperialism was Britain's phenomenal commercial expansion following her industrial revolution. These foreign lands and territories had to be incorporated and controlled by the British economic interests. Consequently, the Nigerian economy had to be integrated with the Metropolitan centre. First, it was granting such areas to British business interests, like the Royal Niger Company, who were given charter to operate and control trade designated areas. Next was the move by the British government to exercise political control following the annexation of Nigeria by the Berlin Conference of 1885 as part of its colonial possession.

Whichever was the case, the effect of the shift on trade and shipping remained the same. The abolition of slave trade did not make any effort to restore indigenous shipping industry. Meanwhile, the British government from 1650 had issued a series of laws referred to as Navigations Acts to protect the interest of the British mercantilists, who also supported the

British economy. Put simply, the British navigation law as a shipping policy restricted the use of foreign shipping for trade between Britain and its colonies. By a later amendment, the ships were in addition to being British owned and having a British master and crew, had to be built in Britain, (Gibson and Donovan, 2001:16-17). The objective was to force colonial development into lines favourable to Britain and to stop, or check, direct trade with other colonial powers such as the Netherlands, France, Germany and other European countries. These acts were obeyed to a large extent and they also formed the basis for its overseas trade for nearly 200 years. It was no surprise that the territories were ready in a way that served imperial interests, either succumbing to superior force, subterfuge, or carefully contrived economic advantage handed to the agents of the imperial Britain.

The incorporation of the Nigerian economy into the British imperial orbit ensured that the former was an agricultural centre, exporting palm products, cocoa, groundnuts and cotton. It also exported mineral products mined by expatriate private enterprise. Isichei (1984:396) captures it neatly as she points out that the “basic facts of the Nigerian colonial economy” was that imperialism, as a policy, promoted the monopoly of the external trade of the subordinate nation. The imperial power takes raw materials from the colony and sells it finished goods in return, discouraging the development of any manufacturing, industry, which might compete with its own. Walter Ofonagoro (1979) in his authoritative book, *Trade and Imperialism in southern Nigeria, 1881 – 1929*, has carefully documented the process that pushed the British into the commanding heights of Nigerian trade and shipping. According to this study, between 1881 and 1916, “the British commercial community succeeded in gaining access to the hinterland of Southern Nigeria under circumstance which made them the masters of all aspects of trade in ...raw materials. To attain this enviable position, they had invited the British Government to interfere in local trade disputes, eliminate all barriers between them and the hinterland producers, provide the infrastructure necessary to the success of the enterprises in the interior, and preside over the harvesting of the estate newly opened for them” (Ofonagoro 1979:397).

Shipping activity also followed this rule. The effects of the hazards of the trans-Atlantic trade on Nigeria’s shipping development were now beginning to manifest. Not only was the indigenous

shipping capacity strangled by slave trade, there was also a consolidation of the British imperial and colonial interest Nigeria. The absence of indigeneous fleet has been adduced as the reason why the foreign interest provided shipping services (Charlotte Leubuscher, 1963), yet no attempt was made to encourage or create a local shipping entrepreneurial class. For instance, Sir Alfred Jones before his death in 1909 both controlled the Elder Dempster Shipping Company and presided over the cartel of West African Shipping interests. Attempts by King Jaja (1821 – 1891) to participate in shipping was forcefully thwarted (Olukoji, 1992). While the volume of trade and consequently shipping activities was on the increase, the benefits accrued to foreign interests.

**Table 3.1 - SHIPS' TONNAGES ENTERED IN NIGERIAN PORTS**

Year	NIGERIA	
	'000 net tons	1913= 100
1913	882	100
1925	1,337	151
1938	2,001	227
1958	4,786	543

*(Adapted from Leubuscher, 1963, 101)*

From the table above, the ship tonnages entering Nigerian ports between 1913 to 1958, for example, it had risen from 882,100 net tonnes to 4,786,000 net tonnes, an increase of over 543%! However, the huge increase recorded in the shipping activities as impressive as it was still did not reflect any shift in favour of the indigenous interests. As a matter of fact, the steps initiated before formal declaration of Nigeria as a colonial territory in 1901 still continued to favour the British interests. Ayodeji Olukoji (1992, 199, 2002 and 2008) has brilliantly established the abiding interests of the British colonial power to rush in policy and sactions to promote and protect the British colonial trade and shipping concerns in Nigeria. Three instances could be used for illustration.

At the break of the First World War, the effort to extend the definition of Germany as “enemy” was total. Contrary to previous instances where colonial territories were left out the war, the

German commercial interests in Nigeria were declared as assets belonging to the enemy and so must be seized and auctioned. Despite the long presence of some German holdings, they were forced out of business in Nigeria. Their shipping interests were also affected, especially Woermann Shipping Line which for long had been arch rival to the British owned Elder Dempster. This act conferred a shipping monopoly status on Elder Dempster, who now in the war years controlled 100 percent of the conference line activity in Nigeria (Olukoju, 1992b).

Another instance was the controversy to “preserve the passenger shipping of colonial Nigeria to Elder Dempster line in the face of intense foreign competition” (Olukoju, 1992b). This move was at the risk of imposing greater burden on the colonial finances when they not only conferred carriage rights of colonial officials to Elder Dempster but also imposed new rates, which was an additional ten thousand pounds to the penny-pinching colonial administration. While the blame for the rates was on Elder Dempster, it was the British Ministry of Shipping that took the decision. As Sir Owen Philipps, the Chairman of Elder Dempster confided in Lord Fredrick Lugard, the Governor General,

The latest increase in the passage was made at the request of the Ministry of Shipping in order that passenger steamers should not show deficit balances ....freight and passage money now goes to (the) British Government who are always urging us to see that all the vessels are run at a profit'. (Cited in Olukoju, 1992a)

If this monopoly and finance drain was tolerated during the WW1, such was not going to happen without a fight after the war. So when there was depression and a passenger shipping services glut, another attempt to reserve Nigerian official passages to Elder Dempster, there was a big clash. The Association of European civil servants of Nigeria strongly condemned the move and demanded that the lifting of the prohibition so that the officials “could take advantage of better terms that foreign competition was certain to bring”. In response, the Governor declared that “at a time like the present, he was not prepared to see public money paid to non-British steamship companies in the absence of justification therefor” (Olukoju, 1992a: 34). Although the prohibition was lifted owing to persistent pressure from colonial officials in April 1923, stringent

conditions were attached to the “concession”. Because the conditions were harsh, it still amounted to the old policy that reserved all British official passages to Elder Dempster. As Olukoju summarised, “the official support given to Elder Dempster was typical of the economic policies of the imperial powers, characterised by close collaboration between government and business in the colonies’ (Olukoju, 1992a: 42).

One other issue brought up in the controversy, which would now seem to be the “Dempster ghost”, in the shipping industry is abuse of monopoly, or support by the shipping companies. Like always, shipping has remained a theatre where the dominant metropolitan interests will always override the weaker local concerns. It further would reveal the hypocrisy of “free trade”, “open door” policy and similar liberal lofty ideas to market forces and free competition in shipping matters. A final case defining the nature and character of British shipping practices in colonial Nigeria will be illustrated by Olukoju’s beautifully written article, “Getting Too Great A Grip”: European Shipping Lines and British West African Lighterage Services in the 1930s. The story has two significant characteristics of the colonial response to indigenous shipping development. First, was how to solve the ship berthing and port draught in the face of the entire West African coastline having only one natural harbour (Olukoju 2004, 2001). Second has to do with the colonial instinct of appropriating any shipping opportunity that arises.

We shall start with the colonial solution to shipping challenge with respect to port development. Apart from the harbour in Freetown, Sierra Leone, the approaches to other seaports in the West African region were not conducive to receiving ships. They were too exposed to ocean torrent and had very shallow draught. Two tasks for the colonial administration was to invest in dredging the shallow ports as well as construction mechanical shields to protect berthed ships at the ports. However, these measures would entail heavy capital investment. For the colonial masters, such expenditure was not to be contemplated since the strategy of cost-saving was to make each colonial possession at worst be self-sustaining. The foreign office would not consider request involving transferring resources that could be used to develop the metropolitan centre. It was the duty of the periphery, which is the colony, to support the centre.

Consequently, the problem of draught was converted to a shipping business opportunity. In Nigeria, apart from Lagos where extensive and expensive harbour works have had to be undertaken to make it accessible to the ocean-going ships, small vessels were to be acquired for the other ports to feed the mother vessels berthed midstream. (Just as the colonies were to feed the metropolitan centre!). This gave rise to Lighterage Services which played a significant role in West African shipping including Lagos before 1914. Because of the dominant role of the shipping conferences, which kept out tramp shipping, the activity of the lighterage services did not come under scrutiny until mid-1930s (Olukoju 2002: 20). An usual occurrence which drew attention to this subsector took place when an American tramp shipper challenged the West African shipping cartel. It illustrated the usual cartelisation of shipping, where the strong has always fought to exclude the weak. It again exposed the underbelly of the colonial policy of “liberalism”. Not only under its watchful eyes did a monopoly emerge; the cartel soon became a maritime leviathan. It decided on its rates and who to grant concessions and favours, thereby destroying the so-called level-playing field for international shipping. Besides, the West African lighterage services before the out-break of WW11 was monopolised by those interests also responsible for the regular shipping line.

It was a matter of time for a confrontation against the arrangement to happen. And the place was Gold Coast, Ghana, when one Alexander Singer, an American, petitioned the Colonial Office in London about the discriminatory pricing policy of the West African lighterage companies after a long-drawn agitation that exposed the cartelisation of West African shipping. It also showed the nature of West African shipping which created sectoral imbalance against tramp shipping. Moreover, it revisited the age-long debate and cleavage between the protectionists and free traders, and in Olukoju’s concluding statement “sheds light on the ramifications of business/government, metropolitan/colonial relations, and on the leverage of shipping in the imperial economic system” (Olukoju, 1992b: 37).

This leverage lasted the entire stretch of colonial rule in Nigeria. As table 1 confirms the above assertion that “shipping leverage in the imperial economic system”, the effect of the corollary should not be lost. From ship tonnage of 882,000 net tonnes eight years after formal colonisation

of Nigeria, forty five years later and a year to the end of colonial rule, it had jumped by 543 percent to 4.8 million net tonnes. Another point is that not only did the colonial administration act to promote trade, which was in its favour, it also ensured the dominance of British shipping interests.

Table 3.2 shows further decomposition of the shipping activities at Nigerian ports in 1925, where out of a total cargo tonnage of about 1.2 million long tonnes, 76 percent of it was carried by British ships. By 1938, it rose to 1.5 million long tonnes but fell to 70 percent. Just a short way from Nigeria's independence 1958, the British ships lifted some 4.9 million long tonnes of the cargo or 65 percent of the total volume, unlike the situation in Ghana where it fell from 72 percent in 1938 to 49 percent in 1958.

**Table 3. 2 – Cargo Unloaded and Loaded in Ghanaian and Nigerian Ports**

<b>Cargo handled</b>	<b>1925 Cargo Tonnage</b>			<b>1938 Cargo Tonnage</b>			<b>1958 Cargo Tonnage</b>		
<b>GHANA (GOLD COAST)</b>									
<b>All ships</b>	.	.	.	431	653	1,084	1,397	1,617	3,014
<b>% carried in British ships</b>				70	75	72	56	44	49
<b>NIGERIA</b>									
<b>All ships</b>	429	761	1,190	474	1,016	1,490	2,302	2,530	4,832
<b>% carried in British ships</b>	83	73	76	72	69	70	62	67	65

(Culled from Leubuscher, 1963; 103)

Table 3.3 - External Trade by Principal Countries of Origin and Destination

	1913		1925		1938		1950		1958	
	Imports	Exports	Imports	Exports	Imports	Exports	Import	Exports	Imports	Exports
<b>a. GHANA (GOLD COAST)</b>										
<i>Total Trade (£'000)</i>	<b>4,808</b>	<b>5,014</b>	<b>8,821</b>	<b>9,786</b>	<b>7,658</b>	<b>11,080</b>	<b>47,970</b>	<b>66,486</b>	<b>84,593</b>	<b>104,558</b>
<i>Percentage s:</i>										
United Kingdom	69	60	62	25	57	67	54	32	43	36
Germany	8	18	7	19	6	7	2	8	6	16
France	4	9	2	9	1	9	1	0	2	1
Netherlands	4	0	9	14	2	5	6	7	8	10
United States	5	2	12	24	10	12	6	35	5	19
Japan	—	—	0	—	4	—	5	—	8	0
India	—	—	0	—	1	—	2	—	1	0
<b>b. NIGERIA</b>										
<i>Total Trade (£'000)</i>	<b>6,324</b>	<b>7,098</b>	<b>14,778</b>	<b>16,906</b>	<b>8,632</b>	<b>9,701</b>	<b>61,866</b>	<b>88,488</b>	<b>164,777</b>	<b>132,906</b>
<i>Percentage s:</i>										
United Kingdom	64	50	78	55	55	51	60	82	44	56
Germany	13	43	9	21	9	17	2	1	7	8
France	8	1	3	5	2	10	3	2	5	14
Netherlands	0	1	1	4	1	7	1	0	2	1
United States	5	0	7	10	8	7	4	15	6	6
Norway	—	—	2	—	4	0	1	0	4	0
Japan	—	—	—	—	4	0	9	—	12	1
India	—	—	—	—	—	—	6	—	4	0

(Culled from Leibuscher, 1963; 104)

From Table 3.3, the value of Nigeria's external trade (imports and exports) rose from over thirteen million four hundred thousand pounds (BPS 13,400,000) in 1913 to a staggering two hundred and ninety seven million, six hundred thousand pounds (BPS 297,683,000). From table 3.3, one interesting feature was the dominance of export of imports from 1913 through 1950. In 1958, the export figure recorded a massive increase from 88.5 million pounds in 1950 to over 132.9 million pounds in 1958. However, the jump in import was even higher. From a sizeable figure of slightly above 61.8 million pounds to an all-high 164.77 million pounds in 1958. It also marked the first time the value of import exceeded that of export, technically posting a deficit budget.

The share of United Kingdom was dominant. In 1913, its trade position with Nigeria was 64 percent for imports and 50 percent for export, declining slightly to 44 percent for import and 56 percent for export. Another point of interest was the balance of trade position. While in 1913, Nigeria imported goods to the value of 4.05 million pounds, it exported goods worth 3.55 million pounds, recording a trade deficit. By 1958, Nigeria imported goods worth 72.5 million pounds as it exported cargoes of over 74.42 million pounds, recording a trade surplus position. The freight value for Nigeria at the time was closer to 13 percent of trade value (Leubuscher, 65). Using this ratio, the freight loss for non-involvement of Nigerian shipping lines stood as follows: 1.742 million pounds in 1913, about 38.7 million pounds in 1958.

From table 3.3 above, we saw that the United Kingdom in 1913 had 60 percent of the ships which entered Nigerian ports and 49 percent in 1958. Reduced to freight earning that accrued to UK, in 1913 it earned about 1.05 million pounds in freight and over 18.96 million pounds in 1958. On a balance, the trading figures were in favour of the United Kingdom. Even in 1958, where there was a net advantage to Nigeria (Nigeria's exports stood at 74.44 million pounds as against 72.5 million pounds for imports), the total freight value for the trade was over 19.1 million pounds, totalling accruals as freight earnings to the British ships. It was this situation that led Ofonagoro after analyzing the "Costs and Benefits of imperialism and Colonialism in Southern Nigeria", to conclude that "There was nothing benign about colonialism in Southern Nigeria, nor were the African economic interests given primacy over European economic interests. In point of fact, the

entire exercise was to impose the primacy of British economic interests over African interests; to this end, the European economic and cultural penetration of the country was followed by the imposition of formal European political control of the colony". (Ofonagoro, 1979; 401).

One consequence suffered by the Nigerian shipping industry over time has been the total surrender of erstwhile local shipping enterprise. As Walter Ofonagoro observes, imperialism is all about economic and cultural penetration to establish and entrench economic domination over a territory. This attack has led to the derailment of the indigenous shipping development as deliberate policies were adopted by the colonial authority to perpetuate, legitimise and enforce the domination. In the circumstance, trade, and by extension shipping, ceases to be free. Ofonagoro provides an apt imagery: where "commercial intercourse deteriorates to the point where one party feels the need to impose control over the other in order to achieve satisfaction in the exchange of goods and services with its partner, the transaction can no longer be dignified by the term 'exchange' or 'trade.' 'Extortion' seems more appropriate in such situation."

The trans-Atlantic trade engagement Nigeria had with the Europeans left indigenous shipping prostrate. What ever life that was left after the destruction of indigenous shipping by trans-Atlantic trade was finally extracted by the colonial rule. Any attempt to protect indigenous interests, like Jaja of Opobo and Nana of Warri experienced, was seriously dealt with. Meanwhile, the foreign shipping interests neither integrated Nigerians in its operation nor did it reinvest in the economy. The idea was to carry out a minimal investment policy in the colony, except where such investment became inevitable. There was no plan to train local seafarers to man ships except for very few lowly cadre of able seamen. The reluctant improvement of the Lagos harbour like the rail system was to facilitate imperial penetration, added value and quick recovery of funds and not as a deliberate policy to improve shipping in the colonial Nigeria.

### **3.6 Post-Colonial Shipping: Challenges**

The maritime sector was one critical area the colonial administration did not deem necessary to prepare Nigerians for eventual take-over. It neither encouraged nor created indigenous

entrepreneurs. Rather, the dynamics in the colonial trade and shipping activities threw up a number of challenges for the emergent post-colonial state. The study has revealed that the colonial administration was not insensitive to the sector as it provided the channel for trade and transfer of resources from the colonies to Britain. This was eloquently expressed by Sir Arthur Richards, who later become Lord Milverton, in 1945. The British government colonial policy in Nigeria, he stated, was to “work with Africans and with ‘big business’ (of course meaning British interests) in a tripartite partnership for the good of the people...within the framework of Government regulation, private enterprise has a great contribution to make to the future welfare of Nigeria (Coleman, 1963, p 33). This was very obvious in the colonial shipping policy as was clearly illustrated from previous sections.

To further assist its shipping companies, it has been reported that “in Britain, both legislation and administration have lent consistent support to the secrecy in which shipping companies like to shroud their internal affairs as well as their relations with competitors and customers” (Ibid; 10). All this underscored its assessment of shipping as crucial to its trade and economic development. It was therefore no surprise that the colonial office was actively involved to intervene to protect both its trade and shipping relationship against other maritime powers in Nigeria. It never hesitated to stand by the British “big” businesses as it often did, by openly throwing support behind its shipping mongul operating in Nigeria, Elder Dempster Line. Yet within this period, there was no attempt by the same colonial government to prepare Nigerians to participate in whatever form.

The shipping industry under their watch, it was obvious, was at the heart of its colonial possession and apparatuses designed for sustained expropriation of the resources of its colonial territories. Whatever step it took in shipping which was beneficial to the emerging Nigerian state was as a consequence of promoting the colonial interests. The seeming neglect of the indigenous interests and the colonial monopolisation of commerce, coupled with the after WW11 sentiment of self-rule, provided sufficient fuel for the agitation of independence by Nigerian nationalists, especially from Southern Nigeria (Coleman, 1986: 79). To drive home this fact, Coleman has argued that “An objective economic history of Nigeria has yet to be written. The politically

relevant facts, of course, are that certain aspiring entrepreneurial groups in Nigeria felt themselves denied of opportunities they regarded as theirs, and that the entrepreneurial groups were strong and active in their support – both verbal and financial – of the nationalist movement.” (Coleman, 1986; 80).

It is here pertinent to examine a number of these challenges in brief as they required attention of state. These are defined as barriers to an emergent maritime nation’s successful pursuit to shipping development. They are of economic dimensions, attacking shipping competitiveness of such a new entrant, either from the point of cargo access to the national carrier with consequent freight instability and contrived higher operating cost. In other words, the three pillars of successful shipping comprising of cargo assurance, freight stability and financial leverage have been exposed to, and affected by, certain practices and factors which were rampant in the 1960s through 80’s. These factors have dominated and influenced the nature and manner developing maritime nations have responded to the quest for shipping development in their respective countries and internationally. They include the Liner Conference, Flag Discrimination, Cargo Preference and National Flag, and UNCTAD resolution questions.

### **3.6.1 The Conference Lines**

Before examining how the phenomenon of liner conferences impact on the development of national fleet, it is important to understand what they stand for. The UNCTAD Code for Conduct of Liner Conferences defines the arrangement as “...a group of two or more vessels operating carriers which provides international liner services for the carriage of cargo on a particular route or routes within specified geographical limits and which has as agreement or arrangement, whatever its nature, within the framework of which they operate under uniform or common freight rates and any other agreed conditions with respect to the provision of liner services” (UNCTAD, 1970). A lot of weight is attached to the term, liner services. Ernest Fayle, in an effort to distinguish tramp from liner service, both capturing the structure of commercial shipping services, describes a liner shipping as one that comprises “a fleet of ships, under common ownership or management, which provides a fixed service, at regular intervals, between

named ports, and offer themselves as common services of any goods or passengers requiring shipment between those ports and ready for transit by their sailing dates”. In addition, there must be fixed itinerary for such regular services and an obligation to accept cargo from all comers. A further obligation is that sailing must take place on the published schedule date, whether or not the ship is filled. A tramp ship, or general trader, is likened to “taxi services”, which can be hired as a whole, by the particular voyage (voyage charter) or for a month (time charter) “to load such cargo and to carry it between such ports as the charterer may require” (Fayle, 1933). The main advantages of the conference system include: regularity of services; comparative stability of freight rates, high quality service and equal treatment of all “loyal” shippers.

Although shipping conferences started in 1875 with the United Kingdom – Calcutta trade, the West Africa Conference had some distinctive features which made its hold on shippers tighter than in most other trades. Nigeria colonial shipping was largely controlled by the conference line, which held a stranglehold on the cargo freight, space and regularity. At independence, therefore, Nigerian shipping was tied around the British colonial interests, and this posed a number of challenges for the young state. Not only did it characterise shipping in Nigeria, Charlotte Lebuscher in her illuminating study of West African Shipping Trade, 1909 – 1959 has reviewed the changes within the period and revealed that, “the changes originated with agencies whose headquarters were outside West Africa”. She also observed that it is “only comparatively recently can economic and political developments in West Africa itself be seen to have exercised an active influence on the organisation of shipping”, (Lebuscher, 1963; 77). The most obvious changes in shipping during this period were the increase of shipping tonnage, the development of tonnage controlled by the West African Line Conference (WALC) and the total cargo discharged and loaded in the West African ports. While the conference tonnage dropped in 1938, it picked up by 1958 to a total grip where the “United Kingdom – West Africa trade in particular has retained to a high degree its monopolistic character, since the three British lines (which in 1958-59 operated two-thirds of the Conference’s total tonnage) work in close co-operation, and since non-British lines, apart from two African lines, remain excluded from this trade.” (Lebuscher, 1963; 79).

By their monopolistic structure, the West African Liner Conference (WALC) both restricted the entry of other liner shipping services from easily joining the conference and also slammed the tramp ships with higher handling/lighterage charges. Another way the conference put the indigenous shippers to grave disadvantage was its control and manipulation of freight rates and even varying the rates for different cargoes; and the use of cargo space allocation to detriment of shippers' interests. The later practice was used to guide the structure of exports that were shipped by using differential rates and cargo space in such a way that gave expression to the colonial preferences. Those commodities the colonial authority did not consider priority or worth while were to be charged higher freights and their shipment could be curtailed. The sum effect was to constrict or impede free competition which could bring down freight rates. The Nigerian shipping front was monopolised by this cartel which had two members in 1914 and subsequently rose to nine by 1958. How Nigeria responded will be discussed in the sections that follow.

### **3.6.2 Flag Discrimination**

Apart from its practice of freight fixing, one other major objection to liner conference has been its discriminatory role in the allotment of cargo. In a sense, it affected the equality of flag in a given route. Other manifestation of this inequality includes the treatment of ships at ports including financial burden such as taxes and port dues. We observed earlier that the liner conference used this mechanism in the differential rates over use of lighterage services. In other words, Singh sums up that, “..if any distinction is made between flag and flag, ..it amounts to practising what is known in maritime terminology as ‘flag discrimination’” (Singh, 1979; 62). Two elements of the practice deserve some comments. They are the treatment of ships at the ports, including financial burden and the allotment of cargoes. While it seems settled that the doctrine of equality of States, which has given birth to equality of flag, should prevail in treatment of ships at ports, the issue of cargo allocation has become controversial. Singh buttresses this point by observing that while the International Convention on the Regime of Maritime Ports enjoins, “Every Contracting State undertakes to grant the vessels of every other Contracting State equality of treatment with its own vessels”, the same Convention left the matter of cargo allocation “somewhat vague and legally elusive” (Singh, 1979; 76). This issue of

cargo allocation, or cargo reservation or better still cargo preference is better understood when discussed within the context of States' national tonnage.

### **3.6.3 Cargo Preference and National Tonnage**

By 1959, the battle between efficiency in international shipping and the national interest of States could no longer be ignored. Accordingly, an Inter-Governmental Maritime Consultative Organisation (IMCO), the precursor to IMO, had been convened with one of its objectives being:

to encourage the removal of discriminatory action and unnecessary restrictions by governments affecting shipping engaged in international trade so as to promote the availability of shipping services to the commerce of the world without discrimination: assistance and encouragement given by a government for the development of its national shipping and for the purpose of security does not in itself constitute discrimination, provided that such assistance and encouragement is not based on measures designed to restrict the freedom of shipping of all flags to take part in international trade (Singh 1978:14).

Reading the provision, Singh has strongly argued that for the adoption of the test of shipping practice and the consideration of reasonableness in matters of government owned or controlled cargoes to national shipping carriers. Applying this test, he justifies the practice on two grounds:

- 1) On the well established commercial principle of "shipper's preference." The essence of this position is that since such cargoes are generated or controlled by government, it stands to reason that it has power to decide how it is shipped and who carries the cargo;
- 2) The right of a developing country to acquire a national fleet, given its social and other responsibilities to its people including employment generation. If it requires supporting such a fleet with government cargoes, then it would have no alternative "but to give preference to its national tonnage over foreign tonnage if it was ever to develop its national fleet." (Singh 1978: 77). However, such a developing State needs to strike a balance by hesitating to take all its cargoes and by exercising care to avoid discriminating against any particular interests.

This perhaps summarises the sentiment of the developing maritime States, especially after the Second World War, 1939 to 1945, when they realised the importance of shipping. The cases of Nigeria and India are illustrative. India and Nigeria suffered a great deal from scarcity of shipping tonnage to the extent that their seaborne trade volume shrank. Besides, the reliance of foreign tonnage with their control of freight and practice of rate differentials externally directed the growth of their economy. Meanwhile in the case of Nigeria, during this period, no step was taken to encourage indigenous entrepreneur or foreign parties to develop nigerian tonnage. Which is why India in depositing its acceptance to the instrument of IMCO with a caveat: that in accepting the convention

the Government of India declares that any measures which it adopts or may have adopted for giving encouragement and assistance to its national shipping and shipping industries (such, for instance, as loan financing of national shipping companies at reasonable or even concessional rates of interest, or the allocation of Government owned or Government controlled cargoes to national ships or the reservation of coastal trade for national shipping) and such other matter as the Government of India may, the sole object of which is to promote the development of its own national shipping, are consistent with the purposes of the Inter-Governmental Maritime Consultative Organisation (Singh 1978:72).

Apart from the developing maritime states, the United States of America, Ecuador, Cambodia and Indonesia had made similar declaration. On the other hand, Greece, Denmark and Finland declared that “if the Organisation were to extend its activities to matters of purely commercial or economic nature, (then) their Governments would have to consider withdrawing from the Organisation” (Singh, 1978; 79). In the end, IMCO was unable to resolve the dilemma of flag discrimination with respect to cargo allocation.

#### **3.6.4 UNCTAD – The Convention on a Code of Conduct for Liner Conference 1974**

The United Nations Conference on Trade and Development (UNCTAD) was established as a continuing organisation of the United Nations General Assembly in 1964 with its primary function being to facilitate economic development of the developing countries through the revision of international trade policies. These with time have included shipping, port facilities

and future development in shipping technology. In order to promote greater participation of developing countries in the operations, ownership and control of shipping, especially liner shipping, it has been at the centre of seeking resolution to the conflict between the traditional and developing maritime States even after the IMCO attempted seemed quite intractable. It is necessary to refresh on the areas of divergence.

The traditional maritime states argued, on the one hand, that it is in the best interest of all, including the developing countries to encourage free competition among shipowners as a way of ensuring efficient transport “at the lowest possible cost.” They insisted that cargo reservation, to the contrary, would lead to over-tonnaging, a loss of efficiency, inflexibility in the shipping structure, a general decline in the quality of service and subsequently to higher rates.<sup>11</sup> For the developing maritime states, the reverse was the truth. The core of their argument was that “the desirability of development of merchant marines by developing countries is recognised, since merchant fleets not only assist export promotion, but also add to the invisible earnings of developing countries.” They marvelled at the insincerity and double-standard of the traditional maritime states that condoned, propped up and supported the prevalence, and indeed dominance of liner conferences which negated the existence of such competition. Besides, the objection to government intervention by the developed countries was inconsistent with their past, having relied on protectionist policy to grow. In the absence of financial muscle to offer subsidy, the only support these developing countries could afford, was cargo reservation for their national lines.

With two annexes, Annex 1 being the text of the convention, the UNCTAD Code of Conduct for Liner Conferences has made a significant contribution to shipping. Adopted by the United Nations Conference of Plenipotentiaries in 1974, the goal of the Code is to promote greater participation of developing countries by spelling out the basis for cargo sharing. According to Article 2, clause 4, cargo sharing between the members of a liner conference is based on the so-called 40:40:20 formula. This provides that when determining the share of trade “which member

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<sup>11</sup> See the introduction in Singh 1978

lines shall have right to acquire, the national shipping lines of each country, irrespective of the number of lines, shall be regarded as a single group of shipping lines for that country.” Furthermore, these groups of shipping lines “shall have equal rights to participate in the freight and volume of traffic generated by their mutual foreign trade and carried by the conference.” The remaining is for third-country shipping lines, in any, and “shall have right to acquire a significant part, such as 20 per cent in the freight and volume of traffic generated by that trade.”<sup>12</sup>

Singh has argued that the Liner Code has many merits. For instance, it has given recognition to the equality of states involved in bilateral states while at the same time maintaining some form of flexibility by making provision for third party shipping interests. H.M Trivedi summarises the objective as follows: “ ...It is the intention of the code to prevent the proliferation of national legislation dealing with liner conferences which could be contradictory and which could lead to confrontation between sovereign states, instead of cooperation.”<sup>13</sup> How Nigerian response took advantage of this provision will be discussed in the next chapter. However, we will first examine the policy priority of the post-colonial Nigeria state from 1959 to 1987.

### **3.6.5 Port Congestion**

The wind of decolonisation had begun to be felt in Nigeria in the 50s such that there was the necessity to prepare the ports both in terms of infrastructure and manpower. The pressure was exacerbated at the end of the Nigerian Civil War, 1967-1970. Thus, there was the need for and the determination of the Federal Government to embark on massive reconstruction and rehabilitation of infrastructure, which raised a number of shipping challenges. These challenges were further heightened by the sudden inflow of capital, coming from the oil boom of the 1970s. In addition, the generous salary increases granted by government to workers had improved the demand profile and there was massive increase in importation. The result of these pressures were the phenomena known as both “cargo” and “ship” congestions. Cargo congestion arose from the ensured bottleneck in the evacuation processes of cargo especially from the Lagos Ports

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<sup>12</sup>For a full discussion of this issue see Trivedi (1980), Olukoju A.(1992a)

<sup>13</sup>The Port Act of 1954, reviewed by Port Act, 1999 in Asoluka, 2

which handled over eighty percent of ports activities in Nigeria. The introduction of container units, which were unstuffed at the port resulted in delay, and poor road network contributed to congest the ports. Other factors included delays in documentation and abuses in the use of transit sheds and failure in paying up dues and demurrage as they accrued. Ship congestion on the other hand was a consequence of the growing potential of Nigeria in international trade against the backdrop of inadequate port infrastructure. As noted earlier, the massive importation of construction materials, goods and various exports, including petroleum and agricultural produce flooded Apapa Port. By the middle of 1975, Olukoju reports that “vessels waiting for berthing spaces in our ports had reached a record figure of 455, which included 300 vessels carrying bags of cement” (Olukoju, 1992a; 159).

The following section will now review in brief some of the policy responses to these maritime challenges, between 1959 and 1987 while Chapter Four will specifically treat the policy response to shipping development in Nigeria.

### **3.7 Post-Colonial Shipping – Some Policy Responses**

Did the post-colonial Nigerian government recognise the potential and economic effect incidental to the development of its shipping industry? How did it respond to the imperative of shippers’ concern for competitive international trade by seeking for stable and fair freight rates? What institutional step did government initiate for the development and Nigerianisation of the maritime manpower? Which areas of the shipping industry attracted early legislative attention and what was the nature of the response? This section will highlight a number of policy responses and the establishment of institutions to strengthen our preparedness and participation in international shipping business; and the implications for the emergent shipping industry between 1959 and 1987.

The dates are chosen deliberately to mark two significant milestones in the evolution of Nigeria’s shipping policy, and possibly the journey to indigenous shipping development. 1959 was the year Nigeria held elections for its independent Federal Legislature. The elections marked the

inception of the Nigerian independence, a status of becoming a sovereign state capable of making its own policy choices and laws for peace, good governance and promotion of the welfare of its people. From that date, the Nigerian state could decide to introduce legislation aimed at promoting its shipping development, backed with full force of law and sanctions, at least within its territorial space. In Chapter Two of this study, we argued that the primary role of a state is to guarantee peace, security and well-being of its people. And this imperative confers on the state, power to make policy choices, within its area of suzerainty, and decisions on how best to develop its economy. As Leubusscher (1963) rightly comments, “the most important consequence of independence is that it gives the West African Governments the power of regulating and, if they wish, of restricting the activities of foreign shipping companies.”

The other date, 1987, was the year when the Nigerian government made public its first national shipping policy toward promoting its national shipping development by the way of support to increasing the number of ships in the national fleet, the carriage right of these carriers and building the nation’s maritime manpower needs. We have already outlined some of the critical challenges that confronted the nation’s interests in international shipping within this period, 1960 to 1987. Was shipping policy a priority area in the inception programme of the Nigerian government and how was such matter treated? By attending to these issues, it will help to define the character of the shipping industry in Nigeria, its priority and the quality of policy response. All these give insight to the journey of national shipping policy, thus enriching our understanding on the policy context and implementation process.

### **3.7.1 Federal Ministry of Transport (FMOT)**

The Nigerian maritime is an integral part of the transport system. The Federal Ministry of Transport is the supervisory ministry. The other agency under the ministry is the Nigeria Railways system. Of interest to this study is the shipping, which is subsumed in the maritime sector. The maritime sector is regulated and supervised by the ministry through its Department of Maritime Services. The department develops the maritime policy, approves policies and requests from the line agencies in furtherance of government policy. The line agencies include the

Nigerian Ports Authority (NPA), the defunct Nigerian National Shipping Line (NNSL), the defunct Government Inspector of Shipping (GIS), Nigerian Shippers' Council (NSC), Maritime Academy of Nigeria (MAN), Oron, Nigerian Inland Waterways Authority (NIWA), Nigerian Maritime Administration and Safety Agency (NIMASA) as well as other allied shipping agencies like the Council for the Regulation of Freight Forwarders of Nigeria (CRFFN). Except for the NNSL and Nigerdock, these other agencies are established by law. We shall deal with the policy response to the ports infrastructure, then the quest to develop national fleet, the policy to protect shippers interests and the maritime capacity building issues. The agencies established to implement the policies are also discussed below along with broad outline of their functions and policy objectives they were designed to achieve. How far they have performed is outside the scope of the study. However, a good grip of these agencies will intersperse the study from time to time because they assist in our view that evaluation of effective implementation of national shipping policy should embrace examination of the role and attitudes of other critical stakeholders in the maritime sector, if not adapting whole-of-nation perspective.

### **3.7.2 Nigerian Ports Authority (NPA)**

Olukoju, in his brilliant pioneering study on Nigeria's ports, observes that although the history of port development dates back to the middle of the 19th century, it was only as a response to the need "towards provision of facilities for ocean going vessels to the Lagos lagoon, given the considerable littoral drift occurring along the coast; and the constantly shifting channels in the bar at the entrance made entry (of ships) very difficult"(Leubuscher (1963:14, see also Olukoju A. (1992b).

He drives the point home by concluding that "explorative and trade activities involving European missionaries and businessmen in Africa made the existence of a port on the wide stretch from Calabar to Lagos imperative." By 1906, the first major work opening up the Lagos lagoon was the dredging at the bar and the construction of the first length of the East Mole. Of equal importance was the provision of rail access from Lagos to Otta and Abeokuta for easy

transportation of stone needed for port construction! Attention shifted to the construction of Port Harcourt Port in 1913, together with construction of railway line to Enugu in 1916.

The Port Act of 1954, reviewed by Port Act, 1999, which created the Nigerian Ports Authority, NPA, can be regarded as the first policy in the maritime sector with focus on facilitating national international trade as well as improving our maritime infrastructure. Before this period, the concept of port as an “integral part of social and economic development of a country had hitherto not been properly addressed”,<sup>14</sup>. However, the primacy of the port and railway systems to the colonial trade was duly acknowledged as the two were created by the colonial administration and both were prepared to respond to the clamour of “Nigerianization” policy prior to independence in 1960. Thus, the Port Act, 1954, mandated NPA, among other things, to provide and operate:

- Cargo handling and quay facilities
- Pilotage and towage services
- Dredging of channels and waterways
- Safe navigation in and out of the ports
- Stevedoring services (loading/unloading)
- Cargo storage (warehouseman)
- Shorehandling.

It was not an intentional development project for Nigerian state per se, but a response to the need for the establishment of an agency to provide safe berthing interface for ships in furtherance of colonial trade. However, we note that providing an essential day-to-day service puts it on the daily spotlight such that it has maintained a good track of responsiveness in terms reforms and infrastructural development. Nonetheless, its function has not been to specifically promote shipping development of Nigerian. For this and reasons earlier adduced, NPA together with its

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<sup>14</sup>Ibid

policy and implementation issues, is not the main concern of the study, and besides it has already been the subject of a number of incisive studies<sup>15</sup>.

### 3.7.3 Nigerian National Shipping Line (NNSL)

As far back as 1852, Elder Dempster was granted charter to establish “a postal and other communication, by means of steam navigation, between Great Britain and Ireland and West Coast of Africa, and elsewhere”<sup>16</sup>. It did not only dominate this route but was assisted by the colonial office to, from time to time, monopolise shipping activities in Nigeria. Other shipping concerns were Palm Lines and the Woermann Line. The linkage between economic development, trade and shipping was solidly reflected in the colonial trade policy that at independence, most African countries saw the need to get involved in the shipping business, especially in their countries seaborne trade. So strong was this feeling that “the ownership and organisation of ocean shipping has become a matter of public concern to a degree unknown before the countries had attained self-government or independence” (Leusbuscher 1963: 76).

Ghana was a classic case for such clamour. The Nkrumah government beyond actively pursuing the development of Ghana shipping industry by floating the “Black Star Shipping Line”, as a national carrier in 1958, it also used the cargo reservation policy to support it (Tresselt, 1967: 48). The Nigerian government was in its own world: it was not just ambivalent on its perception of shipping as critical to economic development, it was non-committal to the establishment and active support of floating an indigenous carrier. Perhaps, this would mark the early signs of treating shipping business in a casual manner dating back to 1957 – 1959! It remains a sad commentary that the government of a self-governing Nigeria, in spite of legislative pressure, vehemently opposed the establishment of an indigenous national carrier in 1957 (Leubuscher, 1963: 67). Even President Houphouet-Boigny, who as an *Evolue* elite and strong supporter of the tight relationship with its erstwhile colonial master France, was the first in the West African sub region to envision the possibility of his country to become a regional maritime

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<sup>15</sup>Olukoju, Ibid

<sup>16</sup>Leubuscher, Ibid

power. He practically led the agitation for a common shipping policy for West Africa (Iheduru, 1993:182).

However, the Nigerian National Shipping Line (NNSL) was finally incorporated in 1959 with a share capital of two million pounds sterling distributed as follows: the Federal Government of Nigeria owning 51 per cent of equity, Elder Dempster Line taking 33 per cent and the remaining 16 per cent allotted to Palm Lines<sup>17</sup>. Elder Dempster Line provided managerial and technical assistance to the young NNSL.

The object clauses of the company included:

- to provide ocean transport between Nigeria and other parts of the world
- to show the Nigerian Flag across the seven seas of the world
- to earn and conserve foreign exchange for Nigeria; and
- to provide the vehicle for the manpower development in the maritime sector and other ship agency services.

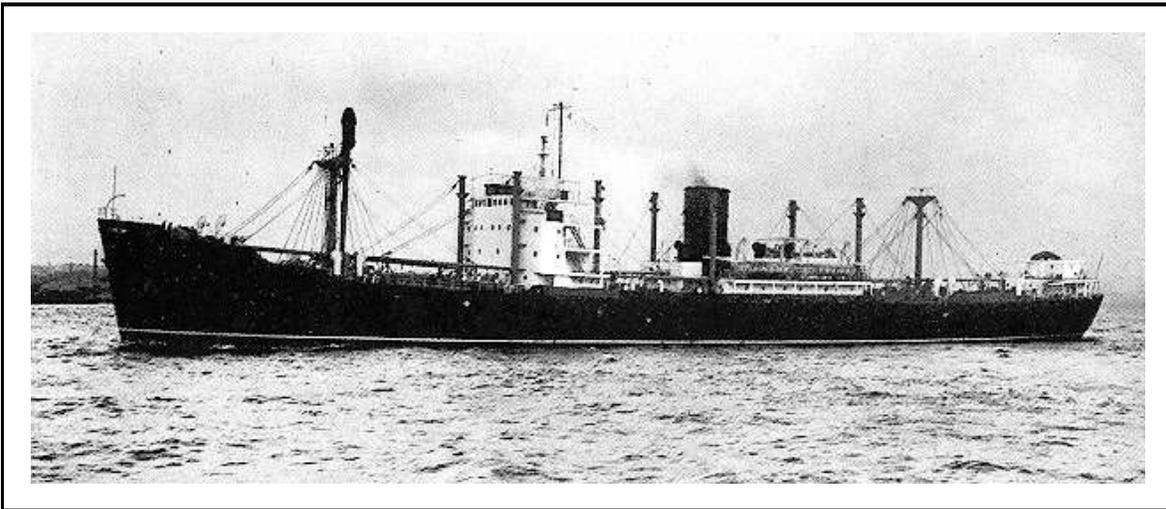
The other services were

- Clearing and forwarding
- Land and air transportation
- Warehousing
- Import and export services

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<sup>17</sup>Iheduru, O. (1992), Merchant Fleet Development by Legislations: Lessons from West and Central Africa. Maritime Policy and management, Vol. 19, no.4

*First Ship Acquired by Nigerian National Line in 1959, named MV KING JAJA*



*"TYRIA" - Author's File*

*The TYRIA was of 5,869 grt and built by Wm. Doxford & Sons of Sunderland in 1955. She was powered by a 4 cylinder Doxford opposed piston 2 stroke single acting engine generating*

In September, 1961, the government as part of the “Nigerianization” policy, acquired all the shares and NNSL thus became the national carrier. Between 1959 and 1961, the company owned three ships, which by 1964 had increased to sixteen ships. In 1977, nineteen new vessels were ordered which, sadly, were of the same specification and purpose. At the height of its operation, NNSL had 26 ships in its fleet with a total tonnage of over 361,000 DWT<sup>[22]</sup> and had trained over 4,500 navigators, marine engineers, naval architects and seafarers. Following mismanagement and other issues that led to its dwindling fortune, the two shareholders, i.e. the Federal Ministry of Finance Incorporated (FMFI) and the Federal Ministry of Transport (FMOT) passed a winding-up resolution in 1995 and Captain L. Niagwam was named the Sole Administrator/Liquidator. Although the Nigerian National Shipping Line falls fully within this study, its activities will be analyzed in more detail in the chapters that follow.

#### **3. 7. 4 Nigeria Shippers’ Council (NSC)**

Nigerian shippers have always been shortchanged and put in position of disadvantage by shipping companies. This study has noted the exploitative tendency of the liner conferences

which received tacit support of the colonial administration. The freight figures for Africa and the Oceania routes are over 11 per cent of the import/export value against the world average of 5 per cent. In other words, for every \$1000 worth of goods, the freight for Africa stands above \$110 while the world average is under \$50! Apart from this huge disadvantage, freight rates in Africa due to low level of competition is prone to greater volatility than the rest. Reasons commonly given to justify such increase include high cost of bunker fuel or fluctuations in foreign exchange exposure, hence the Bunker Adjustment Factor (BAF) and Currency Adjustment Factor (CAF) are determined by the shipping companies.

It was not until the UNCTAD Code Resolution in 1974, that Nigeria in 1977 enacted a law establishing the Nigerian Shippers Council. The short title of the law speaks for itself, “An Act to establish the Nigerian Shippers’ Council to provide a forum for the protection of the interest of shippers in matters affecting the shipment of imports and exports to and from Nigeria and to advise the Federal Government on sundry matters related thereto” {NSC Act 1977 (CAP. 327)}. Section 3 provided for ten functions of NSC including the section 4 which deals with power of the Minister to give directions to the council. Apart from providing platform for the protection of shippers and negotiating on their behalf, the Council is to “advise the Government of the Federation through the Minister on matters relating to the structure of freight rates, availability and adequacy of shipping space, frequency of sailings, terms of shipment, class and quality of vessels, port charges and facilities and other related matters” [NSC Act 1977;S3(e)]. From the above, protection of shippers goes beyond freight. It includes the safety of cargo and such issues that should not put shippers at disadvantage. A case in point is reported by Ndikom (2004), where with the connivance of the Pre-Shipment Inspection Agents in a shipment of 17 containers of corn starch from Argentina including 2 containers of sands! These practices one way or the other affect shipping, especially the case of freight because it is one of central issues in the discussion relating to shipping development. However, the main thrust of the study is the promotional aspects of shipping development. Further analysis of NSC must wait till later chapters when national shipping policy will be the focus.

### 3. 7. 5 Maritime Academy of Nigeria (MAN)

Oyesiku and Chidi (2003), in extremely informative study, have observed that prior to “the establishment of Nigerian National Shipping Line (NNSL) Limited in 1959, Nigeria virtually had no trained Merchant Navy Officers apart from those who were enlisted in the Nigerian Navy as part of the Armed Forces” (Asoluka 2003 b; 136-137). Yet for international shipping to thrive and develop, there must be a pool of highly trained local manpower for manning the vessels “in accordance with laid down safety standards”. It is revealing that between 1961 and 1992, NNSL alone had trained a total of 1297 officers in the various marine vocations and following the suspension of training by NNSL in 1992, the crop of these experienced seafarers have dwindled and fast ageing (Asoluka, 2003 b; 139). Contemporary maritime education and training in Nigeria, however, began with the establishment of Nautical College of Nigeria, which was set up to educate and train shipboard officers, ratings and shore-based management personnel.

In 1988, the college's mandate was expanded to training all levels and categories of personnel for all facets of the Nigerian maritime industry. It was in 1988 that the Federal Government by Maritime Academy of Nigeria Act, (CAP. 217) established MAN, Oron “to provide courses of instruction and training, inter alia, in marine technology, applied research in maritime technology and other relevant fields of applied maritime sciences” (MAN, CAP.217). Section 5(1) (a) hits the nail on the head as it empowers the Academy, “to provide courses of instruction and training:

- (i) in marine technology, including marine engineering, navigation, applied maritime sciences, shipping business and management thereof and any other courses as may be approved by the Council from time to time,
- (ii) in maritime sciences related to the needs and development of Nigeria in areas associated with maritime affairs, and
- (iii) In applied research in maritime technology and related activities”.

By the end of 2008, the academy had trained about 4,300 Merchant Navy officers and more than 65,000 other workers in Marine Engineering, Nautical Science, Maritime Transport and Business Studies, Ship Building, Port Operations, Marine Insurance, Maritime Law, Maritime Security,

and other specialized maritime courses. Today, over three decades of intensive and consistent maritime education and training at MAN, the Nigerian maritime industry still faces the problem of poor staffing and acute shortage of skilled manpower. The lack of preparedness on the part of the industry to face stiff international competition and the challenges of inadequate infrastructure, non-enforcement of safety regulations and indiscriminate pollution of the marine environment are eloquent testimonies to this assertion. Sadly, when the Nigerian Maritime Administration and Safety Agency, NIMASA in 2009, called for 50,000 seafarers to enable the Nigerian shipping industry realize its full potential, Nigeria had less than 3,000 seafarers, resulting to the hiring of an army of foreign seafarers to man the more than 2,000 vessels engaged in cabotage between Nigerian ports.

### **3.7.6 Nigerian Inland Water Authority (NIWA)**

Before 1997, there was the Navigable Waterways (Declaration) Act CAP. 287, which at Section 1 merely declared certain rivers, creeks, lakes, lagoons and inter-coastal waterways specified in the schedule as Federal Navigable waterways. From its listing of Federal waterways in the schedule, it would appear to have created certain water ways for states. However, in 1996, the Federal Government enacted the National Inland Waterways Authority, Act 1997 which established the National Inland Waterways Authority. Its objectives are to

- (a) improve and develop inland waterways for navigation;
- (b) provide an alternative mode of transportation for the evacuation of economic goods and persons; and
- (c) Execute the objectives of national transport policy as it concerns inland waterways.

There could be areas of impact in the implementation of this law, but it can not be said to focus on the development of shipping in Nigeria. Moreover, the year it came into being is 1997, which is outside of study at this point. It has been briefly discussed here in order to provide some guide to the potential in shipping and cabotage development.

### **3.7.7 Nigerdock, Snake Island, Apapa, Continental Shipyard, Limited**

Shipbuilding is a very old industry. The study has been able to identify the existence of “shipyards” in Nigeria pre-colonial trans-Atlantic trade. Because shipbuilding and repairs are labour-intensive, experts argue that “if governments do not interfere, it should not be surprising to find that successful shipbuilding nations are those with the lowest-paid workers, provided with the needed technology” (Hunt and Butman, 1995). Ekwenna draws evidence from Japan and South Korea, proving that their emergence as “major world shipbuilders” are primarily due to the fact of “favourable labour rates” (Ekwenna, 1998; 12). Nigeria did not seem to have observed this fact. It was only in 1986 that it joined the club of shiprepair nations by floating the Nigerdock Limited in Lagos. In addition to ship repairs, it was also commissioned to construct ferry boats and off-shore mooring buoys. Between 1986 and 2000, Nigerdock dry-docked 400, repaired 199 and built 28 vessels (Nigerdock Handbook, 2001;35). Although it has been privatised, the importance of shiprepair/yard to shipping development is huge. Other shipyards include Starz, Port Harcourt, Damen Shipyard, NPA Dockyard and Continental Shipyard.

### **3.8 Conclusion**

The chapter has been able to trace the evolution of shipping and shipping related policies in Nigeria, from the pre- to the post-colonial era. It has also followed the dynamics and structure of the shipping industry, from a simple canoe-complex stage serving the coastal communities of the Niger Delta region and riverine areas of Nigeria, which was unfortunately truncated and plunged to the disaster that was the trans-Atlantic trade. It was the period that dealt the severest blow to indigenous shipping enterprise together with its entrepreneurial spirit. It witnessed the massive and unwanted evacuation of its youth during the slave trade era. Not only were this talented corps of natural seafarers shipped off to foreign land as slaves, the continued manhunt for slaves reduced riverine and coastal communities to “ghost towns”. By the time “slave trade’ was abolished in the early 19th Century, the imperial trade of unequals resulted with the prime goal of dominating trade and shipping business for maximum expropriation of the colonies by the metropol. The subtly but effective practice by the colonial administration was to use the

instrumentalities of government under the cover of “law and order” to support British businesses in Nigeria including the monopolisation of certain trade and the cartelisation of shipping in the form of liner conferences. Leading British shipping interests like Elder Dempster were actively supported by the Home Official in London even against British colonial officials, competitors and local shippers:

A true picture and structure of shipping during colonial rule, which always favoured the strong, had emerged by the time Nigeria gained independence in 1960. The rest of the sections in this chapter highlighted the nature of challenges the post-colonial Nigerian state had to surmount if it ever intended to develop its shipping sector. Finally the study has outlined major maritime policies and institution between 1959 and 1987 which would be of interest in our subsequent examination of the national shipping policy as catalyst for shipping development in Nigeria in the next two chapters.

## CHAPTER FOUR

### ANALYSIS OF THE LEGAL OBJECTIVES OF NATIONAL SHIPPING POLICY

#### 4.1 Introduction

Following the dream that the dawn of political independence would usher in an era of “life more abundant”, Nigerians have been anxiously hoping for and desiring to overcome their developmental challenges. One area of recurrent interest has been the development of indigenous shipping. If for no other reason, it would appear that Nigeria’s maritime potential and indeed its capacity as a regional power have attracted the attention of both observers and policy-makers.<sup>18</sup> With a coastline of over 824 kilometres and abundant inland water resources of over 4000 kilometres and an ancient aquatic culture along the coastal and riverine areas, Nigeria’s emergence as a great maritime nation is tied to its fate: the ability of the Nigerian state to introduce and implement appropriate shipping policy. This belief is reinforced by the facts that Nigeria is at the epicentre of the West African market; blessed with a young vibrant and enterprising population and enormously endowed with material resources comprising huge mineral and agricultural resources. These are the ingredients of virile trade and market, as well as a reservoir for manpower training and recruitment. In spite of these opportunities, especially in the shipping sector, which can rightly be described as the artery of international trade and by extension the engine of development, successive governments did not seem to deem it necessary to lay a solid foundation for the shipping industry. Apart from promoting economic development, shipping development has remained critical for emergency, security and defence purposes.

Given its position in the continent, especially in West African subregion which has imposed a heavy burden on it, Nigeria can no longer afford to remain oblivious of the imperative for an aggressive shipping policy designed to promote trade competitiveness, create employment and secure its maritime interests and long-range goal of becoming a regional sea power. Borrowing

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<sup>18</sup>See Iheduru and reports of the interview

from the concept of *Sea Power*, popularised by A.T Mahan (1840 - 1914)<sup>19</sup>, the issue is, “does Nigeria have a national shipping policy and how far is such a policy fitted to develop it as a strong regional economy and great seapower?” No doubt the international environment continues to produce challenges for states but “meeting such challenges successfully requires creative adaptation” (Raj Nayar, 1996; 365). Did Nigeria take advantage of the international environment to “creatively” develop its national tonnage in the boom of the 1970s as well as the groundswell of shipping consciousness and sympathy for other developing maritime nations at the supranational level, especially the passage of the UNCTAD Code Resolution for liner shipping?

## **4.2 Background**

### **4.2.1 The Rising Expectation - UNCTAD Liner Code**

We have noted earlier in Chapter Three that between 1959 and 1987, Nigeria had responded to the need to address various maritime issues, ranging from Port development to protection of shippers' right and manpower development without an overriding desire to take advantage of its seapower potential. For instance, a review of newspaper articles from 1970 to 2010 by this researcher identified two major shipping issues as arbitrary increases and imposition of freight on Nigerian seaborne cargo ports congestion.<sup>20</sup> The absence of any pronounced policy on shipping development in terms of national tonnage, carriage rights and access to cargoes and maritime manpower development only became major issues in the 1980s following the advocacy of a Nigerian shipping policy.<sup>21</sup> The shipping industry was without any national policy focused on the development of local tonnage or manpower. What existed, at best, were ad-hoc measures and policy statements, which reflected, and sought to domesticate certain international conventions on marine safety and standards; established key institutions like the Nigerian Shippers' Council and port development.<sup>22</sup> We have also noted the first attempt to engage in

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<sup>19</sup>See Alilyand Donovan (2001)

<sup>20</sup>See Appendix II on Content Analysis of Newspapers', 1971-2010

<sup>21</sup>See for instance Ekong, B 1980/1981 Ekong Bassey U. (1991:36-7)

<sup>22</sup>The Nigerian Shippers' Council was established in 1978 in line with the protection of shippers rights' provided in the UNCTAD Liner Code

shipping after its independence was to float a national carrier registered as the Nigerian National Shipping Line in 1959 and was liquidated in 1995. All this has led some experts to conclude that Nigeria's post-colonial government's moderate temperament was not assertive enough, as in Ghana, to grapple fully with the challenges of nationhood, including rising to its maritime potential<sup>23</sup>.

At the multilateral level, the story was a little different. What the Nigerian state did not have in terms of courage, self-belief and ability to seize opportunities in the external environment on its own, given its lacklustre response to shipping matters since independence in the 1960, it sought to achieve by riding on the back of a group of countries' efforts in a multilateral approach within the framework of United Nations Conference on Trade and Development (UNCTAD) to press for shipping development of developing countries. By 1964, it was this body that provided the forum for discussing the conflicting positions of the traditional maritime nations and the developing maritime nations over the issue of flag discrimination and its consequences. Because they had similar worries, which needed some form of solution at a supranational level, they were able to aggregate their concerns to form a common front. Frankel (1982) has ably distilled these concerns of developing countries which they alleged constrained their economic and shipping development.

The key issues were how to reach agreement at a multilateral level which would strengthen them:

1. To develop their own merchant marine, and obtain employment, control and other operational benefits;
2. To increase their international trade by use of shipping in market development ; and
3. To assist their economy by the earnings and savings of foreign exchange, as well as by setting rates that would make national trade more competitive (Frankel 1982: 222).

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<sup>23</sup>See for instances Leubuscher, (1963; 67-69), Tresselt, (1967:48; 1993). Also See Iheduru,(1996), Iheduru(1992), Leubuscher (1956), Leubuscher (1963), Tresselt (1993).

This forum after a series of protracted debates and horse-trading came to a conclusion that “recognises that developing countries have a right to assist their merchant marine through the adoption of such measures as may bring them to a stage when they will be able to compete in the international freight market and have an increasing and substantial participation in the carriage of maritime cargoes” (Singh, 1978; 106). This was at the fourth session of the Committee on Shipping which adopted the so-called Resolution 15(IV) in 1970. The significance of this resolution was to unfold fully in 1974 in Geneva, when the United Nations Conference of Plenipotentiaries voted in favour of the Convention on *Code of Conduct for Liner Conferences*, otherwise referred to as the UNCTAD Liner Code of 1974. Its primary objective was to promote greater participation of developing countries in the operations, ownership and control of shipping with reference to liner shipping. It also aimed at facilitating increasing shipping operations between developed and developing countries through cargo sharing, thereby shifting some of the perceived economic benefits accruable through commercial aspects of shipping to third world countries.

The Code in its Article 2, clause 4(a) and (b) evolved the 40:40:20 ratio for liner conference operating a pool, which simply means that when two countries are engaged in trade, each has a right to lift 40 percent of the cargo generated while a provision allowed a maximum lift of 20 percent for cross-trader, i.e. third party shipping companies. The code consists of 145 articles which cover regulatory, economic, consultative and operational issues. To become operational, Article 49 of the Code requires that at least 24 countries with a combined gross tonnage of at least 25 percent of world liner tonnage must ratify the Convention. Nigeria was the eight country to ratify on September 10, 1975 and by 1983 upon meeting the mandatory requirements, the Code became operational. It is important to review some salient features and provisions of the Code since the nations upon ratification and activation of the Code would be expected to domesticate the Code in their respective municipal laws. In the circumstance, the Nigerian version should draw from the Code.

Thus, the primary purpose of the Code was to handle these concerns via a multilateral convention regulating the conduct of ocean shipping conferences by taking above agitations into

account. Consequently, the Code has covered an extensive array of issues with the following being of interest to the study. They include:

1. Relations between Member lines in the areas of:
  - a) Membership – every national line has a right to be a full member of a conference that serves its foreign trade subject to certain conditions
  - b) Share of Trade – any member of conference will have sailing and loading-rights in the trade covered by the conference
  - c) Pooling – every member of conference operating a pool has the right of membership to that pool
  - d) Decision-Making Procedure – full members of a conference have equal vote in decision making
2. Relations with Shippers
  - a) Loyalty Agreement – provides form and terms governing loyalty agreement including duration
  - b) Consultation Machinery – provides for consultation among a conference, a shippers' organisation, representatives of shippers, and shippers. Consultation may discuss:
    - Changes in general tariff conditions and related regulations
    - Changes in the general level of tariff rates and rates for major commodities
    - Promotion and/or special freight rates;
    - Imposition of, and related changes in surcharge
3. Freight Rates – Articles 12 through 17 concern conference tariff, rate making procedures and other aspects of freight charges made to shippers.

#### **4.2.2 Ripples of Challenges Against the UNCTAD Code**

The fact that the Liner Code Convention entered into force in October 1983 ordinarily would have been cheering news. They were not and early warning signs came too soon. In a twist of irony, the ratification of the Code by EU (then EEC) Member States presented a paradox of sorts. On the one hand, it made the Code operational by helping secure the required tonnage. However,

it also marked the beginning of serious conflicts between the West African subregion and the EU which, according to Karandawala, “was aggravated further with the adoption in December 1986 by the EEC (EU) of certain regulations related to a common shipping policy.” (Obiozor et. al, 1988:28). The import of the common shipping policy was to enter some form of reservation especially over the interpretation of the scope of the Code and in its declared policy regarding non-conference cargo (Obiozor et al 1988; 28). The other issues in the EU 1986 Regulations as they affected West African subregion were:

- The provisions of Regulation 4055/86 requiring the passing out of bilateral cargo-sharing agreements; and
- The provision of Regulation 4058/86 stipulating “coordinated action” against Member States “when action by a third country or by its agents restricts or threatens to restrict free access by shipping companies of member States or by ships registered in a Member State in accordance with its legislation, to the liner cargoes in Code trades, except where such action is taken in accordance with the United Nations Convention on a Code of Conduct for Liner Conferences” (Obiozor et al 1988; 30).

The implication was that any purported adoption and adaptation of the Code to guide national legislation must be in strict compliance of the Code. Implied was a benign threat and the caveats have been summarised by Karandawala as follows:

- The UN Liner Code is applicable to liner conferences only
- Cargo-sharing is an internal matter for conferences to be determined in accordance with the provisions of Article 2 of the Code
- The modalities of cargo-sharing are a matter to be determined by the member lines or conferences
- Both the principle i.e. the applicability to the entire liner trades, and the modalities i.e. government controlled CFB (Cargo Freight Bureau) or cargo-sharing applied by the subregion amount to an action which restricts free access to cargoes in shipping and are therefore a cause for “coordinated action” (Karandawala in Obiozor et al, 1988).

Karandawala explains that, “Coordinated action” under the Regulation 4058/86 may include joint action of the member states to introduce “counter-measures” directed at the “shipping companies or companies of the third countries concerned or at shipping company ...which benefit from the action taken by the countries concerned.” It covers a broad range of actions. But three critical elements of counter-measures stand out in the following definition:

- The imposition of an obligation to obtain a permit to load, carry or discharge cargoes; such a permit may be subject to conditions or obligations
- The imposition of a quota;
- The imposition of taxes or duties.

But before the counter-measures Regulation 4058/86 provided recourse to diplomatic representation. The purpose would be for a platform to iron out differences, provide a cooling-off phase and negotiate a mutually acceptable terms. One clear implication is that the Regulation by 1986 has succeeded in wresting away whatever reprieve or benefits the Code would have bestowed on the developing maritime countries including Nigeria. Once more, it revived the interpretative ambiguity which the Code had been subjected to. For the West African subregion, it was an unequivocal commitment and instrument for the development of national fleet of developing countries. Although the EU may not have been unmindful of the development objectives of the Code, when, however, they run in conflict with the EU’s own fundamental objectives of competition, it is the developing countries or third party country that would be sacrificed.

#### **4.2.3 Impact of Code on the Nigerian Shipping**

Nigeria was one of the first countries to ratify the UN Liner Code in 1975. One quick win would have been in the carriage right of its national carrier, the NNSL, which was handling less than 20 percent of Nigeria’s ocean-borne cargo with possible expansion of its fleet at least before the response of the EU in 1986. Another area was the freight regime which placed Nigerian shippers at great disadvantage. However, there was no immediate step taken by the Nigerian government

to confer on its national carrier, NNSL, the benefits accruing from Article 2 of the Code. Iheduru (1996) has pointed out that it was characteristic of the Nigerian state which had consistently shown lack of commitment to proactive shipping development policy. The same observation has been made by Leubuscher and Tresselt who differently give account of how the government of a self-governing Nigeria in 1957 opposed the establishment of indigenous shipping line (Leubuscher, 1963; 67-69; Tresselt, 1967;48). Even when the parliament had insisted that NNSL be established, the same government did not avail it of the cargo controlled by the then Commodity Marketing Boards despite “the pressure mounted by the indigenous shipping operators” (Iheduru, 1996; 204). In general, Tresselt concludes that, “Nigeria’s policy in regard to its shipping interests has been less than vigorous than that followed by its neighbours” (Iheduru, 1996; 49).

The stake of Nigerian shippers was more paramount. It was in the protection of shippers’ interest that the Nigerian government took steps to implement the Code’s Article 12 through 17. It promulgated in 1977 a law establishing the Nigeria Shippers’ Council for the purpose of protecting shippers’ interest. The creation of the NSC, according to Iheduru was justified as “not only a response to UNCTAD’s recommendation but also a response to long-felt need for protecting the interests of importers and exporters as against those of (foreign) shipowners and other suppliers of various shipping services” (ibid; 205). This was reflected in the short title of the law which speaks for itself, “An Act to establish the Nigerian Shippers’ Council to provide a forum for the protection of the interest of shippers in matters affecting the shipment of imports and exports to and from Nigeria and to advise the Federal Government on sundry matters related thereto” {NSC Act 1978 (CAP. 327)}.

Unlike its brethren the shippers, indigenous shipowners were not that fortunate. The government did not consider it a priority, either by setting up an agency to implement Article 2 of the Code or even annex it as part of the functions of the NSC as was the case in the other West African countries.<sup>24</sup> One explanation was that since the Code was only operational from October, 1983 it

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<sup>24</sup> See Iheduru, 1996; 204 for evidence of lack lustre deposition of Nigerian leaders towards shipping development

would have been hasty to implement such provision before then. Not only is this untenable given that the same government relied on the Code to establish the NSC, and also across the borders the other West African countries such as Ivory Coast and Ghana immediately implemented some of the recommendations of Code, especially on cargo sharing and national fleet development. It was as if the two segments had different interests that could not be resolved and harmonized in a form that national tonnage, among others, should aim to provide freight stability and competitiveness to Nigeria's exports. This will be discussed later as it unwittingly nurtured a feeling of separate identity and irreconcilable interests for the two groups, both in policy intentions and implementations.

Even after the Code became operational in 1983, Nigerian government response was still uninspiring, half-hearted and unimaginative. Rather than consult widely from the shipping community and learning from contemporary lessons from the EU and other West African countries' experiences, the civilian administration of Alhaji Shehu Shagari on December 29, 1981, published what was called the "Dikko Shipping Policy", a document loosely adapted from the UNCTAD Code by bureaucrats at the Federal Ministry of Transport. This was even before the then Transport Minister, whose name was adopted for the policy document, Umaru Dikko had constituted the "National Shipping Policy Committee." Inaugurated in May 1982, with its chairman and secretary drawn from the ministry and few other importers, exporters and indigenous shipping operators who were part time, it was obvious that the committee would die soon after (Iheduru, 1996: 205).

Iheduru has listed some of the reasons why the committee failed in its assignment. The committee was driven by already over-stretched bureaucrats who were unwilling to give up these additional responsibilities which they served on part-time basis. With poor performance monitoring, there was no request or even no in-built feed back system and the committee never submitted even a progress report to the minister. Finally, although the committee lacked adequate technical skill for such a subject which straddles over several areas and disciplines, it did not even bother to "avail itself of assistance that UNCTAD's shipping division in Geneva was offering *gratis* to developing maritime nations to formulate their own shipping policies" (Ibid;

206). Eventually it was this very busy permanent secretary who as chairman technically “dissolved the committee by refusing to call meetings” because of other more pressing matters (Dokpesi, 1992: 21). The policy re-emphasized the spirit and letter of the UNCTAD Code and stated its desire that Nigeria's merchant marine should be sufficient to carry our domestic and international cargo.

#### 4.3 The Dawn of National Shipping Policy Legislations

On April 30, 1987, the National Shipping Policy Act (NSPA) was promulgated into law signifying the formal domestication of the UNCTAD Liner Code. By 2010, four pieces of legislations can be identified as promoting indigenous shipping development and to that extent will be viewed as part and parcel of Nigeria's national shipping policy stock. These include the National Shipping Policy (NSPA) Act, 1987, replaced with the Nigerian Maritime Administration and Safety Agency (NIMASA) Act, 2007, the Coastal and Inland Shipping (Cabotage) Act, 2003 and the Nigerian Oil and Gas Content Development Act, 2010. Although the focus of the study is on the use of some promotional aspects of the NSPA 1987 to bring about development of shipping with the agreed scope spanning from 1987 to 2002, it will be absurd to ignore certain legislative developments, which have occurred thereafter. The study will focus on the implementation of the primary legislation especially in relation to cargo support programme, national fleet support programme through the instrumentality of the defunct Ship Acquisition and Ship Building Fund (SASBF) and a complementary overview of manpower development situation. This section will analyse the main features and objectives of these laws referred to as national shipping policy. This is particularly essential as Mazmanian and Sabatier have observed, “the importance of tractability and statutory variables in explaining program success and failure needs to be more adequately examined than has often been the case in implementation research” (Mazmanian and Sabatier, 1983; 30). The next chapter will outline the implementation process, policy outputs (the programmes) and three illustrative case studies together with broad programmes' outcome.

#### 4.3.1 National Shipping Policy Act, 1987 - 2003

It was not until 1987 that Nigeria enacted its National Shipping Policy Act (NSPA). The Act, in the main was Nigeria's response to the implementation of the Code, i.e. a domestication of the United Nations Conference for Trade and Development (UNCTAD) Resolution on Code for Liner Shipping, 1974. It will be recalled that the aim of the Code was to protect and promote the carriage rights of indigenous shipping companies by use of cargo reservation policy. Coming as late as it did, the NSPA hurriedly adapted some of the tenets of the Code, it sought to do a lot of things in a hurry. It also provided perfunctorily for the protection of the shippers from the developing world without further mention of how this could be achieved. However, though it was late in coming, the principal aim of the legislation was to rise to the cause of the development of national fleet and enforcement of cargo reservation. But by this time, an important bloc, a critical stakeholder, the European Commission, now the European Union (EU) had fired a number of harsh retaliatory salvo which to all intents and purposes would affect the adoption of the UNCTAD Code. Did the NSPA solution vis-a-vis the EU sufficiently take into account the process of profound historical change in Europe as Nigeria's major trading partners, especially with the common shipping Regulations 4055/86 and 4058/86? How far did the NSPA go to ensure that its legal objectives would be implementable? And were the interests of critical shipping groups like the importers and exporters in ensuring trade competitiveness taken into account? These will be analyzed against the background of our Implementation Framework Model (IFM). Before dealing with the implementing agency's design and policy outputs and support tools including the Ship Acquisition and Ship Building Fund (SASBF) and manpower development schemes, it is advisable to discuss the legacy of policy formulation stage as it would affect the implementation process. This following Mazmanian and Sabatier (1983) will entail analysis of the legal objectives and the key policy thrusts<sup>25</sup>. To look at the legal objectives

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<sup>25</sup>See Mazmanian and Sabatier (1983), Mazmanian D.A and Sabatier P.A.(1989).

of the NSPA first before considering the steps taken by the implementing agency to translate the policy into action provides a solid foundation for examination of the implementation process.

#### **4.3.1.1 The Legal Objectives and Key Policy Thrusts of NSPA**

In addition to establishing the National Maritime Authority (NMA) as the implementing agency of NSPA, the Act set forth the objectives of the new body (NMA) as if they defined and constituted the national shipping policy goals. This matter has been subject to debate whether the Act in deed encapsulated Nigeria's national shipping policy or a mere establishment legislation for the purpose of creating the National Maritime Authority with functions that could promote its shipping development. However, it would appear that with the title given as "National Shipping Policy Act" and Section 3(c) preemptively stated that one of its aims is "to use the national shipping policy as instrument of promoting the export trade of Nigeria" and thus accelerate the rate of growth of the national economy, the issue has been rested. Expressly provided, the protection of these shippers ought to have been sufficiently stressed and hierarchicalised and not subjected to bureaucratic discretion or subordination as the study later would analyse. The other eleven objectives of the Act can easily be collapsed into the following concerns:

1. Cargo-Sharing or correction of trade imbalance as in 3(a), (d) and (h);
2. Development of Shipping, National Tonnage/Fleet Expansion as in 3(e), (g), (i) and (j);
3. Development of Maritime Manpower Needs as in 3(k); and
4. Improvement of Trade and related matters as in 3(b), (c) and (f)?

The first three of these objectives are of interest to this study because they relate directly to the development of shipping by ensuring sufficient cargoes carried by national fleets manned by Nigerians. To achieve the three objectives, the Act at Section 14 reserved exclusively the carriage rights for national carriers over public sector freights. These included the Federal, States and Local governments including Federal and States' owned companies and parastatals. Moreover, Section 14(3) of the Act provided that all public sector contracts for importation and exportation shall be on Free On Board (FOB) and Cost and Freight (C&F) respectively. In

addition, while Section 9 reflected the UNCTAD Code for liner shipping resolution, it further extended it to tramp shipping, where the ships handle bulk cargoes. To further strengthen NMA, Section 18 conferred a duty on it to ensure “that Nigerian vessels carry Nigeria’s share of cargo in volume and earnings in accordance with...cargo sharing arrangement entered or agreed to by the Authority or by the Federal Government.” Section 7 spelt out the conditions for granting of national carrier status to shipping companies.

To support building a national tonnage and fleets, Section 13 “established a fund to be known as Ship Acquisition and Ship Building Fund (hereinafter referred as the ‘the Fund’). Section 17 mandated the Authority, on behalf of the Federal Government, to collect from “every shipping company operating in Nigeria.....to a charge at the rate of three per cent of gross earnings in respect of every outward or inward cargo carried by it”. More specific funds for its use are the provision Section 23 establishing a fund for the Authority. Finally, Section 26 provided penalty for the offences established by the Act without clarification. Before taking on these objectives, it is equally important to review the legal objectives of the other kindred legislations which have been designed for the purpose of promoting shipping development. They are the Coastal and Inland Shipping (Cabotage) Act, 2003, the Nigeria Maritime Administration and Safety Agency Act, 2007 and the Nigerian Oil and Gas Content Development Act, 2010.

#### **4.3.2 Coastal and Inland Shipping (Cabotage) Act, 2003**

In an interesting narrative of the legislative journey of the Cabotage Act, its major sponsor, Hon. (Dr.) Okey Udeh, clearly highlighted the mischief the Act was to solve<sup>26</sup>. Bluntly it was to provide a proper foundation for shipping development which in the first place focus on the reservation of coastal shipping opportunities for the indigenous interests. The Cabotage Act, therefore, is to restrict the use of foreign vessels in domestic coastal trade in Nigeria, to promote the development of indigenous tonnage and to establish a cabotage vessel financing fund. The objective of the Cabotage Act is primarily to reserve the commercial transportation of goods and services within Nigerian coastal and inland waters to vessels flying the Nigerian flag, owned and

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<sup>26</sup>For Hon. (Dr.) Okey Udeh’s narrative, see Igbokwe(2006).

crewed by Nigerian citizens and built in Nigeria. In real sense, the Act is intended to create indigenous ship owners who have exclusive control, or call it captive market, of domestic shipping. It also is designed to support ship building activities, develop maritime capacity and manpower, and consequently the building of national tonnage and fleet, well prepared for regional and deep sea shipping.

Under this Act, “Coastal Trade” or “Cabotage” means:

- (a) the carriage of goods by vessel or any other mode of transport, from one place in Nigeria or above Nigeria waters to any other place in Nigeria or above Nigeria waters, either directly or via a place outside Nigeria and includes the carriage of goods in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of Nigeria whether in or under Nigerian waters;
- (b) the carriage of passengers by vessel from any place in Nigeria situated on a lake or river to the same place, or to any other place in Nigeria, either directly or via a place outside Nigeria to the same place without any call at any port outside Nigeria or to any other place in Nigeria, other than as an in-transit or emergency call, either directly or via a place outside Nigeria;
- (c) The carriage of passengers by vessel from any place in Nigeria to any place above or under Nigerian waters to any place in Nigeria or from any place above Nigerian waters to the same place or any other place above or under Nigerian waters where the carriage of the passengers is in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources in or under Nigerian waters; and
- (d) The engaging by any vessel, in any other marine transportation activity of a commercial nature in Nigerian waters and the carriage of any goods or substances whether or not of commercial value within the waters of Nigeria.

“Place above Nigerian waters” in the context of the coastal trade includes any vessel, offshore drilling unit, production platform, artificial island, subsea installation, pumping station, living

accommodation, storage structure, loading or landing platform, dredge, floating crane, pipe laying or other barge or pipeline and any anchor cable or rig pad used in connection therewith.

Cabotage is limited in scope to activities falling within the definition of Cabotage or Coastal Trade; Cabotage activities carried out within Nigerian waters and inland waters and vessels as defined in the Cabotage Act. It applies to the following areas:

1. Nigerian inland waters and lakes
2. Nigerian coastal waters
3. Nigerian territorial waters
4. Nigeria's Exclusive Economic Zone
5. Islands (Natural or artificial) within Nigerian waters, platforms, rigs, floating workshops and other such structures and
6. Any carriage in, under or on Nigerian waters.

The following vessels are subject to Cabotage:

1. Passenger vessels
2. Crew boats
3. Bunkering vessels
4. Fishing Trawlers
5. Barges
6. Off – shore service vessels
7. Tugs
8. Anchor handling tugs and supply vessels
9. Floating petroleum storage
10. Dredgers
11. Tankers
12. Carriers
13. Any other craft or vessel used for carriage on, through or under water of persons, property or any substance whatsoever under the Cabotage Act, there is a strict restriction of non-

Nigerian vessels in domestic coastal trade. Section 3 prohibits engagement in domestic coastal carriage of cargo and passengers within the coastal territorial, inland waters or within the EEZ of Nigeria by vessels other than ones wholly owned and manned by Nigerian Citizens, and built and registered in Nigeria.

Section 3 of the Act provides thus: “A vessel other than a vessel wholly owned and manned by a Nigerian citizen, built and registered in Nigeria shall not engage in the domestic coastal carriage of cargo and passengers within the coastal, territorial, inland waters, island or any point within the waters of the Exclusive Economic Zone of Nigeria.”

This is the punch section, which establishes the Cabotage regime in respect of domestic carriage of cargo or passengers on the principle of non-availability of opportunity for outside interests. Cabotage is a way of encouraging participation of Nigerian indigenous ship-owners in our shipping industry by restricting the use of foreign vessel in our domestic coastal and inland waters. It seeks to restrict shipment of goods within Nigeria’s costal and territorial inland waters solely to vessels that are:

- (1) Owned by Nigerians
- (2) Manned by Nigerians and
- (3) Built in Nigeria
- (4) Registered in Nigeria.

From the foregoing provisions, it can be seen that only vessels, barges, tugs that are wholly owned, manned, built and registered in Nigerian can operate within our costal, territorial, inland waters and Exclusive Economic Zone of Nigeria. Foreign vessels would be prohibited from operating within such areas unless they are granted a waiver or a restricted license under the law.

#### **4.3.2.2 Enforcement of the Act**

NIMASA is the enforcement agency for cabotage in Nigeria. Section 22 and 29 of the Act require cabotage vessels to be registered in the Special Cabotage Register domiciled in NIMASA. However, due to the multi-sectoral nature of the coastal trade, the enforcement of the

Act requires the active participation of all government agencies that are directly or otherwise involved in the various aspects of coastal trade.

NIMASA works in close collaboration with the oil and gas sector in the implementation of the Act specifically NNPC, DPR, NAPIMS, LNG, PPMC and other agencies such as the NIPC, NIS, NCS, NPA and the Nigerian Navy to ensure harmonized regulatory and operational practices.

#### **4.3.2.3 Cabotage Vessel Financing Fund**

Having identified lack of financing as one of the challenges of the indigenous players in the industry, the Act established the capital vessel financing fund for the benefit of Nigerian citizens and shipping companies wholly owned by Nigerians. The funding is to be derived from a surcharge of 2 per cent of the contract sum performed by any vessel engaged in the coastal trade, a sum from time to time to be determined and approved by the National Assembly, monies generated under the Cabotage Act including tariffs, fines, and fees for licenses and waivers, etc. NIMASA is charged with the responsibility for collecting and administration of this fund. Despite these laudable efforts, operators in the shipping sector are yet to access the 3-billion naira Cabotage funds, which the Federal Government earmarked for disbursement through the NIMASA for those intending to expand their fleet or start new business in the shipping sector.

#### **4.3.3 Nigerian Maritime Administration and Safety Agency (NIMASA) Act**

Like the Nigerian Shipping Policy Decree 10 of 1987, embodying the United Nations Conference on Trade and Development cargo allocation formula of 40:40:20 (for National Carriers, Foreign Liner Operators and Cross Traders, respectively), and the Ship Acquisition and Building Fund instituted here in the country in the past, these recent initiatives have yet to yield the expected results. Indigenous participation in shipment of both wet cargo (crude oil and petroleum products) and dry cargo (heavy machinery, oil well equipment,) has remained a pipe-dream. A lot has been lost economically through the near exclusion of indigenous shipping companies from shipment of oil cargoes. As noted by the NMA, “the oil industry sub-sector

accounts for over 70 per cent of the gross freight value of the nation's import and export trade per annum.”

NIMASA Act 2007 has merged National Maritime Authority (established in 1987) and former Joint Maritime Labour Industrial Council (JOMALIC) to create a single merchant marine regulatory agency named Nigerian Maritime Administration and Safety Agency (NIMASA), in 2007. Consequently, the Act establishing NIMASA explicitly provided in its short title as “an act to provide for the promotion of the Maritime Safety and Security, protection in the Maritime Environment, Shipping Registration and Commercial Shipping, Maritime labour, the Establishment of Nigerian Maritime Administration and safety Agency and for Related Matters”. By this merger, it is now envisaged that the agency would superintend the implementation of the National Shipping Policy; Nigerian Merchant Shipping Laws; Nigerian Maritime Labour Policy and the Cabotage Law, with a view as to the systematic development of the Nigerian Maritime Sector. Indeed, it is a measure of the comprehensive and far reaching expectation of government from NIMASA that its mandate was clearly and succinctly captured in Part IV Section 22 of the NIMASA Act 2007.

#### **4.3.3.1 Objectives and Key Functions Relevant to the Study**

In spite of the very expansive functions stated in its title, the objectives seem straight forward. Section 1(1) specifically states that the objective of the agency shall be to:

- (i) Promote the development of indigenous commercial shipping in international and coastal shipping trade; and
- (ii) Regulate and promote maritime safety, security, marine pollution and maritime labour.

Some of the key functions of the agency relevant to the study are set out in Section 22(I) (a), (c), (d), (j), (k) and (l), the last two being to “develop and implement policies and programmes which will facilitate the growth of local capacity in ownership, manning and construction of ships and other maritime infrastructure”; and (l) “enforce and administer the provisions of the Cabotage Act 2003”. The import of these sections is that shipping development has become

better defined than in the NSPA. NIMASA is clearly assigned the promotional tasks of ensuring the emergence of a national fleet for both coastal and international shipping. Reading Sections 36 and 37 together, the position of Section 18 of NSPA is not only reinforced in terms of cargo support and carriage rights of Nigerian carriers. Section 36 is reproduced below:

- (1) The national carriers shall have exclusive right to carriage of export and import belonging to the Federal, State and Local Governments, including Federal and State owned companies and agencies.
- (2) The Agency and the Federal Government shall, from time to time, issue guidelines on incentives to be granted to Nigerian shippers other than parties under the subsection (I) of this section who employ national carriers for the carriage of cargo.”

NIMASA Act in Section 37 preserves at least 50 per cent of carriage rights in respect to liquid or bulk cargo to national carriers as well as technical assistance cargo. Subsection (4) unambiguously restated that “cargo support shall cover the totality of available trade, including bulk dry and liquid cargo.” Subsection (6) further directs the Agency to determine an efficient strategy for the participation of national carriers in the carriage of crude and petroleum product to and from Nigeria.

#### **4.3.4 Nigerian Oil and Gas Industry Content Development Act, 2010**

The passage into law of the Nigerian Local Content Bill is one of the significant developments for domesticating the oil industry through local value additions. The bill received presidential assent on 22<sup>nd</sup> April, 2010 and created a Law to provide for the development of indigenous content in the Nigerian Oil and Gas industry and for a Nigerian Content Plan to manage the coordination, monitoring and implementation of the local content. Previous acts of government had made feeble policy attempts at developing a local content framework for the industry and the fanfare associated with the recent enactment into law of the Nigerian Local Content Bill is very understandable. The Act which takes precedence over all other existing enactments and laws pertaining to Nigerian Content in the petroleum industry defines Nigerian Content as “The quantum of composite value added to or created in the Nigerian economy by a systematic

development of capacity and capabilities through the deliberate utilization of Nigerian human, material resources and services in the Nigerian oil and gas industry.”

Section 1 of the Act provides that: “Notwithstanding anything to the contrary contained in the Petroleum Act or in any other enactment or law, the provisions of this Act shall apply to all matters pertaining to Nigerian content in respect of all operations or transactions carried out in or connected with the Nigerian Oil and Gas industry.” Furthermore, the interpretation section of Act provides that Nigerian oil and gas industry means: ‘ All activities connected with the exploration, development, exploitation, **transportation** and sale of Nigerian oil and gas resources including upstream and downstream oil and gas operations” (emphasis added). Based on the foregoing, the Act applies to all operations in the Nigerian oil and gas industry including marine transport, which inextricably is tied to off shore oil and gas operation.

#### **4.3.4.1 Nigerian Content: Materials and Equipment**

Section 11 requires that the minimum Nigerian content in any project to be executed in the Nigerian oil and gas industry shall be consistent with the levels set in Schedule “A” to the Act. The Section also states that all operators, alliance partners and contractors shall comply with the minimum Nigerian content for a particular project item, service or project specification set out in Schedule A:

Where there is inadequate capacity to attain any of the targets in Schedule “A”, the Minister may authorize the continued importation of relevant items. However, such approval by the Minister shall not exceed 3 years from the commencement of the Act.

The Act does not make provision for an instance where after 3 years from commencement of the Act, there is still inadequate capacity; such a situation would require an amendment of statute.

#### **4.3.4.2 The other relevant provisions in this regard are as follows:**

- Section 28

“Subject to Section 10, subsection (b) of this Act, Nigerians shall be given the first consideration for employment and training in any project executed by any operator, project promoter in the Nigerian oil and gas industry”.

- Section 33

“Upon the commencement of the Act, operators shall make application to and receive the approval of the Nigeria Content Development and Monitoring Board before making any application for expatriate quota to the Ministry of Internal Affairs or any other agency or ministry of the Federal Government. The application shall be detailed and shall include job titles, description of responsibilities, the duration of the proposed employment in Nigeria and any other information required by the Board for the purposes of implementing the provisions of this Act”.

- Section 35

“All operators and companies operating in the Nigeria oil and gas industry shall employ only Nigerians in their junior and intermediate cadre or any other corresponding grades designated by the operator or company”.

- Section 41 (2)

“International/multinational companies working through their Nigerian subsidiaries must demonstrate that a minimum of 50 per cent of the equipment deployed for execution of work are owned by the Nigerian subsidiaries.

#### **4.4 Analysis of National Shipping Policy Objectives, 1987 – 2010**

The main thrust of the study is to examine the implementation of the National Shipping Policy Act in the quest to develop Nigeria’s shipping sector. The legal objectives of Nigeria’s shipping policy can be indicated by: i) increase in the national tonnage/fleet, ii) improving the cargo access and rights of the national fleet and iii) the collateral development of maritime manpower. How has the policy provided for the attainment of the legal objectives and goals? Were they clearly spelt out and prioritized? Are there discrepancies between the agency’s outputs and the objectives? Which agency has been assigned to implement the policy directives and is it the implementation process coherently structured? From the earlier chapters, we have developed a

theoretical framework to help us assess the likelihood of successful implementation. First, we carefully delineated the critical stakeholders that can affect public policy and its implementation process. Thereafter, we outlined the conditions, which are six in number, which if met, could lead to successful implementation. How well the legal objectives fit into these conditions, in terms accommodating their concerns, will determine and affect the implementation process, and the extent of the achievement of these objectives to expect.

Following Sabatier's Advocacy Coalition Framework (ACF), we are also interested in determining the respective interests of members of the coalition in order to examine how harmonious or conflictual they have become over time. For instance, the ACF would help in determining those coalition groups that pushed for the review of the NSPA, 1987 and would interrogate whether they are still galvanised towards attaining the objectives of the national shipping policy. From our investigation of the national shipping policy within the period 1987 to 2010, the underlying objectives have remained the promotion of indigenous shipping in Nigeria. We have put this period in two phases. The first phase spanned from 1987 to 2003 where the legislative instrument for indigenous shipping development was the National Shipping Policy Act, 1987. Our discussion above revealed that the focus of development was hinged on increasing the cargo share of Nigerian national carriers, hence the need to expand its national fleet and develop indigenous maritime manpower. From Chapter Two, the shipping constituency has been mapped to include a wide range of groups and interests that would affect the success or failure of policy outputs. The major policy outputs were, as a later chapter will examine, the introduction of i) cargo control and allocation programme, ii) the establishment of a ship acquisition fund, and iii) the maritime manpower development support programme.

By 1995, the ship acquisition fund had been suspended after terrible abuses and dwindling fortunes both in funding and the acquired tonnage. In 2000, the cargo control and allocation programme had been scrapped, and by 2001, the MV Trainer scheme to support cadet training had become a huge scandal. Arising from these misadventures, there was massive agitation from both industry and larger society whether the NSPA, 1987 was still relevant. The clamour for a shift in policy focus from international shipping to control of domestic shipping was canvassed.

Exercising its oversight function, the Transport Committee of House of Representatives, headed by Hon. Okey Udeh in its Public Inquiry into the MV Trainer Saga, 2002, noted that there was a necessity for the promotion of national tonnage but the emphasis should be turned towards domestic shipping. The enactment of Coastal and Inland Shipping (Cabotage) Act, 2003 was the expression to this industry demand. A further legislative work on the NSPA, 1987 led to the passage of the NIMASA Act.

Why did the NSPA, 1987 which held out so much promises and raised such high expectation fail? And what has been the story of the implementation of cabotage regime after six years? Why has it been slow in attaining those well-canvassed reforms which were expected to rapidly and massively develop indigenous shipping? Why has the restructured implementing agency still been grappling, without much success, the challenge of shipping development inspite of the enormous powers and unambiguous directives? All these call for analysis. To guide our analysis of the objectives and thrusts of the national shipping policy over the period 1987 to 2010, we shall be addressing these issues by first applying the theoretical framework which will subject the legal objectives of the national shipping policy to the test of six conditions. Later, we shall examine the shipping constituency's position in the implementation of the Cabotage Act. The study will also note the possible influence of the newly enacted legislation referred to as the Nigerian Oil and Gas Content Development Act, 2010.

We will recall that the post-colonial Nigerian government was rather not committed to pursuing aggressive national shipping policy. In fact, it took a second round of debate and pressure from the parliament to force down its resolution on government to establish a national carrier in 1959. When it did, the erstwhile cartel that held Nigeria's shipping to ransom were invited as partners and were in fact asked to manage the national line<sup>27</sup>. Meanwhile, the national carrier, NNSL was not granted any special cargo allocation from the then Commodity Marketing Boards whose initial support through assured cargoes would have made a big difference. By 1995, the shipping line had been liquidated. What went wrong? Also in 2000, the cargo allocation programme was

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<sup>27</sup>See Leubuscher account on how Elder Dempster and Palm Line, the two firms that had absolute control of Nigerian shipping were invited to buy into and provide technical support to the young NNSL

cancelled, and again what went wrong? Next, the number of seafarers by 2002 has slipped behind erstwhile smaller maritime nations like Ghana (Asoluka 2003). Whatever number we still had in service was aging such that by 1995, the average age of a captain had jumped over 50 years. Twenty five years down the line the national fleet shrank from 26 ships with over 552,000 Dwt to under 56,000 Dwt. In fact, it is said that Nigerian presence in shipping was stronger in shipping prior to the shipping policy where the national tonnage registered some presence at the ports<sup>28</sup>. Again, what happened to the noble objectives of building a strong national fleet manned by Nigerians with capacity to lift our share of ocean-borne trade? Where was the target missed? First issue, however, is to assess how the legal objectives identified above have been clearly ranked in importance for ease of implementation and evaluation. We shall now analyse the national shipping policy under two phases, which has been demarcated by the shift in policy thrusts. As noted above, while the NSPA, 1987 was directed to the increase national tonnage in international shipping, the Cabotage Act, 2003 redirected attention to coastal trade, referred to as cabotage.

#### **4.4.1 Era of Inchoate Policy Adaptation, 1987 – 2003**

The NSPA, 1987 was an adaptation adventure in shipping policy formulation. It was indeed a belated attempt to domesticate the UNCTAD Code, missing certain crucial details, muddling through a maze of issues but happily ended up, to some extent, with explicit legal objectives and goals of promoting shipping development and export trade. From a wide range of eleven objectives, one finds two critical target groups whose interests could conflict. It was a little bit hasty to assume that the critical concerns of promoting export trade and shipping development would remain harmonious. But they are not always so. Besides that these objectives were not prioritized in any order, subsequent sections apart from Section 3 did not bother on further specifying what the implementing agency should do in terms of promoting trade. Tasks were assigned without clearly stating the purpose such that alot of misinterpretation could arise. Cargo was to be controlled and shared without clearly stating the purpose. As well, ship acquisition was

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<sup>28</sup>See Report of the Presidential Committee on the Affreightment of Petroleum Liquids, 2003

to be supported without specifying how this would be done. Even the training of seafarers and other maritime manpower was to be supported, it was not clear whether it was a duty of the implementing agency or part of a wish-list. The mandates lacked specificity, milestones and timelines as well as clear statement on financing such policy outputs. All this of course would neither help implementation, but also would be difficult to monitor and evaluate. For manageability and specificity, we shall conduct the analysis of what Mazmanian calls the “legacy of the policy formulating stage on implementation process” by treating them under six heads as developed in our theoretical model.

#### **4.4.1.1 Was the NSPA, 1987 Legal Objective Clear and Consistent?**

Were the legal directives clear and consistent such that goal conflict could easily be resolved? For the NSPA, 1987, three of the legal objectives are of interest to the study. This is because they are the indicators of shipping development and it is important to examine them in terms of clarity and consistency. The Act was clear on its objective of promoting shipping development. Some of the sections have already been highlighted. However, it fell short of expressly harmonising some other objectives recognised also by the law, such as the export trade, which strictly could be at variance with the practice of cargo control and sharing. Reasons are obvious. The shipper considers a number of factors before choosing his means of transportation and who to engage. He is conscious of cost, safety and time. Choosing a shipping company for him and imposing such on his business would not enjoy his support. Furthermore, there is no incentive to induce compliance, yet the Nigerian Shippers’ Council (NSC) which is established by law to cater for the interests of the shippers has not been clearly identified by the Act, neither was its assignment or needs subsumed under the NSPA, Act.

Although the Act was unambiguous in establishing an agency, the NMA, to implement the policy directives, but it was not clear on how the NMA should relate with other agencies whose functions overlapped and would affect the implementation of the directives. This ambiguity became very obvious in the steps taken to push aggressively the interests of national carriers at the expense of the exporters and importers, including, whose cargoes were putatively subjected

to NMA's control and allocation. It also assumed that all cargo generators would submit to the directive without some sort of incentives provided to induce compliance. It was also very ambiguous in terms of authoritative decision on which agency has the final say in issue of cargo control. A whole lot of activities was implied but the concomitant power and autonomy was scanty. It did not take a long time for the conflict to explode. By failing to clearly provide how NMA in its pursuit of shipping development objectives should relate with other agencies, it could neither muster sufficient courage to punish non compliance nor defend the wisdom in its approach.

A case in point is the refusal of the NNPC to cooperate with NMA over the involvement of national carriers in the affreightment of petroleum liquids. Although this will be handled later, suffice it to say that NNPC did not even bother to enter into any negotiation with NMA. It vehemently refused to bulge as the two agencies had their different legal mandates and directives which were not clearly harmonised or hierarchicalised. Subsequently, it was difficult to manage authoritatively issues of inter-agency conflicts, co-ordination and co-operation. Put bluntly, we argue that the clearer these directives are and the consistency of the policy outputs with the directives, or the provision of substantive criteria for resolving goal conflicts, the greater is the probability of attaining the goals. Other agencies dealing with public cargo which constituted over 70 percent of seaborne cargo like the Ministry of Agriculture in its massive fertiliser import did not even consider it necessary to liaise with the NMA over issues of shipment. The same case was equally manifest in the Ministry of Power and its project. Compare with the USA's Cargo Preference Act.

Apart from the ambiguity in cargo control, the other objectives of national fleet and manpower development provided more of the bewilderment. It was such a policy "black box" that how funds were to be raised to support ship acquisition remained a mystery. There was also regrettably a deafening silence in terms of shipyard and ship repair support as part of the shipping development initiative. The non inclusion of this subsector raised ambiguity over the real purpose of the so-called shipping development scheme. All over, the foundation of shipping development has always rested on ship building and repairs. How the quest of becoming relevant

in the shipping world without that foundation remained curious as it indeed led to misunderstanding on what to do about developing shipping. This was as well reflected in the objective of manpower development. It needed further divination to decipher how this was to be accomplished, or how the NMA was to engage the stakeholders in general or the nature of obligation it had for developing and supporting the maritime training institutions. It would appear that whatever it did was at its discretion, a kind of favour that did not necessitate any measure, scope or envisaged outcome. Paradoxically, these objectives which were intended to be consistent were so loosely articulated that without timeline, it would be difficult to determine what comes before the other. The cargo right, for instance, presupposes existence of national fleet or tonnage. Where there was no fleet before the exercise of the right, the promotion of export trade suffers as the shipper is subjected to higher costs, risks and delay as his cargo passes from the “national carrier” without ships back to the foreign ships for execution. The ambiguity in the SASBF at Section 13 and the Title XI of the Merchant Shipping Act, 1936, as well as the various outlines subsists.

#### **4.4.1.2 Did the NSPA, 1987 Incorporate Sound Causal Theory?**

The linkage in the legal objectives seems straight forward. By supporting the national carriers with cargo, stable freight is guaranteed which then serves as impetus to acquire more tonnage. As more ships are added to national fleet, the demand for seafarers would rise. This no doubt is anchored around the theory that successful shipping operations are likely to follow if there is cargo assurance and freight stability. The lower the operational cost of a shipowner, perhaps shored up by way of subsidy or other financial support, the more likely the beneficiaries would run a more competitive and profitable shipping business and thus the increase in national fleet. This will over time lead to more plough back and reinvestment in national tonnage, increasing the number and quality of ships in the national fleet. However this theory does not hold in vacuum. Some other conditions are required. First is the existence of shipping entrepreneurial class, not opportunists. The logic has been understood and offers “something” in terms of incentive to other critical target groups. You can’t take a shipper’s cargo by fiat. Neither would

it be assumed that the implementing agency just established would overnight develop such incredible capabilities, influence and assertiveness to efficiently tie up all these uncertainties.

To achieve this objective of the NSPA, the NMA must devise immediately appropriate instruments, manpower, resources, abiding support of the sovereign and above all instant compliance from all the target groups. It would appear that new programmes require to be test-run on a “pilot” scheme and not rushed in such a frenzy that leaves all including the implementers confused. The experience of NMA was perfectly predictable as it “hurried” to use a combination of programmes to support the creation of indigenous shipping entrepreneurs. These were i) the cargo control and allocation scheme, ii) the Ship Acquisition and Ship Building Fund (SASBF) and iii) subventing some maritime training institution and the procurement of a training vessel (MV Trainer). However, the programmes did not bother to state how they were to be used in attaining shipping development objectives. Moreover, none specified in any logical manner and procedure for it could be used to achieve the shipping development objectives. It was to be inferred.

The implementing officials in the circumstance are left to work out the best strategy to adopt, even as we noted earlier such a new agency such as the NMA could be lacking in experience, autonomy, leadership and jurisdiction over other critical agencies, which generated much of the cargoes. Besides these objectives being scanty, vague and presumptuous, the programme could be misunderstood by the target group/beneficiaries who would gladly read into it a sense of entitlement of the national cake for “ship-owners. “The loose provisions only encouraged opportunistic shipping by-standers whose commitment to shipping was as shallow as their understanding of the journey toward national shipping development. There was absence of a tight, implementable coherent casual theory in the type and manner to assist serious prospective ship-owners, and discourage the intruders with sanctions.

The assumption in the cargo support was no longer to create indigenous shipping entrepreneurs who needed initial protection and support, as “infant” national carriers, to be able to compete in international shipping. It rather was loosely interpreted and indeed created and foisted a

patrimonial shipping class and culture where the feeling of perpetual entitlement still pervades till today. First, access to cargoes was politically determined, which gave rise to many “brief case shipping” companies who did not help nurture the industry. The situation provided proof to detractors that alleged that the system was inefficient, corrupt and destructive to the shipping industry. Secondly, the absence of autonomy, strong leadership and control could subject the disbursement of SASBF to political manipulation and abuse. The same game would replay in the short listing, qualification and disbursement of the Ship Acquisition and Ship Building Fund (SASBF) to “beneficiaries,” who thereafter could divert the borrowed funds to other uses. Being defaulters was no big issue because some never contemplated repaying the loans they had taken from the Fund, and could not even be sanctioned. They simply walked away, scot-free and gave the impression they were beyond the control of the regulators. After all it was only their paltry share of the national cake from an ungrateful agency that failed to recognise their special role to the nation!. In terms of the establishment of the SASBF, the causal theory rests on the assumption that subsidizing certain financial costs would reduce operating cost of beneficiary shipping companies, thereby making them more competitive. The basis for this causal link was that the fund would be robust, fungible, revolving and disbursed on strict business criteria but at a subsidised interest rate, hence the availability of “soft loans” to shipowners. However, if the causal link was missing from the start through faulty planning and cumbersome procedure, or lack of rigour in ascertaining that the purpose was not defeated by political and other influences, the entire effort would be in vain.

Such special dispensation like reduced interest rates in form of soft loans to shipping entrepreneurs and enhancing their competitiveness in offering shipping services would not be abused and diverted. Again, in a situation where token approval and support is granted in minuscule, the fund being insufficient for financing desired purpose would be diverted. And some willfully diverted their “share”. It is further worsened when the implementing agency lacks the capacity to appraise and monitor shipping operations and performance. Not only were the officials of the implementing agency not armed with clear disbursement guideline and access to

the fund, the dictation from the political overlords soon turned whatever fund that trickled in to a national cake for the shipping sector.

#### **4.4.1.3 Was the Implementation Process Properly Structured To Enhance Compliance?**

When an enabling legislation assigns implementation function to a sympathetic agency, sufficiently imbued with ample legal and financial base, the likelihood of successful implementation rises. However, if for whatever reasons, this agency is deprived, or deprives itself, of adequate “hierarchical integration”, statutorily mandatory horizontal collaboration, and adequate access to supporters, then the probability of realizing the policy objectives would be reduced, (Mazmanian and Sabatier, 1989:27). It would be further worsened if the agency is new, without tested leadership and clout. In the NSPA, a number of these requirements for sound implementation structure were not even indicated. For example, Section 13, which provided for a fund to be known as Ship Acquisition and Ship Building Fund (SASBF), did not bother with further elaboration or guidance. Rather, the Minister of Transport at his pleasure and discretion would provide the “guidelines”! The Act obviously failed the praetorian test of who guards the guard? Who prevents the minister from sticking his fingers into the juicy pot of SASBF, given that he determined the guideline and approved loan application? Being understandably conscious of the effect of any failed bureaucratic initiative, and the absence of autonomy, the agency would be too willing, and literally would surrender this very important function to the parent ministry to the pains and agony of budding shipping entrepreneurs.

In terms of the recruitment, administrative procedures and control, the enabling legislation did not offer any directive or create a marching technical structure to handle highly specialized duties of promoting shipping development. In the absence of a structured implementation process, rules could be replaced with discretion, personalisation of the process rather than nurturing an institutionalisation process for the agency and its processes. Due to the imposition of bureaucratic control, even in employment and other engagements in the agency, decisions and choices were not based on any ascertainable criteria. The policy lacuna unwittingly could turn NMA into a dumping ground for the “boys”. A survey conducted by Professor Dele Badejo

revealed that the absence of sound recruitment criteria has given rise to a situation where more than 70 per cent of the staff did not have requisite qualifications and they should not have been there in the first place (Iheanacho 2006). It is this tendency that has led key industry members argue that the agency and whatever programme it has for the target group can only succeed “if we manage to substitute professionalism and capacity for mediocrity, cynicism for diligence” (Iheanacho 2006). The consequences are further highlighted in the following.

#### **4.4.1.4 Did NSPA Ensure That Committed Leadership Were Recruited To Run NMA?**

The most critical variable that affects directly the policy outputs of implementing agency is the commitment of the agency officials to the realization of the statutory goals. Two things are entailed. First the perceived direction and ranking of the objectives by the officials is a critical starting point and the officials must have the skills, competence and will to pursue the agreed priority. It is important that legislation should offer a bias in favour of the implementing agency through the powers, attention and choice of officials to head the agency. The head must possess a great deal of leadership, combining both political skills with managerial acumen. She must have the network to penetrate critical bases of support, yet must stand on a strong performance platform. In the words of Mazmanian and Sabatier (1986), political skills “refers to the ability to develop good working relationships with sovereigns in the agency’s subsystems, to convince opponents and target groups that they are being treated fairly, to mobilize support among latent supportive constituencies.” Continuing the duo restate that, “Managerial skill involves developing adequate controls so that the programme is not subject to charges of fiscal mismanagement, maintaining high morale among agency personnel, and managing internal dissent in such a way that outright opponents are shunted to noncrucial positions” (Mazmanian and Sabatier, 1986; 35).

As we earlier observed where the situation structured by policy was slim and guidelines scantily provided, the only way to provide remedy for the deficient institution would be by a leadership and officials who must be highly innovative, bold and focused. This was far-fetched as the headship of the agency had become an endangered: where in 16 years (1987 to 2003), they have

had eight (8) chief executive officers, styled as Director General! Apart from tenure instability, there has been no special qualification required to head such a specialist promotional and regulatory agency<sup>29</sup>. In a situation where the agency headship owed his position to a “godfather”, the organisation suffered multiple jeopardy. It would always take “orders from above” and externally regardless to whatever negative impact they could have on the organisation and personnel. As morale, trust and loyalty suffered, the agency was thrown into disarray and camps, where internal rancour, sabotage and survival would displace original goals of the organisation. It would, and indeed was not be out of the question to see staff deliberately working against corporate interests and objectives.

In the absence of explicit and specific guidelines provided by the NSPA, 1987, the agency would need perspicacious and skilful leaders to motivate and steer it in the right direction, meandering successfully through the choking grip of political interference. However, the opposite was the case as NMA always succumbed and even “encouraged” political interference; it also created bureaucratic inertia where officials were not sufficiently confident to exercise the slightest initiative lest they would be made to pay dearly for any perceived error. A fall-out of this phenomenon was rampant policy adaptation failure. An instance is apposite here. Before the enactment of NSPA in 1987, it had become evident to shipping experts that a number of frustrating issues including a boiling contextual and implementation conflict between the EU and West African States had arisen. Meanwhile, from the experiences of the region’s shipping early risers such as Ghana, Cote d’Ivoire and Cameroun that by 1975 domesticated and commenced implementation of the UNCTAD Code, it was crystal clear that the great expectation of shipping development raised by the Code would not be easily realised. First it was not going to be accepted by the developed maritime countries. Second and related to the growing hurdles put in its course, the implementation by the emergent maritime states would require sound knowledge of international shipping, leadership, skill and political will to succeed. To say the least, the implementation of NSPA from inception had run into troubled waters, dashing expectation of shipping development. Why did NSPA coming so late in the day fail to learn from the lessons of

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<sup>29</sup>See the NSPA, 1987; sec 13.

the other countries by addressing the already observed challenges? Why was the design and expectation of its legal objectives so reliant on the UNCTAD Code without taking into cognizance local conditions and international realities, and the need to charter a pragmatic course for successful implementation? Why did it fail to study and adapt already proven approach charted by the examples of South Korea, Malaysia and even India's shipping "Golden Era"?

For a start, the NSPA objective coming when it did in 1987 was not reflective of the emerging trends, locally or internationally. Nigeria lacked the tonnage, the personnel and even political courage to push for such lofty legal objectives as enshrined in the so-called 40:40:20 formula. On a scale, the interests of Nigerian shippers as actors in its external trade ranked far above and indeed were more paramount than those of prospective ship-owners who were yet to be identified. It further overreached itself in appropriating the control of other cargoes outside the liner shipping arrangement. It was not all. By 1983 when most EU countries had ratified the Code with reservation, it was very clear that the issue of forcing a maritime regime change implicit in the Code would not materialize without a fight. Why did NMA fail to concentrate on certain identifiable public sector cargo as abundant as they were in comparison to private sector cargo? Why did NMA totally fail to cultivate and build strong alliance with other sister agency for a workable timeframe? Why did the agency refuse to apply even its statutory power of sanctions as provided by the law? All this had to do with leadership and managerial competence. This variable would further be explored later in the study.

#### **4.4.1.5 Were the Programmes Proposed By NMA Actively Supported By Organised Constituency Groups and Sovereign Throughout the Implementation Process?**

Mancur Olson while studying the compliance behaviour of Americans poignantly demonstrates that such choices as whether to comply or not relate to individuals' assessment of the relative costs and benefits to them arising from such directives. As we have noted earlier, when Nigeria passed the NSPA legislation, it stuck out like a sour thumb dripping with poorly adapted provisions during the implementation process. It was as if NSPA was cast in the cloud, idealistic and crisis-prone and its implementing agency was too busy with crude inchoate measures

which rather than resolve conflicts, deliberately went out in search of controversies. In terms of cargo support, it crossed beyond the bar of the Code that restricted intervention to liner shipping and moved over bulk cargoes or tramp shipping. Meanwhile, Nigeria did not have enough vessels to even lift liner conference cargo, nor were the vessels as efficient as those of the cross-traders or even the shipping consortia. Yet the NSPA without reservation pushed on to all imaginable total cargo capture, including both liner and bulk tramp cargoes.

Of course, one implication was that apart from the emergent “rentier class of shipping vultures”, not many supported the activities of the corruptible Cargo Allocation Committee. The policy makers at NMA exhibited poor policy conceptualization and absence of technical knowledge in the dynamics of global shipping. The absence of a sequential implementation approach in the shipping arena created more muddiness than clarity. While inter-agency coordination in a frontier-minded bureaucracy as we have in Nigeria was quite an uphill task to overcome, to control private sector cargoes therefore was indeed a pipe-dream. The case of the failure of Nigerians to participate in lifting Petroleum liquid remains a classical illustration. Though Nigeria’s crude can be described as public cargo, its management and control was far beyond the authority of NMA. Still, the absence of clarity set the shippers against ship-owners as their interests were diametrically opposed to each other. Whereas safety, speed and cost were vital success factors in import and export transactions, the ship owners’ desire to control and carry Nigeria’s share was to say the least far away from speed, safety and cost. This was rampant as in the story of the administration of cargo allocation programme. From every indication, all the major constituency groups including the ship-owners did not have any kind words<sup>30</sup>.

The operations of SASBF was not different. It became such a huge scandal, that the taunted purpose of increasing the national tonnage infact recorded a phenomenal decrease. The provisions that created SASBF without identifying the sources of funding was at best a vacuous provision which was not intended to achieve results. For the scheme to succeed, it would require steady flow of funds from identified and identifiable sources, not exposing the fund to the

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<sup>30</sup>For discussion of the MV Trainer House Investigation, see House Committee on Transport Report of March, 2001 (Unpublished)

discretion of political interests. The absence of clear provision for determining beneficiaries and disbursement rendered the fund to political control, abuse and manipulation<sup>31</sup>. This was exposed in the management of the erstwhile SASBF, which was stopped in 1995.

In terms of training, the Act failed to create a duty for NMA to fund certain institutions to be charged with manpower development. Again, this lack of clarity was clearly made manifest when the implementing agency moved across borders to serve as a regulator, a promoter and indeed a participant in shipping. A case in point is the MV Trainer Saga<sup>32</sup>. In the matter of public sector cargo, which government could truly claim to be the cargo generators so could decide who to nominate to lift its cargoes, the inclusion of private sector cargoes was a grave error. It was foreseeable to see the gathering storm of opposition, strong and hurt enough to wage an internecine war against the agency. A survey on the aim of each of the cardinal programmes administered on the staff revealed that a good number did not even understand what the programmes were intended to achieve (Ake 1996). Yet, they were expected to play a major coordinating role if the programmes were to be successful. Again, it sought to systematically control “the mechanics of sea transportation” without seeking to control its coastal transportation! Nothing can be farther than a “systematic control” than seeking to control from the top. The vicious circle continued. Indeed, inadequate causal theory would become the bane of successful implementation of the otherwise laudable programmes. The loss of major constituency had become so glaring that President Olusegun Obasanjo in 2003 declared that, “for decades, it (maritime industry) became characterised by under-performance, inefficiency and uncompetitiveness and corrupt practices” (Igbokwe; 411). The lessons from above comments remain that before key decisions are made and imposed, it would be necessary to consult the critical stakeholders. Taking their views into considerations leads to a feeling of inclusiveness, and it becomes easier to ensure necessary buy-in and support for the programme. This provides the reasons why people would like to comply because the decision has taken account of their interests.

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<sup>31</sup>See the survey analysis, annexed as appendix 2

<sup>32</sup>See the Coastal and Inland Shipping (Cabotage) Act, 2003

#### 4.4.1.6 Have the Changing Socio-economic Conditions Affected the Policy Objectives?

Even before the enactment of the NSPA, as we have noted before, the expectations of a new maritime order that would adequately involve developing countries had substantially been watered down. The line was drawn between the developed and developing countries. How prepared was the Group of 77, especially highly dependent West African countries to stand in opposition to their erstwhile colonial masters and “benefactors” was yet to be seen. Inevitably, not only were these developing countries retreating from protectionism, the hammer of sanctions by the EU had already been lifted to smash any erring West African country bold enough to hold unto cargo control and sharing practice. In Nigeria, the government which on the one hand promulgated the NSPA in 1987 had at the same time yielded to the pressure of economic reforms sponsored by the developed liberal economies led by the so-called Washington Consensus. The effect was the introduction of a reform programme styled as Structural Adjustment Programme (SAP). The objective was to reduce public sector involvement in the economy through privatisation and, at the minimum commercialisation of hitherto government-run services. It was quite clear that if the objective of shipping development would be sponsored and pushed by the state, it would go through a hard time. The national economic agenda and discussion have changed and tilted towards neo-liberal economy and reliance on the “market forces.”

In the circumstance, apart from poor financial backing, the support of the sovereign was no longer to be taken for granted, especially whenever they clashed with the new philosophy of liberalism. In addition, the shipping industry was witnessing a major market shift from the dominance of conference liner shipping to the rise and control of the shipping consortia, joint pooling and the independent shipowners. The ship technology was as well being transformed to a containerised cargo delivery system and intermodal transportation concept<sup>33</sup>. These innovations raised the financial bar that definitely created huge funding challenge for national carriers, especially those from the developing countries who needed to build new ship with the modern gadgets and technology. Infact, there was a total failure by the policy makers to grapple with the unfolding scenario in the socio-economic condition even before they had enacted the NSPA,

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<sup>33</sup>Lord Acton; [www.powercorruptsabsolutely.com](http://www.powercorruptsabsolutely.com)

1987. Worse still, more challenges arose from the industry such that the implementation process was affected.

#### **4.4.2 Policy Activism and Systemic Crisis, 2003 – 2010**

The reality that the policy misadventure of the NSPA, 1987, which was typified by poor adaptation, sweeping assumptions and infantile implementation process that focused on the objective of launching Nigeria into international shipping without solid domestic base, had become unrealisable even before 2001. However, the final requiem was sang in 2001 with the final abrogation of the cargo control and allocation scheme. As a matter of fact, the Transport Minister did not mince words in his objection to the programme as he justifies that, “it is imperative that Nigeria should pursue policies that are consistent with the government belief in competition, privatisation, deregulation and a market-driven economy” (Igbokwe, 2006; 267).

Hon. Okey Udeh summarises the view that the policy was misconceived and ill-fated as he logically restates that, “we believe that the focus (national shipping policy) should have been in domestic shipping rather than the attention that is given to international shipping because Nigeria as a country has all the ingredients that would have made this (cabotage) approach work.” Presenting his reasons as well for emphasis, he argues, “if you look at NMA and its operations arithmetic, it is just like an organisation out for international achievement without paying attention to domestic shipping. So based on these, we arrived at the conclusion that maybe our maritime policy was built on a faulty foundation” (Igbokwe, 2006; 268). In a nutshell, the failure of NSPA, 1987 was principally blamed on the pursuit of an illusory policy objective of launching into international shipping without adequate support, experience and learning curve acquired from domestic shipping, putatively easier to manipulation in terms of developing national tonnage. Once more the “solution” was found in the institution of a cabotage regime for the development of national shipping. How founded this position is will be the subject of the following sections.

#### **4.4.2.1 Cabotage Regime, 2003 – 2007, Crawling Before Walking**

Our analysis in this section will be guided by the Advocacy Coalition Framework (ACF) for a number of reasons. We shall use it to understand the issues and determination of the cabotage subsystem. In addition, it will guide the study in assessing the support for the policy and further interrogating whether such support could be maintained over time in order to help realise its objectives. The issues in the shipping (Cabotage) subsystem basically take two forms - the core policy issues and the other some secondary aspects or attributes of the policy. The other category referred to as the deep core belief system transcends across subsystems in the economy and can hardly be changed or altered within the shipping subsystem.

The issues listed above from our review were mostly operational, which are decisional instruments designed to affect the realization of the policy goals. While these could easily be altered over time, it has equally been noted that those with impact spanning across policy subsystems may not be so easily changed or altered. For example, certain instruments developed by NMA may require the cooperation of NNPC and other agencies for successful implementation. Besides, some issues have been identified as core policy issues which could as well pose problems given the numerous coalitions in the shipping subsystem.

##### **4.4.2.1.1 Intended Objectives and Benefits of Cabotage Legislation**

Like the earlier NSPA, 1987, the objective of the Cabotage Act is to promote “the development of indigenous tonnage” by establishing “a Cabotage Vessel Financing Fund” (CVFF). However, unlike the NSPA, it does so by restricting “the use of foreign vessels in the domestic Coastal Trade” in order to create a captive market and operational turf for indigenous shipping companies. For emphasis, Dr. Abiye Sekibo, former Minister of Transport, asserts that “the cabotage regime intended in this scenario is one of opportunities for economic empowerment and capacity building in areas of tonnage (vessels), human resource development and thus local content building and advancement” (Igbokwe, 2006; 413).

By 2003, the Coastal and Inland Water (Cabotage) Act was passed into law. The Act, as clearly introduced by the legislation, is “to restrict the use of foreign vessels in domestic coastal trade , to promote the development of indigenous tonnage and to establish a cabotage vessel financing fund, and for related matters”. The Act is therefore to achieve the following objectives:

- To seek to create a captive market in the domestic shipping trade for the Nigerian indigenous shipping community.
- To act as catalyst in the systematic development and capacity building in the indigenous shipping trade.
- Stimulate indigenous capacity growth in composite industry sub sectors such as:
  - (a) Shipbuilding
  - (b) fleet acquisition and financing
  - (c) ship operation
  - (d) ship management
  - (e) Shore and on-board manpower development etc.
- Stimulate gradual and systematic building of critical indigenous infrastructural mass in the marine sector.
- Assist in the systematic growth of the Nigerian flagged vessels.
- Create domestic freight market security for indigenous carriers.
- Provide phased and systematic disengagement of foreign interest from domestic shipping trade.
- Prevent socio-economic dislocation occasioned by the current domination of the domestic shipping trade by foreigners through:
  - end to capital flight
  - employment opportunities for Nigerians
  - Skills acquisition.

#### 4.4.2.1.2 Anticipated Benefits

Like the U.S. Jones Act, the Nigerian equivalent Cabotage Law has no realistic alternatives in ensuring that Nigerian shipping interests are protected. In considering the socio-economic benefits of the Cabotage policy, studies indicate that just the offshore support service component of the Nigerian Cabotage trade could present dramatic impact on the Nigerian economy. Some of these are as follows:

#### 4.4.2.1.2.1 Promotion of the development of indigenous tonnage

The desire to build national tonnage based on a systematic approach of controlling the domestic shipping, moving on to regional and deep ocean shipping has been considered to be beneficial to states, developed or developing for a number of reasons. First, the wide range of economic benefits that accrue from national fleet include employment, revenue, trade competitiveness and freight stability, and economic diversification and deepening. In addition, it plays crucial roles in terms of emergency situations, reduces the risk of isolation in case of crisis within the country when foreign ships would naturally pull out, and attendant high insurance costs, for rescue and defence purposes. In order to position Nigeria's shipping development, the Cabotage Act has offered to shipowners and prospective entrepreneurs solid incentives in the form of:

- a) Cargo Support – this is a critical factor in shipping business and operations. Ships are capital intensive investment and the ratio of the fixed cost component is very high. The implication is that once a ship is acquired, a considerable amount of capital outlay is pumped in regularly whether or not the ship is employed. These costs include salaries for the captain, officers and crew maintenance, the bunker cost, insurance cost and cost of servicing loans and even the cost at the harbour for using the berth! Cargo support therefore assures regular employment and income so that the ship remains afloat. The Act also has been expansive in the scope of the cargo support. It includes reserving cargo and passengers in coastal shipping to indigenous tonnage, barring foreign vessels from towage and salvage activities unless in specific circumstance. At the same time the restriction of foreign vessels in Nigerian waters extends to the Exclusive Economic Zone of Nigeria, which is about 200 nautical miles beyond its territorial waters. The

Act by enhancing the viability of cabotage shipping investment is indeed a tonic towards shipping development in Nigeria.

- b) Financial Support for Ship Acquisition – the Cabotage Vessel Financing Fund (CVFF) is structured to offer financial assistance to existing and prospective investors in shipping. The guideline which involves designated banks as primary lending institution provides not only access to finance but at reduced costs and improved tenure. By the provision of “soft loans” through a revolving loans scheme, the problem of vessel financing and operations would be reduced. The sources of funding has been identified and it is regularly replenished. Together with the Maritime Fund, the implementation of CVFF will encourage and enhance the development of indigenous tonnage.

#### 4.4.2.1.2.2 **Freight Earnings and Other Revenue Sources:**

At an estimation of about 1,000 vessels deployed in the offshore oil support services sector with over 700 voyage frequencies, the freight earnings are well over US\$2,000,000,000 (Two Billion US Dollars). This trade exists with greater prospect with the international attention turned from Middle-East to oil activities around the Gulf of Guinea. This invariably represents a huge foreign exchange drain on the economy, which could ordinarily be saved under a national Cabotage law. Besides foreign exchange conservation, the Act is also to be source of revenue generation for the local shipping industry. It provides for a range of fees for granting waivers to foreign ships participating in coastal trade, fees for registration of cabotage vessels and a 2 percent charge on all cabotage contracts. The implementation of the Act will be a revenue boost to the federal and states, as well as the local shipping industry.

#### 4.4.2.1.2.3 **Ship Building:**

The Cabotage Law is expected to boost local shipbuilding activities since it is expected also that vessels to be deployed must be built in Nigerian shipyards that can provide such facilities. Taking into consideration the number of vessels deployed capable of being built in Nigerian

shipyards, it is estimated that such shipyards are expected to earn well over US\$1 billion over five years period. This will ensure a stable investment for the local shipyards and ship-owners.

#### **4.4.2.1.2.4 Employment and Capacity Building**

The current state of seafarers and navigators in Nigeria is unhealthy. From the study conducted by Oyeshiku and Chidi (2003), it is depressing that as at 2000, most of the 1279 officers and seamen trained under the auspices of NNSL are retired, aging or dead. Those who are still active are very few. But ships rely on trained personnel who are constantly required by both Flag- and Port- State requirements to stay in form. Not only have countries like the Phillipines and India shown that such services do provide a good source for foreign exchange earning, studies (Ekwenna, 1999 etc.) have shown that developing countries do have a competitive edge in the supply of these kinds of services. The 2000 list of world seafares reported that Nigeria has about 2875 officers and ratings as against Ghana's 8897 (1897 officers and 7000 ratings) and The Phillipines leading with 230,000 (some 50,000 officers and over 180,000 ratings). With the restriction of cabotage cargo to ships registered in Nigeria, the implication is that the rising number of ships under the Special Register means a corresponding rise in the dmand of Nigerian seafarers. By resticting cabotage vessels to be manned by Nigerians, the Act has created strong incentives for manpower developement in Nigeria.

With a conservative estimate of 15 crews for a conventional Cabotage vessel, employment creation is estimated at over 15,000 for all categories of seafarers, and well over 30,000 direct labour on-shore employment. The tax income at an average of ₦20, 000 per annum translates to over ₦300 million.

#### **4.4.2.1.2.5 Competition**

The Cabotage Law will undoubtedly encourage local competition, a prerequisite for robust and effectiveness trade.

#### 4.4.2.1.2.6 **Economic Reintegration and Boost:**

The development of local shipping industry will not only induce ancillary maritime activities but will also increase the level of activities and operations in banking, insurance and shipyards. It will create demand for seafarers, maritime manpower training institutions and attraction of solid entrepreneurs whose innovation, guts and “midas touch” will transform the shipping sector, just as they did to the nation’s telecommunications industry. An example from Malaysian experience is illustrative. Its coastal fleet has grown by leaps and bounds since 1990 with a total tonnage of just 500,000 grt to a choice modern fleet of over 900 ships of over 386,000 grt, 63 chemical tankers of over 467,000 grt, running to a total tonnage of over 1.4 million grt in 2000 (Igbokwe, 2006; 293).

#### 4.4.2.2 **Analysis of the Legal Objective of the Cabotage Act, 2003**

According to Hon. Okey Udeh, the major reason for enacting the Cabotage Act was the recognition of the failure of the NSPA, 1987, which was blamed on “faulty foundation of pursuing international shipping rather than building domestic shipping” (Igbokwe, 2006). After six years of cabotage, it would appear that the situation has been much the same. There is therefore the need to investigate why the high expectation of cabotage regime has, like the NSPA before it, witnessed a delayed commencement to the fury of shipping subsystem. We embarked on press review, and focus group discussions to seek the opinions of the shipping constituency. We have identified some degree of consensus on the probable obstacles to successful implementation process of Cabotage policy. We shall use our modified Advocacy Coalition Framework (ACF) together with its implications which suggests that we must first understand and analyse how these teething problems have continued to challenge the smooth take-off of the policy. The following section will analyse the following core issues:

- i) **Funding:**– the Economic Reforms Programme of government captured as NEEDS is steadily de-emphasizing the role of government in business, including reduction or removal of all forms of subsidy. The request for a reintroduction of SASBF or government contribution would not be viewed as being consistent with the NEEDS. The

approach adopted by government is for a government-led but private sector driven economic engagement. Cabotage subsystem is considered a subset of the overall economic reforms.

From the ACF hypotheses, the implementation of Cabotage programme is dependent on additional government funding, apart from the CVFF, would continue to experience difficulties based on the divergence between this need and core policy issue of economic reforms. Changes here can only arise from the intervention of the sovereign and the right calibre of leadership at the NMA, combining political sagacity with knowledge, skill and competence to build and maintain at least subsystemic support. Secondly, the ACF advises that where failure or loss has occurred earlier, street-level bureaucrats, like the botched programmes of NSPA at the NMA in this instance, will be conservative and moderate in programme design and implementation. There is a palpable reluctance to venture into uncertain weather. As it is held in common parlance, “once beaten twice shy” and the need for caution in order to “save one’s neck” and career. Applied to this case, the failure of SASBF will continue to influence, indeed haunt, the eagerness and forthrightness of bureaucrats at the agency to dispense from the CVFF. The role and form of financial support NMA will be willing to extend to the shipping operators will be conditioned by past experience, and such review and caution may go by the ACF delay implementation.

Another coalition group that could resolve the financial issue is the banking and other financial institutions. This coalition will support shipping so long as its core interests including profit and viability of investment are guaranteed. It does neither charity nor does it have obligation to forsake its core policy for shipping development when there are other sectors with brighter prospects and higher returns. Against the background of the average operator whose core policy expectation is that government must play a key role in supporting shipping including financial assistance, it appears that there are divergent interests of these coalitions in the subsystem. Without a resolution of these divergent core interests and expectations, it is not likely to surmount the funding obstacle so easily.

Banks will continue to expect as a minimum that their major concerns regarding the riskiness of ship loan as well as a commensurate interest rate for the degree of risk prevailing in the industry. Meanwhile the shipowners want both easy access to loans and at reduced rate to become competitive and capable of growth.

However, the shipping operators could aim for a grand mobilization of public opinion and formation of a grand alliance, which can set a national agenda and compel the party in power to listen to its demands. Because this would require rigorous planning, extensive network and formation of formidable critical mass, it is doubtful if this very implementation hurdle can be scaled over easily. On the other hand, such change could arise at the expiration of the present administration. A mid-ground, however, is to sufficiently sensitize the bulk of shipping operators to begin to align with government reforms posture and seeks to restrict their demand to the logical application and disbursement of the money, which has accrued in the CVFF.

- ii) Inter-governmental coordination and Access to Cabotage Contract Issues:— the frontier mind-set of government agencies and departments creates little room for meaningful cooperation and coordination. None would gladly lose power and relevance to another for logical and selfish reasons. These issues transcend the shipping subsystem and, following the ACF, the absence of hierarchical integration of the agencies whose functions overlap, would require a higher authority to order collaboration, cooperation and cause coordination among these agencies for smooth policy implementation. So far, the initiatives to forge a working relationship between NMA and NNPC subsidiaries are still at the level of planning, some thirty months after the Act has been in force. Moreover, the other coalition groups, especially the major oil companies engaged in off-shore exploration and production activities would not be willing to put their operation in any form of jeopardy, or terminate a successful business interest/relationship. There has to be some kind of incentive or sanction. Again, given the sensitivity of oil to the nation's economy, would the sovereign have the political will to sacrifice steady oil operations just to promote indigenous shipping companies? It is a matter of political priority and in

the absence of clear directives by a sovereign whose core interest overrides these coalition members, Cabotage interpretation would continue to mean different things to the different groups in the Cabotage subsystem. The implementation process can identify engagement strategy with other agencies but definitely would entail more involvement of a higher sovereign.

- iii) Fiscal Incentives:– The fiscal incentives sought by the shipping operators’ coalition to smoothen effective take-off of Cabotage programme are not provided in the Act and would require amendment to the Act. Meanwhile, this amendment would affect the core interest of other policy subsystems, particularly the Federal Inland Revenue Service (FIRS), and Nigeria Customs Service (NCS), and the overall revenue target of the Federation Accounts, hence the involvement of Revenue Mobilization, Allocation and fiscal Commission (RMAFC). Without intensive mobilization of public opinion and extensive lobby, the policy status is unlikely to change soon. Evaluation of implementation progress is for policy review and such may be hinted by the implementing agency but the final say lies outside the control and determination of NMA or the Federal Minister of Transport for that matter. Consequently, implementation of Cabotage policy based on fiscal incentives requires more political horse-trading than the role of implementing agency.
- iv) Modalities For Cabotage Implementation/Enforcement:– The demands here are largely administrative, and as such fall within the class of secondary aspects of policy. The pressure placed on NMA to engage the stakeholders more is in order. The shipping operators input here is more likely to cause changes in guideline on waiver, scales of non-statutory fees and collection method. The request to establish a private sector monitoring group is still part of the secondary aspect of Cabotage policy and can be treated at the ministerial level. Other suggestions, which include the computerization of the ship registration process, public enlightenment, and engagement with the operators are within the domain of the implementing agency. At the level of NMA, the issue of manpower

training can be addressed while the minister may be involved in extending financial support to MAN, Oron for seafarers' development.

- v) Shipbuilding:– The third requirement of the Act provides that Cabotage vessels should be built in Nigeria. However, there are few local shipyards. For full benefits of the policy in terms of job creation and industrial development, suggestion was put forth for support by extending generous incentives to investors interested in shipyards and shiprepairs bays. This has a hybrid policy implication- part of it could be classed as core policy issues like fiscal incentives while another part can be addressed administratively by proper design of enforcement mechanism within NMA. Operators' issues as well can be taken at both levels for remedy.

#### **4.4.3 Adjusting Organisational Technology - The NIMASA Regime, 2007 – 2010**

By 2003, it would appear that the obstacle to shipping development was due to the choice of international shipping approach, as provided in the NSPA's adaptation of the UNCTAD Code. Consequently, a legislative review was considered crucial to redress the "faulty foundation" of the NSPA. Of course, the choice of cabotage commanded massive support far beyond the shipping subsystem although vehemently tackled by the foreign shipping and oil/gas interests. Besides, there was the force of logic backed by the success stories of both "developed and developing countries" who have used this approach to develop their indigenous shipping industry. Relying copiously a comparative review, the United States of America, Greece, Argentina, Malaysia, Australia and Newzealand to mention just a few have instituted one form of cabotage regime or the other.

However, it was as if Pressman and Wildavsky (1984; 35) were prosiac about what in the mid-term became the case with the much regarded shipping development elixir, the Cabotage Act. They observe that, most often "officials had thought that designing the innovative policy, committing funds, and obtaining initial local agreements were the most crucial parts of the programme, the implementation of the programme proved surprisingly difficult". By 2007, the shipping issues were just as unsettled as they were in 2003. At least it now rested the speculation

that the shipping development problem was not only due to the issue of objectives and goals. More issues were involved other than the presumption that once a policy has been well crafted, directed and designed, then the smooth implementation process would follow.

The NMA had once more failed to deliver the cabotage promises! Therefore, the legislative surgical knife must be applied once more. For once, there was compassion on the policy per se. But the problem was the implementing agency! It has to rechecked, double-checked and remoulded. Hence the enactment of NIMASA Act 2007, which has merged National Maritime Authority (established in 1987) and former Joint Maritime Labour Industrial Council (JOMALIC) to create a single merchant marine regulatory agency named Nigerian Maritime Administration and Safety Agency (NIMASA). Consequently the Act establishing NIMASA explicitly provided in its short title not only a new focus but also a stronger agency “to provide for the promotion of the Maritime Safety and Security, protection in the Maritime Environment, Shipping Registration and Commercial Shipping, Maritime labour, the Establishment of Nigerian Maritime Administration and safety Agency and for Related Matters.” It is now envisaged that the agency would superintend the implementation of the National Shipping Policy; Nigerian Merchant Shipping Laws; Nigerian Maritime Labour Policy and the Cabotage Law, with a view as to the systematic development of the Nigerian Maritime Sector. Indeed it is a measure of the comprehensive and far reaching expectation of government from NIMASA that its mandate was clearly and succinctly captured in Part IV Section 22 of the NIMASA Act 2007 to reduce interagency squabbles and build a viable implementation synergy in the NIMASA.

#### **4.4.3.1 Objectives and Key Functions Relevant to the Study**

In spite of the very expansive functions stated in its title, the objectives seem straight forward. Section 1(1) specifically states that the objective of the agency shall be to:

- (iii) Promote the development of indigenous commercial shipping in international and coastal shipping trade; and
- (iv) Regulate and promote maritime safety, security, marine pollution and maritime labour.

Some of the key functions of the agency relevant to the study are set out in section 22(I)(a), (c), (d), (j), (k) and (l), the last two being to “develop and implement policies and programmes which will facilitate the growth of local capacity in ownership, manning and construction of ships and other maritime infrastructure”; and (l) “enforce and administer the provisions of the Cabotage Act 2003”. The import of these sections is that shipping development has become better defined than in the NSPA. NIMASA is clearly assigned the promotional tasks of ensuring the emergence of a national fleet for both coastal and international shipping. Reading sections 36 and 37 together, the position of section 18 of NSPA is not only reinforced in terms of cargo support and carriage rights of Nigerian carriers. Section 36 is reproduced below:

- (3) The national carriers shall have exclusive right to carriage of export and import belonging to the Federal, State and Local Governments, including Federal and State owned companies and agencies.
- (4) The Agency and the Federal Government shall, from time to time, issue guidelines on incentives to be granted to Nigerian shippers other than parties under the subsection (I) of this section who employ national carriers for the carriage of cargo.”

NIMASA Act is section 37 reserves at least 50 per cent of carriage rights in respect to liquid or bulk cargo to national carriers as well as technical assistance cargo. Subsection (4) unambiguously restated that “cargo support shall cover the totality of available trade, including bulk dry and liquid cargo.” Subsection (6) further directs the Agency to determine an efficient strategy for the participation of national carriers in the carriage of crude and petroleum product to and from Nigeria.

One other significant provision is the establishment of a Maritime Fund for the purpose of rendering financial support to the quest of shipping development (See Section 30).

In spite of enactment of the NIMASA Act, 2007, issues have yet again been raised about the state of shipping development in Nigeria. It would now appear that far beyond policy direction (Cabotage) and agency power (NIMASA Act), there were still far stronger variables influencing shipping development and they are yet to be properly treated. As Iheduru points out, “Nigeria

has seen nearly two decades of rhetoric about changing its shipping regime by legislating development of a merchant fleet” (Iheduru, 1996; 218). Yet there is considerable evidence to suggest that not much has happened in terms of achieving the legal objective of shipping development as orchestrated by the national shipping policy from 1987 to 2010. Before discussing some of the evidence, it is appropriate to take a critical look at the NIMASA, Act’s objectives.

#### **4.4.3.2 Analysis of the NIMASA’s Objectives and Key Functions Relevant to the Study**

Like we did in the analysis of the NSPA 1987, the improvement of NIMASA Act in refining the objectives and key policy thrusts will be examined here in order to determine whether these changes, if substantial, are enough to deliver the stated goal to develop Nigeria’s shipping sector. Applying the same framework, which guided our analysis of the objectives and thrusts of NSPA 1987, we shall be addressing six issues or conditions. For instance, if the changes introduced by NIMASA Act analysed with the aid of our model have recorded some improvement in terms of the modification of certain variables or conditions and the implementation process of objectives of the Act prove more successful, then it will give greater strength to the view that those variables so modified strongly influence shipping development in Nigeria.

On the other hand, if the modified Act has satisfied these conditions but the implementation process of the shipping development objective is yet to be achieved or remains slightly affected or unchanged, then we may conclude that though these variables may be important but they do rank lower than those other variables or conditions which were not sufficiently addressed by the Act. In other words, we are examining how much the NIMASA Act has responded to or has addressed those conditions, which were used in the analysis of the NSPA, 1987.

##### **4.4.3.2.1 Clarity and Consistency**

The unsuccessful attempt to develop shipping from 1987 to 2003 by using the NSPA, 1987 was blamed on certain variables including the allegation that the policy objectives were unclear and inconsistent. Examples included the ambiguous definition of shipping development in a manner

that created doubt on the status of domestic shipping. It was also claimed that it was not clear and consistent to rest Nigeria's shipping development on the UNCTAD Code which did not provide certain clauses found in NSPA, such as control of shipping operations outside the liner shipping and the unilateral proclamation of cargo reservation in the tramp shipping market. Other issues were the lack of definitiveness and prioritisation on seeming conflicting goals, the agency hierarchical integration, which at the minimum would provide substantive criteria for resolving goal conflicts. In terms of the objective of cargo support, the priority of international to the neglect of domestic shipping including cabotage trade was seen as unrealistic and unattainable. Suffice it to say that many stakeholders blamed the national shipping policy as in NSPA1987, as grossly ambiguous, unclear, inconsistent and incoherent.

The Cabotage Act addressed some of these issues which by incorporation could be deemed to be part of the NIMASA as institution, since Section 30 of the Cabotage Act and the pronouncement of the Minister of Transport proclaimed the agency as the "enforcement unit" of the Cabotage Regime. First, the Cabotage Act refocused the pivot of shipping development to domestic shipping, against the very unwise step of excluding exploiting natural "home" advantage in the wild-goose chase of "playing big" in international shipping. The least would have been to aim at the international arena but the "practice pitch" should be the home front. More so, no specific sources of financing were identified for the so-called fund (SASBF) for ship acquisition mentioned in NSPA section 13, and there was no mandatory percentage affixed for such purpose. It was also noted that the exclusion of shipyard development from the NSPA created a void in the foundation of the proposed shipping development of Nigeria. The Cabotage Act and the NIMASA Act cured these ills by generously providing for a "Cabotage Vessels Financing Fund (CVFF)" with clear sources of funding as in sections 42 – 45. In addition, the NIMASA Act at Section 30 provided for a "Maritime Fund" expressly for the development of shipping in a more holistic sense.

One more objective which was mentioned but not clearly spelt out was manpower development. It not only failed to clearly the target and elements of such development but also neglected to define the role, duty and commitment to be made by NMA, as the implementing agency. To

stakeholders, therefore, NSPA failure began from its formulation, so there was need for amendment. The NIMASA Act has to a large extent filled these gaps and addressed specific issues. No doubt, the objective of NIMASA Act from section 2 of the Act has been clearly spelt out in favour of shipping development. It has also established a Maritime Fund and specified how it would be financed.

For manpower development, it has created a duty of certification of seafarers and regulatory functions, domiciling both Port State and Flag State duties in NIMASA. It has as well provided that 5 per cent of the accrued revenue held under the Maritime Fund should be direct funding of Maritime Academy Oron. It has corrected the practice where the academy always went cap in hand soliciting for financial support critical for an institution whose certificates and training must comply with international maritime standards. In terms of cargo support, it has wisely removed the issue of liner conference cargoes in preference to public sector and bulk cargoes whether dry or wet. Interesting, it has directed the agency to work out ways and means for executing these assignment, especially involving Nigerian carriers in the affreightment of petroleum liquids.

As clear as the amendments and review may appear, there are still certain grey areas that may unfortunately impede the implementation of the shipping development objectives of the Act. There is the worrisome overcrowding for NIMASA that could make it lose policy focus as it has been placed in control of many critical assignments. For instance, while it is to promote shipping development, it is also exercising Port State and Flag States functions, regulating the issues of seafarers, in-charge of search and rescue functions and a lot more. It is also vested with powers of implementing the Merchant Shipping Act (MSA), 1962 as amended, the Coastal and Inland Shipping (Cabotage) Act, 2003, as well as the main NIMASA Act 2007. Moreover, it has role to play in many others including the Nigerian Oil and Gas Content Development Act, 2010.

Going by the embarrassing phenomenon of weak and directionless leadership prevalent at NIMASA and the absence of statutory specificity in terms of priority, the leeway for use of operational discretion could become inimical to the interest of shipping development. Functional diffusion in the face of patrimonial proclivity of public institutions could lead to disastrous

diversion, goal displacement and implementation confusion. The lack of statutory policy priority to shipping development and the failure of the Act to recognize the stakeholders, as in the Local Content Act, will create gaps that may affect the implementation process.

#### **4.4.3.2.2 Adequate Causal Theory**

In theory, reserving public sector cargoes and involving Nigerians in the affreightment of bulk cargo coupled with financial support would go a long way to create shipping entrepreneurial class. However, the factor recognized by Iheduru as the “organizational technology” of state in relation to the society by using agencies like NIMASA to foist rentier economy based on patrimony has not been fully addressed in the NIMASA Act. What may appear as a solution like the creation of a Maritime Fund without active involvement of the stakeholders may become a cesspool of corruption. Claude Ake (1996, pp. 7 ff) has brilliantly theorized that a prominent feature of a patrimonial state is that politics permeates every facet of life and consequently every facet becomes politicized. Still adopting Ake’s critique of development in Africa, as well funded as NIMASA is with powers to allocate cargo and fund institutions, etcetera, and absence of improved governance records may in the end still present the agency as a source of waste of public fund and institutional embarrassment. Suffice it to say that NIMASA Act has clearly strengthened the agency, we are yet to see the in-built control and political will that will ensure the reign of sanity and focused leadership.

From the NMA to NIMASA, the objective of using three programmes to support the creation of indigenous shipping entrepreneurs require more than agency strengthening, without check. The loose provisions only encouraged opportunistic shipping by-standers whose commitment to shipping has been as uncertain as their understanding of the journey toward national shipping development. Like the study observed earlier, the absence of a tight good governance measure, implementable coherent casual theory in the type and manner of prospective ship-owners is a big minus to the policy. Moreover, without statutory provision for the creation of independent stakeholders’ forum to monitor performance and programme choice and the absence of statutory

command for inter-agency coordination under the aegis of NIMASA for the purpose of shipping development and the requirements will continue to constitute implementation impediment.

To repeat a point, which has been made earlier, it is misleading to assume that shipping development, without logic and sound theoretical foundation, *ip so facto* constitutes sufficient incentive and attraction for the emergence of the right calibre of people who would become the maritime entrepreneur. The assumption that with cargo support and soft loan, then there would emerge indigenous shipping entrepreneurs who are capable of competing in international shipping is dead wrong. It rather may create a patrimonial shipping structure where sense of entitlement will pervade and obscurficate the industry. Access to cargoes must be politically sterilized to avoid the re-emergence of “brief case shipping” companies. The rules must be followed and defaulters sanctioned. Second, in terms of providing for financial support, the causal theory rests on the assumption that subsidizing certain financial costs would reduce operating cost of shipping company, so would make them competitive. The same argument is advanced. Without rules openly made and monitored, which should provide the base for this causal link, the fund may become a reserve bank for the “boys” and for sundry political financing.

#### 4.4.3.2.3 **Enhancing Compliance**

NIMASA Act has made an attempt to bridge the gap noted in the NSPA and the structure of the implementing agency. However, the agency has not been adequately insulated from political interference. So long the office of the Chief executive remains politically determined to that extent would political considerations and “correctness” defeat policy objectives. In terms of departments and key functions, the enabling legislation did not bother to offer any directive. In the circumstance, employment and other engagements in the agency were not based on any ascertainable criteria. Without clear directives for recruitment of key functionaries who must be imbued with a dose of authority, bureaucratic timidity and red-tapes will continue to reign. Added with nepotic tendency, the agency soon will suffer from managerialism where the managers convert their offices for personal and other uses. Agency issues, where public trust is

turned to attend private needs can only be checked by good governance practice. The NIMASA Act with respect was not far reaching enough to institute accountability and transparency given its enlarged roles, huge resources and heightened expectation. The absence of clear institutionalisation process will remain a major concern should shipping development be achieved in this circumstance.

#### **4.4.3.2.4 Commitment and Skill of Top implementing Officials**

The most troubling management issue at NIMASA has been the twin problem of high turn-over of the Director-General (DG) and the absence of any minimum qualification for appointment to that exalted office. Between 1987 when NMA was established and 2010, spanning a period of twenty-three years, the agency has had about thirteen DGs, recruited from a broad range of class including economists, lawyers, engineers and others. The commitment is not necessarily to the cause of shipping development especially when the pursuit could go against their selfish interests. The primary concern is on preserving an elusive seat, even if it entails squandering the resources of the agency to pander to the wishes of their benefactors and “powers-that-be.” In the absence of proven skill as a prerequisite coupled with an uncertain tenure, there is hardly time for any of the occupants to have learned on the job rather the focus has been on expediency and tenure longevity. Trapped in its established tradition of failure and victimization, the crucial leadership challenge of giving a clear vision, mission and strategy to develop the agency, and give focus, direction and service to the stakeholders is lost. In the end, the failure of the Act to clearly secure the tenure of a well groomed and committed DG and absence of statutory provision to insulate them from political influence cannot give the opportunity for NIMASA to have a new lease.

#### **4.4.3.2.5 Continuing Support from Constituency Groups and Sovereign**

The Local Content Act is one policy move that can help NIMASA advance the cause of shipping development. It has opened a vista for inter-agency cooperation, collaboration and coordination. The wide scope of power vested in the agency to a good degree has shown some strong feeling

of bias for shipping development in the nation's maritime sector. However, the degree to which NIMASA secures and maintains constituency groups' support will depend on the soundness of its approach, the integrity and transparency of the process, and above all the qualitative industry leadership it can offer based on excellent record of service delivery and the actualisation of the legal objectives of the national shipping policy. One implication from the NIMASA Act is that it has been handed a clean slate for it to write its name in the annals of history of shipping development in Nigeria or continue its down-ward journey as one institution to "whom much was given, but as usual, nothing is received in return".

The case of the failure of Nigerians to participate in lifting Petroleum liquids remains a challenge which calls for review and change of strategy. It is one area where if appropriately handled would galvanise constituency groups' support akin to the "mandelan approach" of resolving knotty and seeming intractable situation into a win-win manner. It is true that Nigeria remains the only oil exporter without a national tanker fleet, yet it is advisable for key stakeholders including the oil majors to "keep the conversation on the best way to realise the goal of a national fleet within acceptable timeframe." The opening once again is beckoning for NIMASA to rise to its leadership role in the the quest for indigenous shipping development. The NIMASA Act has been strengthened to exercise its functions in the areas of public sector cargo support, financial assistance to reduce cost of shipping operations and decisive steps to catalyze maritime manpower development. From every indication, all the major constituency groups including the ship-owners are watching, waiting on NIMASA's next move.

#### **4.4.3.2.6 Changing Socio-economic Conditions and the Policy Objectives**

These can not be static, they are always changing. However, the effect on policy has alot to do with the agency leadership, which we have sufficiently stressed must combine political instinct with managerial excellence. Although it is hard to find these rare virtues, security of tenure, professionalism and entrenchment of good governance practices would go a long to provide the platform for the discovery and emergence of such gifted managers. Statutory provision minimising the continued imposition of wrong leadership at such sensitive agency without vision

and purpose would only create implementation process vacuum which will continue to haunt the agency and derail the shipping development objective of the national shipping policy.

#### **4.5 Conclusion**

The main promotional thrusts of the NSPA were identified. Without going into the details of the implementation process as executed by the agency (NMA), we analysed the main thrusts of the NSPA, 1987 to assess the likelihood that its programmes would achieve its legal objectives. From our theoretical framework, we identified the critical stakeholders in the Nigerian shipping industry. Our framework also provided us with six crucial conditions in assessing the likelihood of the success of the implementation process. We found a high prevalence of poorly conceived objectives, which were neither conflict-resolving nor realistic and direct. The second condition of a sound causal theory identifying principal factors and causal links affecting policy objectives was not strong. Other conditions were not satisfied. Although we shall return to assess the impact of these conditions, it was evident that the NSPA failed to offer much in terms of structure for the implementation process in a way that officials and target groups would perform as desired. Given these weaknesses, it was no surprise that the National Shipping Policy Act, 1987 was repealed and replaced with the Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007. But midway, the Coastal and Inland Shipping (Cabotage) Act, 2003 was enacted to redirect policy thrust from international shipping to coastal trade. We have also considered its key provisions before analysing how likely it will meet its set objectives.

So far, the study has examined the probable implementation process hiccups of the NSPA vis-a-vis the Cabotage policy which was enacted to redirect the focus of the shipping development objective of Nigeria's shipping policy. While we used our modified Implementation Model Framework (IMF) for the analysis of NSPA, the study on Cabotage regime was largely based on a model adapted from Advocacy Coalition Framework (ACF). This was to help us determine what had happened to the strong coalition assembled by the majority of the shipping subsystem. Why was the coalition not particularly successful and effective in pressing for speedy Cabotage implementation process? From the target groups' perspectives, we were able to identify and

compartmentalize the problems into the core policy issues and secondary policy attributes. Guided by this approach, we were further able to analyse the implementation prospect.

For issues of core policy, different interests of various Cabotage coalition groups were identified and noted to exhibit certain contradictions. Besides, certain issues were seen to straddle across policy subsystems such that redress could be gotten from a higher sovereign. Consequently, we were able to deduce that the implementation remedy to these issues is more political than administrative. Hence, clamour for change to induce effective implementation of Cabotage would entail more planning in bringing the issues to the political masters, making a convincing case that the anticipated change would catalyse into shipping development in line with the reform programme. Mere mouthing these inadequacies at the level of NMA/NIMASA or even the minister without further plan to mobilize public opinion would yield little results. On the administrative implementation guideline, the paper observed that the current engagement with NMA is in order and should be vigorously sustained.

At the theoretical level, this study has found the Advocacy Coalition Framework quite useful in analysing the Nigerian Cabotage implementation condition. This is significant for three reasons. First, it is perhaps the first time ACF will be applied to study outside United States of America and Europe. Secondly, its application to shipping policy is quite a novelty. To the knowledge of this researcher, this is the first time the general implementation theory, mores a specific framework like ACF, has been applied in the analysis of shipping development and policy. Finally, contrary to the prerequisite of a long time frame suggested by the advocates of ACF, the framework has been equally useful in the analysis of a policy implementation problem and the attendant clamour for policy reformulation or amendments even in the medium term or span of six years.

The NIMASA Act, 2007 repealed NSPA, 1987 and JOMALIC Act, 1999 and subsumed their agencies, NMA and JOMALIC, into the Nigerian Maritime Administration and Safety Agency, NIMASA. Apart from the enlargement of NIMASA's functions, more audacious provisions have been introduced to reduce policy ambiguity in terms of policy objectives, structures of

implementation process and inter-departmental squabbles. We have noted that the hurdle of clarity and consistency test in policy intention has been reduced. However, the new Act did not score very well from our analysis in a number of areas. First, the Act's programmes were not strongly supported by adequate theory and secondly it did not make bold attempt in institutionalising key implementation process, absence of rigour in insulating key leaders of the implementing agency from external political control. It also was deficient in statutorily providing for institutionalised consultation with constituency groups to secure support and ensure transparency and good governance practice. There is a huge gap in the area of prioritising the legal objectives or at least adequate provision for substantive criteria for resolving goal conflict. We fail to see a strong theory or logic guiding the enlarged scope of activities assigned to the agency. Rather it could be a source of distraction, incompetence and corruption. This so because the guiding posts for good governance practice rests on the indicators of transparency and accountability. There was no hint that these issues matter. In what can perhaps be described as Lord Acton's vulgar parlance, "power corrupts absolute power corrupts absolutely", one may be alarmed whether this may not hold true even with greater force for public institutions. Finally, for the same reason, we doubt whether the policy *a priori* is such that can deliver shipping development.

## CHAPTER FIVE

### IMPLEMENTATION OF SHIPPING DEVELOPMENT PROGRAMMES: THREE CASES

#### 5.1 Introduction

The promotional goals were to be implemented by the NMA (NIMASA) yet the legislations conferred the Ministry of Transport with enormous control over the agency. For NMA, therefore, there would be need to combine sound planning with foresight, political and administrative skills, resources, commitment and autonomy to succeed. In the absence of sound implementation process which provides sustainable assistance schemes and progressive policy reforms, it is indeed doubtful whether the Nigerian shipping industry can survive the competition in the very heated and unfriendly international waters where major players come in armed with various types of subsidies from their home government. How the agency has been able to achieve this is the concern of this chapter.

#### 5.2 How Did the NMA/NIMASA Respond to The Challenges of Shipping Development?

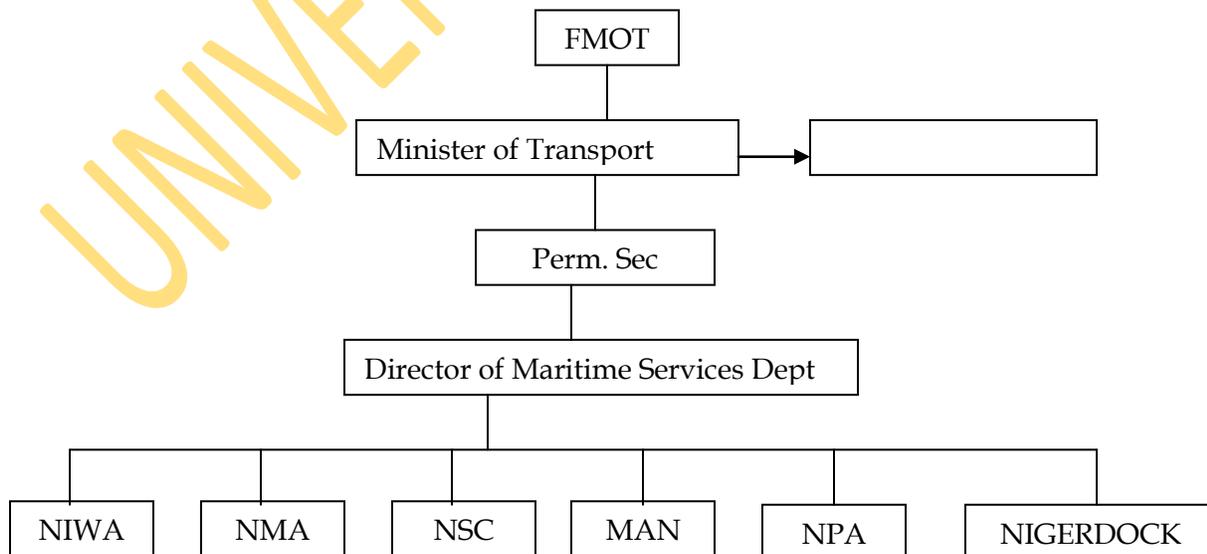
The challenge before NMA/NIMASA has been how to successfully propose and faithfully implement the shipping development agenda, which is carefully planned and delicately executed, meandering through a web of a maze of growing opposition, in order to enhance Nigeria's shipping fortunes. Being the link between the government and the shipping constituency, its primary duty as a responsive and responsible policy maker and implementer in the circumstance entails the development of indigenous shipping by the release of the latent competitive maritime energy bottled up for want of the right policy and sound implementation. The critical elements of the entire implementation process should not just begin and end with the design and execution of programmes but should also include monitoring, evaluation and fine-tuning strategies, hence the linkage of *Policy – Process – Implementation – Monitoring – Review – Policy*. The study from here to the end is concerned with these issues.

We shall commence our examination of the implementation process of the national shipping policy by looking at the various organs that are statutorily assigned shipping development responsibilities. From the Acts, the main organs are the Federal Minister/Ministry of Transport and the National Maritime Authority (NMA), later replaced with the Nigerian Maritime Administration and Safety Agency (NIMASA).

### 5.2.1 The Federal Ministry of Transport

An examination of the shipping development role of NMA will require understanding of its relationship with the Federal Ministry of Transport. Although the law provides for the relationship of the agency with the Minister of Transport in various provisions (sections 2, 13, 18 etc in NSPA 1987, sections 9,22,30 etc in the Cabotage Act 2003 and, more specifically sections 2 (4) and 25 of the NIMASA Act 2007, the agency approaches the said minister only through the channel of the Department of Maritime Services in the Federal Ministry of Transport (FMOT). This department is charged with the duty of formulating and implementing government policies aimed at improving maritime practice, and efficiency through the instrumentalities of the various maritime parastatals. A schematic diagram of the relationship of these parastatals with the FMOT is outlined below.

**Fig 5.1 - The Structure of FMOT**



From figure 5.3 above, it can be seen that maritime parastatals report to the Minister of Transport through the Director of Maritime Services. The agencies under reference include the Nigerian Ports Authority (NPA), National Maritime Authority (NMA), Maritime Academy of Nigeria (MAN), Nigeria Shippers' Council (NSC) and National Inland Waterways Authority (NIWA) and the Nigerdock. The Nigerdock was privatised in 2003 but has to be mentioned in the study because our investigation covers the period from 1987 to 2010. These agencies broadly cover the maritime services industry and their functions quite often overlapped. From the NMA's regulatory and promotional functions which include attending to the nation's drive towards fleet expansion, NPA's provision of essential linkage services to ships and cargoes, NIWA's handling of inland navigation and domestic vessel needs, NSC's shippers' protection role to MAN's training portfolio, there runs a common thread of providing services to the nation's maritime needs. Complementing this role is Niger dock's responsibility in ship building and ship repairs.

## **5.2.2 National Maritime Authority As Implementing Agency**

### **5.2.2.1 Key Policy Thrusts and Other Provisions of NSPA/NIMASA Acts**

Although it did not form part of the law, the explanatory note of NSPA, 1987 was straight to the point. In addition to reference to the establishment of the National Maritime Authority (NMA) as the implementing agency of NSPA, the Act also charged the Authority to, "amongst other things, coordinate and implement Nigeria's national shipping policy." It further set the objectives of the new body (NMA) as if they defined and constituted the nation shipping policy goals. This matter has been subject to debate whether the Act indeed encapsulated Nigeria's national shipping policy or a mere establishment legislation for the purpose of creating the National Maritime Authority with functions that could promote its shipping development (Ilogu 2006).

The legal framework for achieving the statutory objectives and the exercise of the statutory functions of the National Maritime Authority have already been set out in the National Shipping Policy Act (Cap. 279 Laws of the Federation of Nigeria, 1990), which also created the Authority,

(Cf. sections 1(1) and 1(3). Thus, Section 4 provides that the functions of the Authority shall be:-

- a. To co-ordinate the implementation of the national policy on shipping as may be formulated from time to time by the National Shipping Policy - Decree 10,1987 Federal Military Government;
- b. To ensure that Nigerian national carriers exercise fully Nigeria's carrying rights of a least 40 per cent of the freight in revenue and volume of the total trade to and from Nigeria;
- c. To grant national carrier status to indigenous shipping lines;
- d. To monitor the activities of all vessels of companies granted national carrier status;
- e. To grant assistance to indigenous companies for fleet expansion and ship ownership;
- f. To regulate liner conferences and national carriers; and
- g. To perform such other functions as may be required to achieve the aims and objects of this Decree (Act) or any national shipping policy as may be formulated by the Federal Military Government pursuant to this Decree (Act)

Section 5 gives the Authority power to investigate, determine and keep current records over twelve items including ocean services, routes and lines from Nigeria to foreign markets, bulk cargo carrying services, relative cost of ship construction and the extent and character of aid and subsidies granted by foreign government to their merchant marine. Obviously, one of the most important functions of the NMA is to coordinate the implementation of the National Shipping Policy as may be formulated from time to time by the Federal Government (Cf. Section 4(a)). It is an enormous function which the makers of the National Shipping Policy Act intended to enable the NMA supervise, organise, direct, manage or harmonise the implementation of the National Shipping Policy formulated by the Federal Government.

Although NIMASA Act, 2007 repealed the NSPA, both the Cabotage Act and NIMASA have strengthened these roles. For example, Section 30 of the Cabotage Act, 2003 stipulates that:

The Minister shall immediately after the commencement of this Act create an enforcement unit within the National Maritime Authority with appropriate operational guidelines and shall designate the officers in that unit as enforcement officers.

The NIMASA Act at sections 1 and 2 clearly provide that the objective of shipping development is to be achieved through NIMASA. As if in response to the policy defects that impeded the effectiveness of the NSPA, the new legislation decisively improved on those deficiencies. Dealing with the issue of inter-agency overlap, the Act fused three distinct offices into the new agency, NIMASA. These are: i) the former office of Government Inspector of Shipping whose assignment was to maintain a register of ships, ii) the JOMALIC whose responsibility was to dockworkers and seafarers and iii) NMA whose tasks included the regulation and promotion of shipping. Apart from clearly enhancing the role of NIMASA in shipping matters, sections 15 and 17 provided ample sources of funding for the activities of the agency as well as giving it a measure of control of the use of the fund for shipping development and other statutory assignments.

The functions of NIMASA have been enlarged to encapsulate the activities of the defunct NMA, JOMALIC and GIS. Consequently Section 22 provides for a wide range of seventeen main functions including its duty to “pursue the development of shipping and to regulate matters relating to merchant shipping and seafarers.” Some seven more roles were also added to NIMASA’s responsibility list. Earlier on, we noted that agency autonomy and its leadership quality would be of critical importance at the implementation stage of the national shipping policy. It was in doubt whether the NSPA had provided sufficiently for the NMA in executing its shipping development functions. The NIMASA Act, 2007 addressed these issues.

Section 11 (5) strengthens the office of the Director General, who is appointed by the President and who must have attained a certain level of proficiency as stipulated in Section 9. It provides that the Director General “shall not be removed from office except in accordance with provision of this Act”, which is clearly stated in Section 11 (4). Part XIII of the Act running from sections 55 through 62 boldly states the manner of breaches and offences under the Act. Of particular

interest is Section 58 (1) which reinforces the authority and autonomy of the agency. It states that: “Any person, who, without lawful excuse, refuses neglects or fails to comply with any direction lawfully given by the Agency in the exercise of its powers under this Act or any regulation made under this Act, commits an offence...”

To illustrate what could be part of this “direction”, Section 36 (1) provides that “National Carriers shall have exclusive right to carriage of export and import belonging to the Federal, States’ and Local Government Councils including Federal and States’ owned companies and agencies.” Section 37 (1) and (2) reemphasise that; “(1) Subject to subsection (2) of this section, national carriers shall have the right to participate in the carriage of bulk dry or liquid cargo; and (2) The participation of national carriers in the carriage of bulk cargo to and from Nigeria shall be subject to a carriage right of not less than fifty per cent of such cargo.” Section 37 (6) further charges the agency to “determine an efficient strategy for the participation of national carriers in carriage of crude and petroleum products to and from Nigeria.”

In Chapter Four, we observed that these conceptual issues would affect the implementation process of the national shipping policy as we also noted that subsequent legislations seemed to have eliminated such impediments. However, as we progress in outlining the implementation process under the different policy regimes, we shall investigate whether these reforms have had any significance in the implementation process. Did it encourage or strengthen the agency to come forth with noticeable initiatives in enhancing Nigeria’s shipping development? Before going on with the implementation process, it is important to understand the organisational structure of the implementing agency.

#### **5.2.2.2 Organisational Structure of NMA/NIMASA**

NMA was established by NSPA in 1987 and was subsequently fused with three other maritime agencies to form NIMASA. These agencies were the National Maritime Authority (NMA), the Government Inspector of Shipping (GIS) and the Joint Maritime Labour Industrial Council (JOMALIC). Of interest to the study is the examination of national shipping policy from 1987

which was one the functions of the defunct NMA. Its organisational structure and policy implementation process had evolved over time. Its pioneer management under Dr. B. Ekong commenced business in 1987. Against the request from the NMA management for approval of an organisational structure of six departments and three non-departmental units in 1988, the Federal Executive Council granted only two departments: the Administration and Finance Department and the Operations Department<sup>34</sup>.

With an approved staff strength of 122 and just two approved departments, NMA seemed constrained at inception to immediately focus on its multiple and complex assignments. One implication of this is that it was constrained working on a shoe-string budget and structure to merge specialised functions into one department, which indeed constituted serious bottleneck and reduced efficiency (NMA Annual report, 1996; 1). By 1993, approval was granted for the reorganisation of NMA into six directorates (Finance and Investment, Administration and Personnel Services, Operations and Commercial Services, Research, Planning and Statistics, Legal and Technical Services) and three units under the Office of the Director General. In 1994, two more units, the SASBF and Special Duties, were created boosting the staff strength to 492. With the fusion of the Office of Government Inspector of Shipping (GIS) into NMA, the staff strength in 2001 rose to 802 comprising 670 and 115 for NMA and GIS respectively. The number of staff in 2007 stood at 833.

In 2004, another unit charged with Cabotage duties was created in line with the Cabotage Act, 2003. With the enactment of the NIMASA Act, 2007, it became a full-blown department as well as two additional departments, one on Marine Labour (which function was formerly handled by JOMALIC) and another on Marine Environmental Management and Pollution. Three departments and one unit will be of interest to the study, and there are: the Shipping Development (formerly known as Operations and Commercial Department), the Marine Labour and the Cabotage Departments and the SASBF Unit.

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<sup>34</sup>See NMA, Annual Reports, 1988 - 1996

By its internal memo on Service Delivery Document (Servicom) (2006), NMA listed the its services under the following broad headings:

- i) Regulatory
- ii) Capacity Building
- iii) Promotional services
- iv) Maritime Safety and Administration.
- v) Cabotage implementation.

We shall examine three of these categories in greater detail as they fall within the subject matter of this research. These include i) Capacity Building, ii) Promotional Services and iii) Cabotage Implementation.

Capacity Building involves the training of manpower to meet the needs of the nation's maritime industry. It is achieved by:

- a) Assisting financially maritime training institutions by up-grading their training facilities (as directed by FMOT).
- b) Sponsoring qualified Nigerians to undertake maritime training programmes (foreign and local)
- c) Organizing training workshops on maritime issues for stakeholders.
- d) Undertaking programmes aimed at the expansion of the nation's maritime transport infrastructure e.g. establishment of the maritime development resource centre.

The second category is promotional services, which also underpins the Cabotage Implementation, and the services are offered in a variety of ways to include:

- a) Assisting indigenous shipping lines to have access to finance to acquire cargo carrying capacity, (ships, boats, barges etc.).
- b) Assisting indigenous shipping lines to employ their ships profitably by recommending them to cargo providers such as Nigerian National Petroleum Corporation.

- c) By registering the ships of indigenous shipping lines to participate in the nation's Cabotage trade.
- d) Granting of waivers to foreign owned shipping lines to participate in the nation's Cabotage trade.
- e) Promotion of business development advisory services in the maritime industry e.g. shipyard development.

### 5.2.3 Shipping Development Programmes

The above services are derived from the laws establishing NMA and NIMASA. Since the study spanned across the two regimes, we shall examine the shipping development provisions in the two establishment legislations, the NSPA and NIMASA Act. In the NSPA, it would appear that with the title given as "National Shipping Policy Act" and Section 3(c) preemptively stated that one of its aims is "to use the national shipping policy as instrument of promoting the export trade of Nigeria and thus accelerate the rate of growth of the national economy the issue has been rested. The eleven objectives of the Act can easily be collapsed into the following concerns (see Section 3):

- 5. Cargo-Sharing or correction of trade imbalance as in 3(a), (d) and (h);
- 6. Development of Shipping, National Tonnage/Fleet Expansion as in 3(e), (g), (i) and (j);
- 7. Development of Maritime Manpower Needs as in 3(k); and
- 8. Improvement of Trade and related matters as in 3(b), (c) and (f)?

The first three of these objectives are of interest to this study because they relate directly to the development of shipping by ensuring sufficient cargoes carried by national fleets manned by Nigerians. Specifically the three policy interventions were provided as follows:

- 1. Cargo Control and Sharing - To achieve the the objective, the Act at Section 14 reserved exclusively the carriage rights for national carriers over public sector freights. These included the Federal, States and Local governments including Federal and States' owned companies and parastatals. Moreover Section 14(3) of the Act provided that all public

sector contracts for importation and exportation shall be on Free On Board (FOB) and Cost and Freight (C&F) respectively. In addition, Section 9 referred to and reflected the UNCTAD Code for liner shipping resolution on the sharing formula of 40:40:20 and further extended cargo control and allocation to tramp shipping, where the ships handle bulk cargoes. To further strengthen NMA, Section 18 conferred a duty on it to ensure “that Nigerian vessels carry Nigeria’s share of cargo in volume and earnings in accordance with...cargo sharing arrangement entered or agreed to by the Authority or by the Federal Government.”

2. National Tonnage - To support building a national tonnage and fleets, all references to carriage of goods, which provided for the participation of national carriers were made for their purpose and benefit. (See sections 9, 14, 18 etc.) In addition, Section 13 “established a fund to be known as Ship Acquisition and Ship Building Fund (hereinafter referred as the ‘the Fund’). Section 17 mandated the Authority, on behalf of the Federal Government, to enforce that “every shipping company operating in Nigeria shall be liable to a charge at the rate of three per cent of gross earnings in respect of every outward or inward cargo carried by it”. Section 7 spelt out the conditions for granting of national carrier status to shipping companies. More specific for its use is the provision in Section 23 establishing a fund for the Authority. Finally, Section 26 provided penalty for the offences established by the Act without clarification.
3. Manpower Development – Section 3(k) enjoins NMA to “promote the training of Nigerians in maritime transport technology and as Seafarers, which runs side-by-side with Section 3(i) which calls for the “achievement of indigenous skills in maritime transport technology”.

These provisions have been consolidated in the NIMASA Act, 2007 and empowers NIMASA to: “develop and implement policies and programmes which will facilitate the growth of local capacity in ownership, manning and construction of ships and other maritime infrastructure” (See sections 22 (k) and 39). Other relevant provisions are sections 35, 36 and 37 and deal with carriage rights of national carriers.

## **5.2.4 Implementation Process**

The concern of this section is to examine how the NMA/NIMASA interpreted its duties in the various shipping policy legislations and structured its implementation process for the purpose of delivering the statutory objective of catalyzing shipping development. As stated earlier, the key outputs or programmes from the agency included i) cargo control and sharing, ii) national fleet expansion through a financial assistance scheme, the SASBF; and iii) the maritime manpower development scheme. The success of the programmes is to enhance maritime sub-sector potential, with a view to:

- contributing significantly to the national economy,
- offering employment opportunities for local and international shipping needs,
- creating a reserve maritime defence capability (for the Navy), and
- Quick response in maritime emergency.

### **5.2.4.1 Cargo Control and Sharing Implementation Strategy**

#### **5.2.4.1.1 During the NSPA Era, 1987 - 2000**

The major concern of NMA, and interpretation of its key function in terms of promoting shipping development in Nigeria, was on how to implement the Cargo Control and Sharing task. In some sense, the Authority perceived this duty to constitute as an end on its own. It was not purposively structured to dovetail into the other programmes such as building national tonnage or maritime manpower development. It concentrated on devising ways to take charge of cargo and determining such shipping companies that would be granted a national carrier status. These were the companies that would benefit from sharing the conference cargo. In the end, a lot of freight contracts were assigned to national carriers without corresponding increase in the national tonnage. Later in the section we shall illustrate with evidence how the national tonnage and maritime manpower levels were declining during this period. It is important to examine how NMA designed its execution strategy in terms of cargo control and sharing.

In its annual report of 1988, the NMA defined its priority in terms of implementation programme for the year, which presented its operational modality as follows:

- i) Establishment of an instrument of control of Nigerian Maritime Trade.
- ii) Allocation of routes to national carriers and sponsoring indigenous lines into maritime conference.
- iii) Working out sharing ratios for national carriers.
- iv) Monitoring of trade routes.
- v) Revenue allocation.
- vi) Registration of shipping lines and shipping agencies; and
- vii) Grant of National Carrier Status to some shipping lines.

In order to execute the above assignments, its implementation strategy for the programmes indicated above is described below.

#### 5.3.4.1.1.1 **Instrument of Cargo Control and Sharing**

NMA designed and introduced a set of three forms to cover the entire Nigerian seaborne trade. These forms were issued to designated offices in order to bring all imports and exports under the watchful eyes of NMA, who now would share to beneficiary shipping companies. They included

- i. Forms C-1.1 and C-1.2 for non-oil public sector imports and exports respectively.
- ii. Forms C-2.1 and C-2.2 for petroleum/petroleum products (imports and exports).
- iii. Forms C-3.1 and C-3.2 for private sector non-oil imports and exports respectively.

Each of these forms constituted a document of title for the carriage of cargo. Forms C-1 and C-3 series were put into circulation within the banking system through the Central Bank in March, 1988. NMA could not at the same time issue Form C-2 series to NNPC “because the Authority, being aware of the sensitivity of petroleum to the Nigerian economy and the special nature of the tanker trade, needed more time to work out details of the trade in collaboration with the Nigerian

National Petroleum Corporation.” This segment remained one source of controversy in the implementation of cargo control and sharing programme of the NMA.

The first set of fully processed forms C-1 and C-3 series were collected by the NMA for analysis and commencement of cargo sharing through the conference system on May 5, 1988. By the end of the year, 39,774 documents with FOB value of \$3,474,369,645.18 and freight value of \$356,153,230.03 had been shared out. (See Table 5.8 below for a detailed breakdown of the shares, FOB and Freight values into routes). Subsequent years posted even more robust figures: 1989 recorded 70743 documents, or 77.86 percent increase and freight increase of over 50 percent to \$538.02 million. In the other years; 1990 handled over 59,200 document with freight value of of over \$591.9 million, 1991 recorded 72,269 documents for the freight value of over \$1.107 billion, or 87 percent increase over the previous year. In terms of having some grip on its cargo, NMA recorded some progress which however did not reflect on any increase in national tonnage.

Rather, the number of ships and the gross registerd tonnage (grt) were declining. The conclusion here is that if the purpose of implementation of cargo control and sharing was to have positive effect on Nigeria’s shipping development as intended, then the Nigerian Ship Registry would have recorded positive increase in the growth of national tonnage. Table 6.2 (p. 211) clearly shows the rapid decline of the ships and operations of the national carriers. In 1987 level when there was neither a national policy nor supportive cargo support, the national fleet stood at 28 ships with 374,000 grt. Ten years after, in 1997, the number of ships had fallen to 13 ships with less than 120,000 grt (Asoluka). In addition, the number of ships calling at Nigerian Ports and Oil Terminals indicated overwhelming foreign domination of all exports and imports. One implication then was that in spite of creating assess for national carriers to Nigeria’s seaborne cargo, in some mysterious ways such allocated cargo still was carried by foreign ships.

#### **5.2.4.1.1.2 Route Allocation and Cargo Sharing Ratios**

By December 1987, the Authority had allocated the national carriers to the various trade routes and directed them to meet and argue on cargo sharing ratio for each route. As it became clear

that the parties could not agree among themselves, the Authority went ahead to put in place a nationalisation formula by early January, 1988. This was based on the tonnage owned by each line, conference membership and density of traffic on each route. Table 6.4 at page 212 shows the route allocation and cargo sharing ratio for each conference. The sharing out of cargo was done through a management committee comprising members of management staff of NMA and representatives of Nigerian Ports Authority, Central Bank of Nigeria, Exports Promotion Council and of the various conferences. The committee met weekly on every Thursday. It held its first cargo shipping meeting on May 5, 1988, and by the end of the same year, a total of 31 cargo sharing meetings had been held. Bank-processed Form C series duly arranged according to routes were given out to respective conferences, which in turn shared them according to the prescribed ratios. It is pertinent to mention that in addition to the sharing of cargo, other issues of great importance to the effective implementation of the shipping policy and smooth flow of maritime trade were also discussed during the committee's meetings.

#### **5.2.4.1.1.4 Opening of Port Offices**

By the end of October 1988, the Commercial Officers recruited earlier in the year had been sufficiently trained for deployment to the port offices. Subsequently, the Authority dispatched to the five major seaports in the country, Senior Commercial Officers designated as Port Services Controllers together with lower level officers to serve as supporting staff. Subsequent efforts to open foreign booking offices were unsuccessful. The main functions of the port offices would be:

- 1) To monitor ships' movements in and out of the country with the objective of making sure that ships comply with documentary requirements of the Authority.
- 2) To collect cargo and freighted manifests so as to correctly calculate and collect Government stipulated levies and NMA's fees, and
- 3) Where necessary, to apply sanctions on erring lines in accordance with section 26 Decree 10 of 1987.

#### **5.2.4.2 Cabotage Cargo Sharing Implementation**

By 2004, the Cabotage Act had come into operation, which reserved all the movement of goods and services within the designated cabotage for the exclusive transportation of the Nigerian Built, Registered, owned and manned vessels. For the purpose, a Cabotage Unit by the virtue of the Act was established with NMA. Its immediate task was to commence dialogue with the stakeholders and other government agencies for the purpose of sensitisation and coalition building, and possible input toward the formulation of the Cabotage Implementation Guideline. Consultation with the local shipping body was intensified with a view to bring them together to float a strong and viable shipping company that would now be nurtured to offer improved services. There have been signs that this approach could work in bringing the members of Indigenous Ship-owners Association of Nigeria, ISAN, together to float a company. In the meantime, the major oil exploration and producing companies who generate the bulk of the cabotage trade have continued to decline doing business with Nigerian shipping companies on grounds that their ships could not meet the required specifications and standards. Whether the new initiative of forging partnership among indigenous companies would be accomplished and the ability of NIMASA to come up with solid support for the consortium to overcome these hurdles are issues that time would provide answers to. So far, there is yet to be recorded any significant role by NMA/NIMASA in assisting indigenous shipping companies gain concrete access to the cabotage cargo and shipping services in the off-shore and even down-stream activities.

In the absence of local companies, the Ministry (Minister) of Transport in exercise of his powers under Section 9 of the Act, and without reference to the professional associations and Nigerian shipping companies has continued to grant waivers, to the extent that the gain of cabotage now seems to be derived from the fees and charges for issuance of waivers. Rather than being a transitory phase, seven years after the enactment of the Cabotage Act, the major issue has been why the real beneficiaries of the law have not yet received any benefit in terms of access to cargo and off-shore shipping services. There have also arisen certain legal issues that impeded the

implementation of the Act even when the implementing agency sought to exercise its powers to restrict cabotage shipping to Nigerian ships as required by law.

Two cases are significant. One had to do with the ministerial powers in proposing guidelines which some considered were ultra vires since these offended the mother law. In the matter of definition of rigs for the purpose of restricting the business to local interests, the minister in his guideline included rigs as “ships”, which without his waiver rigs owned by foreign companies were to be prohibited. This inclusion of rigs as ships was challenged in the law court. In its ruling on the matter, the court held that on strict interpretation of the Cabotage Act, rigs were not to be classified as ships or vessel, so the guideline issued by the minister purporting to restrict the rigs as ships was in error. The second matter was over the definition of trans-shipment for the purpose restricting foreign vessels in Nigeria’s coastal waters. Again, it was held that the destination of the ship and endorsement as to the port of discharge in the bill of lading document would guide the interpretation of the activity. The implication was that where for access or inability to approach the Nigerian port, the use of lighterage service to bring cargo from the mother-ship to the port was to be seen as still part of the original transaction. In the circumstance, it was not to be regarded as cabotage trade. It again deprived Nigerian vessels and ships of the exclusive control of the lucrative lighterage service. These local vessels are again discriminated against on the account of their inability to meet international standards, which allegedly could expose such trade to higher risks and insurance cost.

NIMASA has not been able to come to terms with effectively controlling the cabotage trade. The restrictions imposed by the Act are violated with the ministerial waivers, the exclusive services sought for by the guidelines in terms of definition of rigs as ships and the exclusivity of lighterage shipping services to indigenous shipping companies have been denied. Foreign vessels and barges have continued to dominate lighterage activity with huge financial loss to local companies. The implementation of the Cabotage law is yet to be felt in terms of cargo control and it would appear that the element of cargo sharing has since disappeared from the operational manual of NMA. The situation has not remarkably improved with the enactment of NIMASA Act, 2007 which has reinforced NIMASA’s powers in terms of both domestic and international

cargoes. In the same vein, the public sector cargo under reference in international shipping like the cabotage provision have remained difficult for the NIMASA to grapple with. There is no evidence of any modality being worked out to implement these provisions. Later in the chapter, we shall be providing more details in one of the case studies titled: Cargo Control and Petroleum Liquid Affreightment Debate.

### **5.2.5 Ship Acquisition and Ship Building Fund, Cabotage Vessel Financing Fund and the Maritime Fund - Implementation Strategy**

The Ship Acquisition and Ship Building Fund (SASBF) was provided for by Section 13 of the National Shipping Policy Decree 10 of 1987. The main aim of the fund was to assist indigenous shipping companies in the development and expansion of the nation's fleet by granting soft loans for purchase of vessels, charter or effect repairs on their existing vessels. It took a while before NMA decided on how best to approach the issue. Two options were open to NMA. First, it was possible to establish and disburse the fund through a Maritime Bank or the second option of conducting the affairs of the fund within NMA.

#### **5.2.5.1 Maritime Bank Option**

NMA's initial step towards activating the fund was the idea of floating a Maritime Bank, which was conceived to administer the fund. By 1993, the Minister of Transport was yet to grant approval. It would also seem that a good majority of the stakeholders, following conferences and interactive session they hosted, agreed that what was needed was a Maritime Bank. As a matter of fact, the communique at the end of a NMA sponsored *Workshop on the Development of the Nigerian Maritime Industry*, held for May 9-10, 1990 stated among other that: "2. Noting the inability of existing financial institutions in the country to provide the necessary long term loan for ship building and acquisition, the government should look into the possibilities of providing a substantial initial grant for setting up of a maritime bank" (NMA Annual Report and Statement of Accounts for the Year Ended 31st December, 1990).

The strength of this arrangement lies in the fact that it would be the duty of the bank to conduct due diligence, ship credit analysis, technical viability appraisal, route analysis as well as liaison with other financial institutions in Nigeria and abroad including shipyards to raise the capital for the maritime sector alone. Another variant of this view was for a specially designated maritime bank facilitated, but not owned by NMA, similar to the ones in Germany, China and Malaysia. The other options also included the use and issue of guarantees in favour lenders to the national carriers to shipyards, which in turn would deliver to the prospective shipping companies so covered.

#### **5.2.5.2 The Establishment of SASBF Within the NMA**

However, by 1994, the NMA had to move on largely in response to the pressure which had built up on alleged failure and non-implementation of the SASBF seven years after the law was promulgated. As noted earlier, Section 13 (3) provided that the operational guidelines and procedure used by the SASBF were to be issued by the Minister of Transport, which made it quite susceptible to extraneous influences. In the end, the government decided on the option of creating an SASBF Unit within NMA. The SASBF Unit supposedly was opened to handle all transaction concerning the fund appraisal and disbursement. However it turned out the unit was a mere desk to receive loan applications from shipping companies interested in the fund. It didnot pretend to have any control over the fund, whether on specifics such as definite timeline for any approval to receive a final answer. Yet shipping, especially international shipping is time sensitive. It lacked approval power but could funnel applications after going through its administrative “vetting, appraisal and evaluation”. Scaling through this stage, a request for funding approved by the board was now forwarded to the Minister of Transport.

It was usual practice for NMA to receive specific directive on particular application. The final approval for loan requests were granted by the Federal Executive Council, even if in in-house bureaucrats could mute certain reservations. The approved loans were now forwarded back to NMA for direct disbursementtt to loan beneficiaries, who were trustingly expected to release fund to their shipyard! Such beneficiaries were nonetheless required to provide collaterals which were

often proved inadequate cover for the loans. In this event, it was not easy to confirm whether loans were actually utilised for the purposes they were granted. The absence of control over disbursement led to frequent diversion of funds, even worsened by the absence of tracking skills and monitoring mechanism on the ships, and the absence of provision for periodic surveyor's report. In a nutshell, the details of guideline for the loans were crafted in routine administrative manner, lacked specific technical information on feasibility report, route analysis and viability of the project for sound credit analysis.

One more debilitating factor was the issue of loan amount approved. Most times, decisions to reduce loan requests were so carelessly and arbitrarily determined regardless of the effect it could have on the actualization of the purpose of request. In a strict ship financing proposal, whenever any object clause in the indicative terms changed, especially in terms of financing the project and the lender can not come up with the entire amount of money requested, it will be of interest to him to ascertain how the borrower intended to finance the outstanding amount, and his position as a lender, usually insisting on insertion of his loan as the primary mortgage. It is not to be left uncovered as it calls for detailed renegotiation. It would be prudent to ascertain that an alternative financial leverage have been secured. The practice of handing over to applicants whatever amount the Authority in its wisdom could afford as loan was an indication of a louse financial structure and an unprofessional ship financing appraisal process.

### **5.2.5.3 Disbursement from the SASBF**

In the end, the SASBF granted loans and financial support, all amounting to US\$53,619,493 granted to the NNSL. For NUL, a total of US\$18,975,880 £64,622 and N135million was extended to shore up its operations. Altogether, a total amount of \$92million, some 214,000 pounds sterling and over N141million had been disbursed as loans, including those to nine shipping companies (Asoluka; 2003; p 232-3). These are:

- (1) Cibra Marine United - \$5M
- (2) Tarabaroz Fisheries Ltd - \$1 4M
- (3) Faget Nig Ltd - \$1.25M

- (4) Skolar Shipping Line - \$.55M
- (5) Genesis Worldwide Shipping - \$2.5M
- (6) East WestCoast Marine Services - \$2M
- (7) A & C Engr Marine Services - \$.225M
- (8) Bulk ShipNig Ltd - \$6M; and
- (9) B.M. Tankers - \$5M.

#### **5.2.5.4 CVFF and Maritime Fund**

By 1995, the SASBF was suspended by a circular issued by the Federal Minister of Finance. Apart from insinuation that the measure was part of that year's monetary policy, a ministerial directive stopped the operations and disbursement from the fund. Meanwhile, the SASBF Unit redefined its role to that of a debt collector without much success. The issues had become very politicised and beyond the assignment for a civil servant. After the commencement of cabotage regime in 2004, the CVFF though without any approved guideline had started collecting various fees, charges and fines with respect to cabotage activities. Also, the grant of waiver by the minister was bringing into CVFF coffers a huge amount of money. Meanwhile, work on the instrument for establishing the Cabotage Vessel Financing Fund (CVFF) had also commenced. The Authority has since been collecting the fees, fines and other charges which by 2010 had accumulated over \$147 million<sup>35</sup>. However, it has taken a long time before the cabotage regime took off due to the late issuance of the general implementation and the specific guideline on CVFF, both of which were released in 2007. As at 2010, no major activity has been recorded in terms of financing vessels. Although the NIMASA Act, 2007 has established a Maritime Fund for the purpose of developing indigenous shipping, the details for operations and disbursement are yet to be worked out. So far and notwithstanding the fact that the Cabotage and NIMASA Acts have been bold to provide a robust funding to support ship acquisition and financing of other maritime infrastructure, with the exception of the six hundred million naira (N600m)

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<sup>35</sup>See NMA Annual Report, 2010

approved by the presidency to the Cross Rivers State Government to assist it build “Auto Park/Bonded Warehouse”, the funds are yet to be assessed by Nigerian shipping companies.

The CVFF Guideline has been released since 2007. The new financing structure involves some shortlisted banks to act as Primary Lending Institutions (PLIs), with contributions to the loan coming from the applicant (15 percent), the CVFF/NIMASA and the PLI to raise not more than 85 percent of the project cost. In spite of the improvement in the CVFF guideline over the erstwhile SASBF both in terms of spelling out operational procedure and the scope and fungibility of the scheme, it however was still tied to the apron-string of the bureaucracy and political control. (see Section 7.5 of the guideline). Since 2007, the CVFF is yet to grant any loan till date. Also, apart from the Maritime Fund being provided for by sections 15 and 17 of the NIMASA Act, 2007, no further action has been taken to put the fund into operation. The NIMASA as a successor agency to NMA is yet to take any step in such matters without seeking a commencement approval from the minister. The effect of such political strangle-hold in shipping, especially ship finance has not been of any salutary consequence to shipping development in Nigeria. Further discussion on the subject is provided in Section 5.4.3 in the case study on: National Fleet Expansion Programme and the SASBF Fiasco.

## **5.2.6 Human Capital Development Within The Maritime Industry**

### **5.2.6.1 The Need for Maritime Manpower Development**

The need for a local pool of trained maritime manpower, particularly seafarers is, without doubt, critical. The founding fathers of Nigeria realized this early in the life of independent Nigeria. Their vision included the need to replace foreigners as NPA pilots in our harbours, indigenizing the manning of NNSL ships, providing personnel for fishing trawlers, inland water transport organization and other coastwise activities. The situation today calls for concern because the country practically stopped the training of seafarers almost ten years ago. Some of those trained are getting old or retired from sea going employment. Others are currently on shore-based employments. Some categories of officers – Master Mariners would require marine simulator

training to revalidate their certificates. Yet another group of the partly qualified sea officers now offer their services in foreign lands, including Middle East shipping lines and other ship-owners across the globe.

The situation has become so dire that if the training of seafarers is not taken a top priority, the country would, in no distant future, rely on foreign recruitments for pilots and other harbour operatives to work even in domestic shipping. The various oil companies including oil service companies would embark on overseas recruitment of various categories of marine-related operatives as well. Shortage of manpower would adversely affect the activities taking place at the nation's coastline. Local capacity building would be made more difficult to accomplish. Even the NMA at inception had noted as part of its problem the "shortage of skilled manpower" (NMA Annual Report 1988; 53).

#### **5.2.6.2 Implementation Process**

##### **5.2.6.2.1 Supervision of National Carriers' Mandatory Training Programme**

However, although NMA by virtue of Section 3(k), and indeed Sections 3(e) and 3(i), was mandated to "promote the training of Nigerians in maritime transport technology and seafarers", it did not define such assignment as one of its priorities. Going by its maiden 1988 report, its major implementation programmes focused on mechanism of enforcing cargo control and sharing. Indeed, when it eventually realised that maritime manpower development was crucial and was one of its responsibilities, it interpreted it to mean a form of superintendency role to see that national carriers complied with Sections 7 (1) (a) and especially 19 which among other things provide that "the Minister on the recommendation of the Authority may suspend, or revoke the national carrier status of a company if the company fails to meet any of the conditions (including the training of seafarers) or fails...".

In its 1990 report, it stated as follows: "to have an insight in the future of crew requirements of the Nigerian Shipping industry, a preliminary study was conducted on the number of graduands (sic) in Navigation and Marine Engineering at the Maritime Academy Oron, the only institution

in the country offering those courses which are pre-requisites for taking up a seafaring carrier (sic). This study covered a period of five years (1986-90)..” From the result of the study, out of a total of 193 cadets who passed out within the period “only 43 or 22.3 percent were sponsored by the Nigerian Shipping Lines. Table 4 shows that only two shipping lines – Nigerian National Shipping Line and African Ocean Line – were responsible for the training of these officers.....The Authority is however yet to determine how many of the seafarers trained by NNSL and AOL have actually entered into the second phase of their training programme”. It is equally important to note that the same report noted that “of the 193 graduates during the five year period, 136 or 70.5 percent were privately sponsored” . NMA did not sponsor any cadet from 1987 when it came into existence!

#### 5.2.6.2.2 Internal Manpower Development

It is also interesting to note NMA’s definition of maritime manpower training. Each year’s Annual Report, from 1988 to 2007, noted with a sense of achievement that “various overseas training were arranged for various categories of staff at various times during the year. Presently (sic) eleven staff of different grades (sic) and departments are undergoing various types of training/courses overseas” (1995 Annual Report; 3). This ritual continued and in the following year it was equally reported that “Staff were sponsored for various courses at certificate and graduate levels overseas to enable them perform their duties efficiently. For example, in 1996, 18 staff were sponsored to attend various long-term courses in different parts of the world to acquire modern knowledge / technology in the maritime industry. Some staff have been trained in India and at the World Maritime University in Korea on an exchange program. Some others were also sponsored to do masters degree program in shipping.”

NMA believes that they are not training these people for the Authority per se, but rather for the entire maritime industry. This is because they will eventually leave to do different things for themselves. And as they do so, they will also be spreading the maritime gospel all over the place. In addition, NMA has established a Maritime Research and Learning Centre (MRLC), which undertakes various forms of research in the maritime industry. Because this was non-existent ten

years ago, NMA considers it significant, justifying its claim that “it has really invested a lot in human capital development.” Apart from faulty definition of its manpower development mandate, the issue of relevancy of these so-called staff training has been raised a number of times. For instance, John Egesi, a former DG of the Authority, commenting on this felt that NMA staff are "over trained" going by the amount of trainings they have received. It is like training for the sake of it. "Some departments go through repeated trainings. As a result, the problem really is “that there is no proper evaluation of the training-needs of the Authority, and in the absence of this, the impact of the training cannot be measured.”

#### **5.2.6.2.3 Efforts To Provide Practical Training for Trainee Seafarers**

In realization of the serious training needs of seafarers and the demand by the national economy for a pool of trained seafarers and other operatives in the local maritime industry, the NMA made some stopgap efforts to provide “Sea Time” facilities. One of such facilities was the hiring or negotiating for on-board placements of products of Maritime Academy of Nigeria, Oron with a coastal vessel operator that does not engage in any trading activity. This type of sea or on-board attachment cannot give the required experience or even satisfy the statutory requirement for the training of sea officers competent enough to meet the challenges of merchant marine. For any “On-board attachment” to be meaningful, the vessel providing the practical training facilities must call at seaports to enable the trainees, whether navigators or engineers, acquire or imbibe the professional knowledge or practice of entering or leaving the port. Cargo work while in port is an import aspect of a navigator’s work. Any training that does not provide these opportunities for practical training in all facets of merchant marine practice should be discarded. The purchase of M/V Trainer was an attempt to provide a platform for practical training of Maritime Academy of Nigeria Oron products. The failure of this effort or project was due to lack of coordinated planning, which was complicated by the sheer number of trainees on-board the ship at the same time coupled with gross indiscipline of the over-aged “cadets”.

The Cabotage and NIMASA Acts have also sought to strengthen the implementing agency toward becoming more proactive in maritime manpower development in Nigeria. Apart from

token gestures in entering certain agreements where a number of Nigerian cadets are sent to other countries for their sea-time experience, the agency seems to be adrift in terms of devising sound implementation process. By 2007, NIMASA came up with a programme to seek partnership with States to sponsor their indigenes as cadets for maritime training abroad. From available reports, this has not proved successful as the number of Nigerian seafarers has continued to decline(See Oyesiku and Chidi in Asoluka 2003: 133-165). The tragedy in handling the maritime manpower development programme will be discussed in greater detail under section dealing with the case study on Manpower Development Scheme and the MV Trainer Debacle.

### **5.3 Three Case Studies**

#### **5.3.1 Cargo Control and the Petroleum Liquid Affreightment Debate**

We have illustrated that the Nigerian experience in implementing its variant of cargo preference legislation has at best been confusing but certainly ad-hoc and unserious for several reasons. Apart from getting involved in the turbulent politics of international shipping cargo control by 1987, when it was very obvious that its implementation by other developing countries had run aground; its strategic focus was extremely poorly conceived. To jump into international shipping with neither a vibrant shipping entrepreneurial class nor sufficient national tonnage was right from the start an adventure, a drunken walk of a sailor. Without grooming and nurturing tested local shipping entrepreneurs, the implementing agency, NMA, naively thought that all shipping interests would willingly comply without some hard thinking and consultation on its part. Its focus was primarily to take control of all liner cargoes for sharing as provided by the Act. Where the policy was conceptually befuddled, the implementation process exhibited crass ignorance and ineptitude in the business of international shipping administration.

Like we stated earlier, the Act totally ignored the coastal or cabotage trade which would have overtime groomed strong shipping companies for both regional and seaborne trade. The implementing agency took no step to ameliorate the defects but exacerbated it, losing sight of

viable entry points for a realistic inception phase, involving serious stakeholders' consultations, NMA *ex cathedra* issued notices seeking to bring all sea-borne cargo under its control and sharing, even those cargoes outside the liner shipping. In its poor judgment, rather than liaise with other government agencies to work out a plan for involving Nigerian national carriers in the shipment of public sector cargo, which indeed constituted the bulk of sea-borne traffic, it dabbled into private sector cargo control. Apart from being both difficult to track and control, its failure to create incentives for shippers who would be lured into compliance, it issued administrative orders without considering the interests of the shippers. Meanwhile, these shippers whose right to choose the best carrier for their business were very aware of the lack of support and coordination between NMA and government cargo generating agencies such as the Federal Ministry of Agriculture, the Federal Ministry of Works and the NNPC. In terms of compliance, therefore, it was hard to enforce especially in a situation where even various governments and their agencies defied the law.

By 2000, the cargo support programme was abrogated for a number of reasons. First, there was no remarkable benefit to the nation as the national fleet continued to decrease (Asoluka 2003: 162-4). Secondly, it was like the case of “rubbing Peter to pay Paul” as the shippers were put to undue constraints in order to support the “infant” local shipping companies who did not show any serious shipping intention to develop. The international shipping environment had also undergone a number of changes. The liner conferences that aided “cargo control and sharing” were on the decline given the emergence of strong shipping consortia and pools, the “shipping independents” (Iheduru 1996:203-7), the shift in ship technology necessitating fresh investment in the acquisition of new ships and stout opposition of the developing countries against cargo control or “flag discrimination” as they referred to the practice.

The decision to terminate cargo control shocked the national carriers and it was “like they have been cut-off from the supply of oxygen” (Asoluka 2003:163) and the only option was to raise the tempo of their agitation to be involved in the shipment of public sector cargo. One source they longed for was the affreightment of petroleum liquids. Not only was the export of crude oil and the importation of petroleum and its products more than 80 percent of Nigeria's seaborne trade, it

was indeed the main source of its revenue. The freight value for the shipment of over 31 billion metric tonnes of crude oil from 1958 to 2005 has been estimated at over \$34 billion<sup>36</sup>. As a matter of fact, Nigeria was about the only major oil exporter without a national fleet. The debate then has been how can national carriers be involved in the lifting of Nigeria's crude oil exports? Table 5.1 below shows the contribution of crude oil to Nigeria's foreign trade.

**Table 5.1 Contribution of Crude Oil to Nigeria's total trade, 1996 to 1999**

YEAR	1996	1997	1998	1999
Total Trade	101,896,105	116,250,338	117,278,929	114,696,200
Crude Oil	86,420,804	99,667,533	97,953,211	92,463,264
Others	15,475,301	16,582,805	19,325,718	22,232,936
Per cent Contribution of crude oil	85.14	85.34	82.90	80.70

Source: Adapted from NPA Abstract of Port Statistics (1997 & 1999)

The debate was brought to the fore in 2000 when the Federal Government of Nigeria abrogated NMA's cargo control and sharing programme. But Section 9 (2) provides that "the participation of national carriers in the carriage of bulk cargoes to and from Nigeria shall be subject to carriage right of not less than 50 percent of such cargoes". The bulk cargo whether dry or wet fall under this rule (Section 9 (1)). Section 14 (3) further directs that "All public sector contracts (including oil contracts) for importation and exportation of goods shall respectively be on F.O.B and C and F basis". Armed with these "weapons", the national carriers were unrelenting in their agitation that the provision of the law be respected. Public sector cargo, for this purpose, consists

<sup>36</sup>See Asoluka C, p 194

of cargoes so identified by Section 14 of the NSPA. In the main, they comprise cargoes generated by any of the three tiers of government or their agencies either in direct production or where such institutions finance them.

Based on these facts, the national carriers launched heavy pressure on the Federal Ministry of Transport to intervene in the matter. By August 2000, “in realisation of the economic and strategic disadvantages which remain inherent in the present arrangements”, the Federal Ministry of Transport constituted “a committee to review the matter of the involvement of indigenous shipping companies in wet cargo trade including crude oil lifting.” The committee met between August and October 2000. In its report, the committee reviewed the various laws in favour of the NMA involving the national carriers as in Sections 9 (1) (2), 18 (1) and particularly 9 (6) of NSPA where the NMA is empowered to determine “..ways and means of involving national carriers in the carriage of crude petroleum in Nigerian vessels.” However, the committee also observed that the under Sections 4 (1d) and 5 (1c) of the NNPC Act, 1977, the corporation “is charged with the responsibility inclusively for:

Providing and operating pipelines, tanker ships or other facilities for the carriage or conveyance of crude oil, national gas and their products and derivatives”; and to enter “..into contracts or partnership with any company, firm or person which in the opinion of the corporation will facilitate the discharge of the said duties under this decree (act).

The reluctance and perhaps the arrogance of the NNPC to even condescend to negotiate with NMA over modalities and timeframe for the involvement of Nigerian ships to participate in the affreightment of petroleum liquid marked the commencement of the “great shipping debate” and provides an interesting case study for a number of reasons. First, it reveals more interesting phenomenon of inter-agency fight to retain their positions in spite of the need to project and promote national interests and causes. Secondly, it exposes the unwillingness of government agencies to even discuss and collaborate with one another. It would appear that these agencies were working for different governments whose interests were conflictual and was one of “zero-sum game” without a mutual meeting ground. Next, NMA’s handling of the matter exposes the absence of tested and qualitative leadership with skill and clout to navigate through such

challenging matters. It further underscores the need for agency leadership, who must be insulated from the whims and caprices of politicians for agency stability, coherence and focus prevalent.

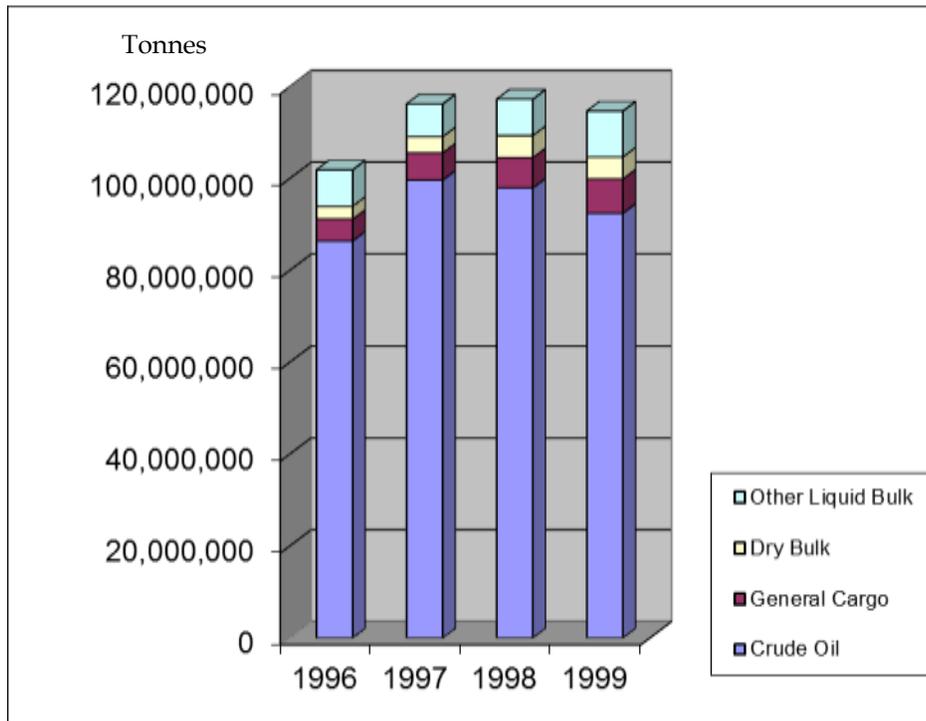
It also illuminates the “black box” of the Federal policy organ where there is policy conflict and gross indecision on the part of “the sovereign power” to prioritize and rank in a hierarchical manner its policy preferences. The NNPC represents one institution that easily became a law unto itself and the indecisiveness of the sovereign in such fundamental matter aided implementation failure and fueled the impression that policies were merely designed to “show” concern but nothing more than that. In the circumstance, it would be difficult for implementing agencies to decipher those policies that were of top government concern or those for the sake of policy since agency “overzealousness” could result in the dismissal of its management. Indeed the continued disagreement between the two institutions typified unseriousness and the absence of willpower that Nigerians can ever rise to any challenge of securing their economic independence and destiny.

Based on these findings, we submit that the issue of cargo support programme is one that demands another look if we want the indigenous shipping companies to grow. This is one sure way to provide a training ground for domestic competence and competitiveness. This position is based on the ascertained maritime potential of Nigeria and the numerous benefits the industry can bring to the economy and national defence. Anxious as Nigerians are to be involved in shipping, the absence of some of these measures may only lead to a repeat of the past experience. In seeking to implement the NSPA, the NMA left out the bulk of Section 14 cargoes in pursuit of Section 9 cargoes. A reference point is the NMA 1988 Annual Report where it conceded that it left the crude oil cargo due to “its sensitivity”. It seemed to have provided ammunition to NNPC’s stark defiance to all overtures towards seeking a way out of the conundrum where since the first crude export was made in 1958 till 2005, Nigeria has reported lost more than \$36 billion in freight income<sup>37</sup>.

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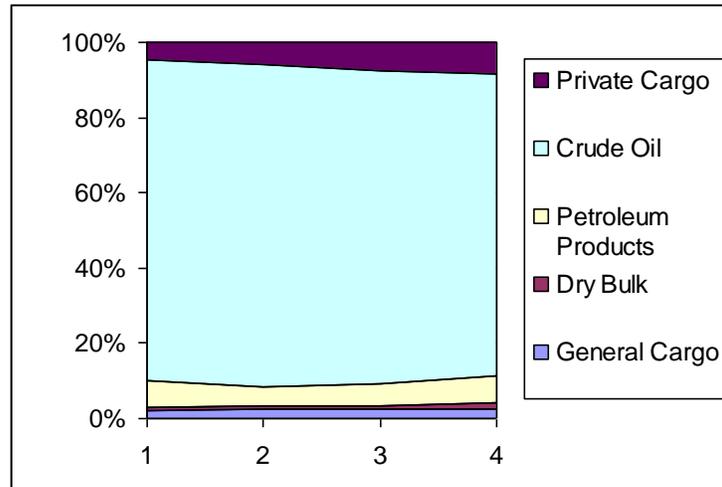
<sup>37</sup>Calculated from the NMA Annual Reports

**Fig 5.2 Distribution of Cargo Throughput in Nigerian Ports/Oil Terminals, 1996-1999.**



One clear consequence was that if NMA could not, or lacked courage, to control government cargo, what moral right would it have to enforce its control on private sector cargo? Besides, its application of Section 18 being reduced to bureaucratic procedure where it sought to fish out all

**Figure 5.3: Representation of Public and Private Sector Cargo**



cargoes, private cargoes by the fact of ownership, size and numbers became quite cumbersome to identify, control and allocate. It also tended to affect usual commercial trade practice. Moreover, the shippers were left to pay a high transaction cost incidental to the measure for the support of indigenous shipping companies. Yet there was no remarkable growth. The number of Nigerian ships and their gross registered tonnage could not match or justify the revenue earned from their share of cargo. Rather, the decline and demise of conference lines made cargo allocation procedure unclear to understand and control, signaling the collapse of the scheme and the inability of the national carriers to respond to the vessel demands and requirement incidental to technological innovation. While the Nigerian ports with notorious spasms of congestion and shallow draught require the Roll-On-Roll-Off (RORO) to mitigate these shortcomings, it was sad that none of the national carriers could respond to this shift.

The cumulative effect of poor policy thrust, implementation sequencing and lack of will to impose and enforce sanctions as provided by Section 26 of the NSPA indeed provided the basis for the suspension of the programme. The reluctance to use the powers conferred by Section 26, further signified the absence of guts and will, seriousness and sense of purpose. However, the study noted that defective and distasteful as cargo support programme could be, the NMA still has the statutory duty to assist the maritime development of Nigeria. To do this, it was seen that

public sector cargo size in Nigeria could provide a firmer and justifiable ground for the commencement of a credible programme. A more efficient cargo support programme then should focus on the control and involvement of Nigerian shipping companies in the carriage of Section 14 cargoes. Not only are these easier to identify and manage, the resistance to the approach is not also expected to be high.

Two reasons can account for this position. First, a review of the USA cargo preference revealed that the practice did not inhibit internal competition. It did not also affect usual commercial practice between a willing buyer and seller. All it did was to identify government – impelled cargo for competition among domestic shipping companies. In the event that no national flag could take up the cargoes, a waiver was issued allowing foreign vessels to lift on certain conditions. Although the US power and clout could account for the success of this approach and its seeming international accommodation, it is submitted that public institutions generating such public cargoes do have a contractual right to decide the terms of trade and the contracts they wish to choose. Besides, the linkage between national flag and defence and security needs can easily come handy as a precedence respected in the consideration of a nation's interest, politics and survival.

It is clear that these provisions whether in NSPA, Cabotage and NIMASA Acts were introduced to provide support for Nigerian owned tankers but the non-adherence of the NNPC to these provisions has continued to impact adversely on the Nigerian shipping industry.

### **5.3.2 Suspended SASBF**

This fund was established by the NMA pursuant to Section 13 of the NSPA. Apart from the fact that this very important instrument for expansion of the national fleet was given only one (1) section with four (4) brief subsections by the NSPA, the Act failed to provide sustainable, self-revolving mechanism for the fund. It rather placed, in sub-section 13(4), the responsibility of providing “general procedure and guidelines for the administration and the carrying into effect the purposes of the fund” entirely on the shoulders of the Minister. Unlike its United States counterpart Maritime Act, 1936, Title XI, the SASBF was imprecise, ambiguous and susceptible

to manipulation and extraneous influences, to the extent that there was no way the fund could have been revolving. Also, the fund was not truly established, for no clear mandatory rule was made on its funding, the credit limits and monitoring/recovery mechanism. These lapses obviously made the task of administering the fund quite difficult for bureaucrats who must accept, in the absence of clear restraining laws, the influence of their political masters. Even at the point of financial exhaustion of the Authority, it is intriguing that requests for loans and approvals to such loans were still being forced on NMAAsoluka 2003: 232).

Meanwhile, the rate of default in keeping to loans agreement was very high. Indeed, the suspension of further disbursement from the fund was sound and informed. There was a need to take stock, review strategy and procedure as well as general evaluation of performance. That the scheme failed is not an issue of debate. First, it was not properly funded, neither was it replenished, given the poor repayment response by the scheme beneficiaries. Second, in spite of the amount of money granted, all the addition recorded in domestic tonnage was 52,000DWT (Asoluka 2003: 282). Worse still, the average age of the so-called vessels acquired was over 25 years, considered in shipping circle as the limit of useful engagement of dry cargo vessels and 20 years for tankers.

How was the fund given for this type of tonnage acquisition? The operational guidelines and procedure used by the defunct SASBF, as noted earlier, were quite susceptible to extraneous influences. Not only were the evaluation and approval processes for loan requests done in-house by bureaucrats who could easily be instructed against their judgment, the approved loans were also disbursed direct to loan beneficiaries. In this circumstance, it was not easy to confirm whether loans were actually utilised for the purposes they were granted.

The post approval process only involved an assent from the ministry and the presidency, where after the beneficiary was requested to forward certain particulars and information for records. Lack of control of the vessel acquired accounted for the poor repayment record and also the quality of vessel. One more debilitating factor was the issue of loan amount approved. It would appear that certain decisions to reduce loan request were taken arbitrarily, regardless of the

actualization of the purpose of request. In a situation where the Authority could not grant loan requests in full, needed detailed renegotiation and alternative financial leverage should have been ascertained. The practice of handing huge amount of money directly to applicants and in most cases such represented a part of original loan request was an indication of loose financial appraisal and monitoring mechanism. It was an invitation to open abuse of the fund.

The loan structure offered by the Authority for a maximum of six years reflected poor understanding of the shipping market and presented a triple tragedy. For old vessels with high maintenance costs, not only was a moratorium of one year insufficient, the compression of repayment tenure to between three and five years also implied an exaggerated view of the earning power of the acquired ships. It created little room for cash flow problems which were common in shipping, yet the age of the ship could not permit a longer amortization schedule. Also, granting loans ranging from \$.5million to \$2.5million to private shipping companies to acquire old ships for tramp operations reflected poor analytical and technical judgment.

Another major defect was the issue of age, route and viability of acquired vessels. These indeed reflected the status of ship appraisal and credit analysis operational techniques used by the NMA. A closer examination of each of the requests would have sent signals as to their viability. The case of the NNSL was even more depressing. Money was just thrown in at problems, not minding their nature, demand and timing. Indeed, there was no way such funds could have been recovered. In the end, the SASBF lost all the funds amounting to US\$53,619,493 granted to the NNSL. For NUL, a total of US\$18,975,880, £64,622 and N135million remained outstanding (cf. Annex 2).

On the part of the loan beneficiaries, defaults arose from both internal factors peculiar to shipping companies and external ones that were beyond their control. However, a sound business plan must include a thorough feasibility study with sufficient provision made for variance based on painstaking sensitivity analysis. Not only was their judgment in ship markets, route and ship specification suspect, there were also indications of the absence of track record and commitment to the venture; and a poor management and understanding of the key critical factors for survival

of shipping business in the Nigerian environment. With little statutory support to enhance competitiveness, there was the likelihood that such investment could run into troubled waters. At the point of business distress, no conflict resolution mechanism was erected. The creditor and borrower were just not meeting to find solutions. Even the well meaning and determined ship operator could not be helped as no particular instruments were in place to address each case on its merit. The result is that out of eleven beneficiaries, only two could be said to be performing (cf. Annex 3).

In a nutshell, the SASBF failed not because it was a bad policy. The law was sketchy, full of gaps, which encouraged arbitrariness, political influences and implementation by an institution exposed to such dangers. From NMA, there was absence of rigour in handling loans' requests and appraisals, disbursement, monitoring and recovery mechanisms. All these gaps exposed the Authority more to outside influences. The beneficiaries showed little preparedness for a volatile sector like shipping investment. It would appear most of them merely sought to avail themselves of the available fund, which they perceived as a national cake. The object of the SASBF, in a way, encouraged this feeling as it was implied that the national fleet must be expanded regardless of its sustainability and competitiveness. Given the absence of these key qualifiers, it was often the case that decisions rested more on non-financial/non-economic criteria. Consequently, the national fleet could not be expanded on the structures and procedure of the defunct SASBF.

### **5.3.3 Manpower Development Support Initiative and the MV Trainer Saga**

Prior to the establishment of the Nigerian National Shipping Line (NNSL) Limited in 1959, Nigeria virtually had no trained Merchant Navy Officers apart from those who were enlisted in the Nigerian Navy as part of the Armed Forces. The Nigerian Ports Authority was the first to sponsor some officer cadets overseas for training in Navigation and Maritime Engineering, etc., with a view to produce maritime pilots and marine engineers for its dockyards. NNSL, at inception, relied entirely on foreign officers. A few ratings that were sailing on Elder Dempster and Palm Lines vessels were switched to NNSL ships. For international shipping to thrive, there must be a pool of highly trained local manpower for manning the vessels in accordance with laid

down international safety standards. Because training facilities for seafarers were non-existent, NNSL made available its vessels and financial resources to cadet officers/students of navigation, maritime engineering and other relevant disciplines. Some of the company's vessels were even deliberately designed to provide professional sea training facilities even though it was commercially unprofitable to the company. Within a period of thirty years (1961-1992), a pool of trained seafarers (officers) had been created. It is pertinent to mention that officers so trained by NNSL and NPA were generally hired or poached by other organizations, which needed their services. Such organizations that sought the services of trained merchant navy officers include oil companies, fishing companies, inland waterways, Maritime Academy of Nigeria, Oron, breweries, higher Institutions offering some aspects of maritime related courses, NNPC, etc.

By 1992, a total of 1297 officers had received training in navigation, marine engineering, marine electrical engineering, catering, marine communication, etc. through NNSL (Asoluka, (b) 2003; 137). The following different categories of officers were produced:

(a)	Master mariners	64
(b)	Chief Officers	68
(c)	Second officers	61
(d)	Third officers	59
(e)	4 <sup>th</sup> Officers	48
(f)	Radio/Marine Communication	68
(g)	Catering officers	60
(h)	Chief Engineer	70
(I)	2 <sup>nd</sup> Engineer	70
(j)	3 <sup>rd</sup> Engineers	63
(k)	4 <sup>th</sup> Engineers	70
(l)	Junior Engineers	77
(m)	Marine Electricians	69
(n)	Officer Cadets	450

The suspension of the training programme by NNSL about a decade ago and the subsequent liquidation of the company have negatively impacted on the manpower developmental needs of the local maritime industry with particular reference to seafarers. Analysis of the figures from BIMCO actually confirms the fears of local maritime experts on the fact that Nigeria is no longer training seafarers. While Nigeria, according to the statistical report for year 2000, has a pool of 975 officers and 1900 ratings, Ghana has 1879 officers and 7000 ratings. In terms of national economic need, size of country and length of coastlines, it is quite clear that Nigeria has to do something quickly to redress the situation. A country like Philippines with a pool of 50000 officers and 180000 ratings is now a major supplier of sea personnel to world shipping and earns considerable foreign exchange there-from.

The available pool of seafarers particularly the officer cadre are employed by the oil companies, coastal tankers and fishing vessels while those with internationally recognized certificates issued in accordance with STCW'78 convention obtain employment abroad and particularly in the Middle East. There is therefore the need to improve on the number in the pool of trained seafarers or at least to replace the decreasing number caused by natural wastages such as death, ageing, and etc. Many were halfway through into their professional training while many of those fully trained are now ageing simultaneously and out of touch with seafaring duties. No succession plans have been put in place for producing new generation of seafarers. The greatest problem is the non-availability of deep-sea trading ships as platform for practical training. Without "Sea Time" training, no meaningful seafaring training is possible. With the virtual total disappearance of Nigerian Registered Ships, the products of the Maritime Academy of Nigeria, Oron have been unable to continue their training as the all important on-board sea training cannot be undertaken.

#### **5.3.3.1 NMA's Efforts to Provide Practical Training for Trainee Seafarers**

In realization of the serious training needs of seafarers and the demand by the national economy for a pool of trained seafarers and other operatives in the local maritime industry, the NMA had made some stopgap efforts to provide "Sea Time" facilities. One of such facilities was the hiring

or negotiating for on-board placements of products of Maritime Academy of Nigeria, Oron with a coastal vessel operator that does not engage in any trading activity. This type of sea or on-board attachment cannot give the required experience or even satisfy the statutory requirement for the training of sea officers competent enough to meet the challenges of merchant marine. For any “On-board attachment” to be meaningful, the vessel providing the practical training facilities must call at seaports to enable the trainees, whether navigators or engineers, acquire or imbibe the professional knowledge or practice of entering or leaving the port. Cargo work while in port is an important aspect of a navigator’s work. Any training that does not provide these opportunities for practical training in all facets of merchant marine practice is often discarded.

### **5.3.3.2 M/V Trainer**

The purchase of M/V Trainer was an attempt to provide a platform for practical training of Maritime Academy of Nigeria Oron products. The MV Trainer episode represents a common problem in Public Sector Management in Nigeria. The goal usually is laudable. However, the implementation and procedure not only displace and subordinate the original objective, they soon become completely at variance and even create bottlenecks to the achievement of the very interests they are supposed to pursue. The history of Nigeria’s attempt to emerge as Maritime nation is replete with many bold dreams, false starts and crass incompetence. The purpose of acquiring MV Trainer in 1998 was to facilitate the training of Nigeria’s seafarers whose programmes had been affected with the liquidation of NNSL. Indeed, given the length of time required for sound training of Navigators, Marine Engineers and other seafarers, Nigeria is in danger of recruiting foreigners as her qualified citizens are ageing and would retire in the next ten years. Moreover, sea exposure remains necessary for validation of marine certificates. The unfortunate experience of NMA in attempting to mitigate the danger posed by the absence of Nigerian ships for training purposes and the fast depleting stock of seafarers can best be told by what was referred to as the MV Trainer Saga by the House Committee on Transport Inquiry in 2000.

#### 5.3.3.2.1 Background to the Saga and Consequent Investigation

The release and return of MV Trainer from Mobile, Alabama USA rather than provide relief to Maritime watchers provoked public outcry. Indeed, the press reports insinuated circumstances and events, which not only led to loss of public fund but also to fraud and inefficiency. At some points, issues were raised regarding the history of the trading and training vessel, hitherto owned by NNSL. It was alleged that the ship was sold for \$500,000 in 1996 only to be repurchased, two years after, at the cost of \$4.5m by NMA. Other allegations raised included a high cost of obtaining her release from the detention/arrest at Mobile Alabama USA. This was put at over N100million in 2000. On the whole, the story of the MV was painted as a case of massive embezzlement, waste of public fund for a purpose that remained unfulfilled. This purpose was to train and expose Nigerian seafarers to meet the requirements for their certification. Arising from this, flood of petitions inundated the House of Representatives, especially its Committee on Transport.

#### 5.3.3.2.2 Finding

From the interviews and evidence, which this researcher was privileged, to be part of<sup>38</sup>, it was very clear that the quality of decision, programmes design, implementation and control of funds were scandalous. In fact, the whole saga represented policy short-sightedness, incompetence and waste/abuse of public fund. Apart from limits outlined above, the problem of efficient maritime administration goes beyond functionaries and institutions. At times, the various conflicting and obsolete legislations create confusion. For the maritime sub-sector, which is time conscious and exposed to international competition, the least to be granted for efficiency is autonomy. In the case of Nigeria, NMA, to all intents and purposes, is run like a department in the Ministry of Transport.

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<sup>38</sup>This researcher was the lead Consultant in the reorganization of NMA in 2001 and was privy of these events and facts

**i) Overbearing Bureaucracy**

The link between the main ministry and NMA has remained quite strong, choking and obtrusive. Although the aim is to ensure compliance of government policy, and reduce waste and inefficiency, the reverse has become so reduced that NMA becomes unnecessarily slowed down. In the matter of MV Trainer, it is interesting how ministry imposed decisions, delayed actions and created irrelevant bottlenecks for what could be easily seen as simple routine decision. In this particular case, although there was fund, it could not be released until double -checked. Although NMA had a DG, supposedly appointed by the President through the Minister, he still had to report through the Director Maritime Services of the Ministry. In this event, MV Trainer detention/arrest did not receive any additional succour by the intervention of the ministry. If anything, this led to incurring more bills.

**ii) NMA Undefined Role in Shipping**

As it stands now, NMA seems to be searching for its role in addressing the maritime development issue of Nigeria. The 1987 Act, otherwise referred to National Shipping Policy, placed both regulatory and promotional roles in NMA. In exercising its powers regarding the training of cadets, it would appear that NMA overreached itself when it had already purchased a ship before thinking of what to do with it and how to manage it. Given the fact that there seems to be something inherently and morally wrong in a regulator becoming a participant, the very structure of NMA coupled with the ministerial overhang would hardly provide the enabling environment for successful shipping management and operations. Apart from these, the experience, exposure and quality of staff surely would have made direct involvement in shipping activity somewhat unprofitable.

**iii) Training Issues and MAN, Oron**

Although the Maritime Academy of Nigeria Oron by Decree 16 of 1977 was established to train the various levels of personnel required for running and operating the Merchant Navy, it appeared that they had no input in the issue of acquisition, running and training of cadets on

MV Trainer. Such cases became obvious as basic codes, guidelines and induction course for life at sea were not given to the cadets. It also appeared there was no clear relationship between NMA and the Academy apart from sporadic intervention whenever the former deemed fit. For a worthwhile training programme, there should be greater planning, coordination and investment between NMA and the Academy. Meanwhile, it remains doubtful if owning a ship is the most feasible way of addressing the problem of the cadets.

**iv) Ship Management: NMA and Brawal**

Given Brawal's experience in ship management and operations, at least managing a sister ship, MV Ndoni River, for 10 years, MV Trainer with proper contract should ordinarily pose little problem. However, it would appear that the unresolved difficulty in forging a synergy between public and private business interests became quite manifest. While government tends to place procedure above result, a business outfit values time, prompt intervention in order to get to the goal. This is quite evident in the choice of contract. Of all the various forms, the most involving seems to be the one chosen by NMA: to assign a manager to take overall operations of the ship while it pays all costs including management fees.

In a situation where the freight and determination of voyage costs are uncertain, the contract that required the management company to approach the principal, NMA, on a daily basis, to justify bills made the entire contract difficult to execute. By subjecting shipping operations to bureaucratic red tape and frustrations, it was easy to deduce that NMA did not even understand the business it was supposed to be regulating. It is hard to see what it sought to achieve by entering the kind of contract it did with Brawal, except of course to play within the "civil service rules and procedure." Shipping investment is difficult to manage in this way and it would appear that enough lessons were not learnt from the experiences of the defunct NNSL. Expectedly, ministerial approvals were not granted, or when granted, the need would have been overtaken.

#### 5.3.3.2.3 **MV Trainer/Training: The Way Forward**

For MV Trainer, the goal of trading is secondary to training. However, the aim ought to be a situation where the investment at least breaks even. This situation where, as MV Trainer showed, losses were recorded with problems ever present, the future of the cadets became uncertain. Apart from direct involvement, the issue of training cadets could become more functional and successful when definite policy of encouraging indigenous empowerment in shipping investment. Given a strict registration requirement for vessels acquired with support from NMA, local seamen are indeed guaranteed of employment opportunity. Prospects for cadets/local seafarers become more promising. Once the demand is created, supply has a way of rising to it.

The Committee investigated the issue of MV Trainer and found out that her detention/arrest in Mobile, Alabama USA, came as a result of cumulative poor decision, delays and waste of public fund. On the cost of the detention, the committee also found that while the Ministry approved the sum of \$936,000 and NMA spent about \$769,000 in USA. Other costs could not be added. Given the limited scope and time of investigation, the committee could only establish poor coordination, management and waste of public fund on the part of NMA, the Ministry and Brawal. The House may further direct on this as it obviously expands the scope of investigation of which MV Trainer may just be the “tip of the iceberg”. However, the committee is convinced from evidence and interviews taken during the investigation that:

- a. The circumstances that led to the detention/arrest MV Trainer represented a culmination of series of decisional and administrative blunders over time in the area of maritime management;
- b. The various losses in money, opportunities and manpower represent absence of clarity, focus and concentration in the management of the maritime sector;
- c. The problems of the maritime sector are rooted in the very nature of existing laws (legislation), the relationship between ministry and parastatals, the policy focus,

functions, structure and organization of NMA, the poor planning and execution of manpower capacity building and poor financial support for such programmes.

The Committee is aware of its responsibility in the directive of the House as contained in Resolution 35 of /11/99 and has noted the limited scope and nature of the investigation in terms of recommending monetary refunds. In order to ensure that the situation is corrected, the committee recommends as follows:

**i) Review of Legislation**

There is urgent need to review existing maritime legislation in order to reduce inter-agency conflict, duplication and to redefine national maritime goal. As well, the existing Merchant Shipping Act of 1962 has continued to beg for review. Apart from incorporating various international conventions and treaties ratified by Nigeria, the new legislation should define strict regulatory roles for ministry and agencies. There should be sufficient room for private sector initiative. It is only in an environment of economic growth that unemployment; people's welfare and efficiency indicators are improved.

**ii) Relationship Between NMA and the Ministry**

The Committee is of the view that the grip of the ministry on the parastatals should be slackened in order to improve efficiency, reduce bottlenecks and waste of public fund. In order to ensure check and supervision on management of parastatals, respective boards should be inaugurated. Besides, the approval limits of the board and management should reflect current economic conditions. This will quicken the decision-making activity much needed in the ever-evolving maritime world.

**iii) NMA Future Roles**

The focus of NMA should be narrowed down considerably in order to act as catalyst, promoter and regulator of the maritime sub sector. The era of getting involved in activities distant from its main thrust should be ended. Apart from regulation, NMA promotional role should be strengthened in order to give credible and sustainable support to genuine

indigenous investors in the maritime sector. NMA and Maritime Academy Oron should also involve a healthy modality for effective training programme for Nigerian cadets. This should be a matter of urgency. To this end, there should be a full fledged department in NMA for the training and the welfare of Nigerian seafarers and cadets.

**iv) Cadet Training and Developemnt**

In addition to points raised above, Nigeria should as a matter of urgency device a massive training and welfare programme for her seafarers and cadet. This measure will not only ensure that the smooth succession of the ageing generation of seafarers but can become potential foreign exchange earner for Nigeria. Countries like Philippines, India, Indonesia and Malaysia have benefited immensely from this policy. The cost of default can be enormous given the fact that sooner than later, their services will become in great demand.

**v) MV Trainer**

Since her docking at Tin Can Island Port in September 1999, MV Trainer has remained idle with cost running into millions of Naira. Urgent steps should be taken to dry dock it, refurbish it and lease it out to shipping interests with a proviso of offering training services to Nigerian cadets. This will not only reduce the continued waste of public fund but will offer fresh opportunity for Nigerian cadets. However, in the light of our experience, there should be an open tender system for this purpose.

#### **5.4 Conclusion**

The main promotional thrusts of the national shipping policy under the NSPA and NIMASA Act regimes were identified. The shipping developemnt programmes derived from the national shipping policy which were purely promotional in their objective included i) the cargo control and sharing, ii) the national fleet expansion through the SASBF, CVFF and the Maritime Fund, and iii) the maritime manpower developemnt scheme have varied a little. It was noted that in spite of changes in the law strengthening the implementing agency, which was enlarged from

NMA to include other agencies like the GIS and JOMALIC to form the NIMASA, the challenge of shipping development has remained the same, from inadequate national fleet with insignificant carriage rights to the challenge of manpower development in the face of ageing and depleting indigenous maritime and seafarers' workforce.

So far, the study has examined the probable implementation process hiccups of the national shipping policy against the backdrop of the conclusion reached in chapter four. It was confirmed that implementation process was heavily reliant on the statute. However, it was difficult to equally deduce that the legislative reforms have produced any salutary effect, which has been necessitated by agency innovativeness in redesigning and expediting shipping development in Nigeria. The NIMASA Act, 2007 repealed NSPA, 1987 and JOMALIC Act, 1999 and amended the Marine Shipping Act 2004. Three maritime agencies, NMA, GIS and JOMALIC have been subsumed into the Nigerian Maritime Administration and Safety Agency, NIMASA. One would have expected a more audacious implementing agency spear-heading drastic shipping development reforms in the various programmes but from all angles, four years have witnessed little activities.

## CHAPTER SIX

### EVALUATION OF THE IMPLEMENTATION PROCESS

#### 6.1 Introduction

The last two chapters have focused on the analysis and the implementation process of the national shipping policy. In Chapter Four, we observed that the absence of policy clarity and consistency, sound causal theory and stakeholders' support among other factors were likely to affect the implementation of shipping development programmes. As we went through the process of implementation in Chapter Five, these obstacles manifested in the three cases reviewed. They obviously affected the outcomes of the programmes. Chapter Six shall examine the outcomes of the implementation process. It will also conduct an evaluation of the implementation process of these shipping development programmes by the shipping stakeholders. The programmes were designed and implemented to induce shipping development and include: the programmes on the expansion of national fleet, the cargo support and maritime manpower development.

With respect to increasing national tonnage (fleet), this was to be accomplished through extending financial support to indigenous shipping companies. The cargo support was through the instrumentality of cargo control and sharing scheme under the NSPA and the restriction of coastal trade under the cabotage regime. For maritime manpower development, both the NSPA and Cabotage Act have provided legal mandate for the pursuit of, and support to, the training of maritime personnel and improvement of maritime training institutions. Through a combination of analysis and examination of the outcomes of three programmes which will clearly illustrate the outcomes of the programmes, the study shall assess whether or not the implementation of the national shipping policy has achieved its legal objective of inducing shipping development.

#### 6.2 Background

We begin the discussion by restating the goals of the National Shipping Policy and some findings from the literature. The National Shipping Policy Act (NSPA), 1987 was Nigeria's first

official shipping policy after it had ratified the United Nations Convention on a Code of Conduct for Liner Conferences (UN Code) in 1975. By its full title, NSPA is “ an act to establish a National Maritime Authority (NMA, now NIMASA) to amongst other things, coordinate and implement Nigeria’s shipping policy and matters incidental thereto”. Taken it for granted that whatever power this agency has, and enjoys, constitutes the nation’s shipping policy, Section 3 outlines eleven aims and objectives of the agency. The goal of the Act has been, among others, to support and assist the development of indigenous shipping capacity in terms of increasing national fleet, access to cargo and promotes the training of Nigerians in maritime transport technology and seafarers. All this can be summed up as the policy attempt to increase indigenous participation in the carriage of goods by sea, otherwise known as seaborne trade, through six key policy measures to be implemented by NMA. These measures included:

- 1) Giving effect to the UN Code , especially granting carriage rights on 40:40:20 basis for liner cargoes (NSPA, Sections 3(a), 4(b) and 9(1).
- 2) Granting carriage rights and cargo control in respect of non-liner cargoes such as dry and wet bulk cargoes on at least 50:50 basis (NSPA, Sections 9(1), 9(2) and 18(1).
- 3) Appointing national carriers with preferred status (NSPA, Sections 7,9,10(3) and 14(1).
- 4) Providing ship acquisition and ship building through an SASB Fund (NSPA, Section 13).
- 5) Fixing terms of trade for public sector cargoes (NSPA, Section 14(3).
- 6) Promoting the training and employment of Nigerians in seafaring and other maritime technology (NSPA, Sections 3(k) and 7(g).

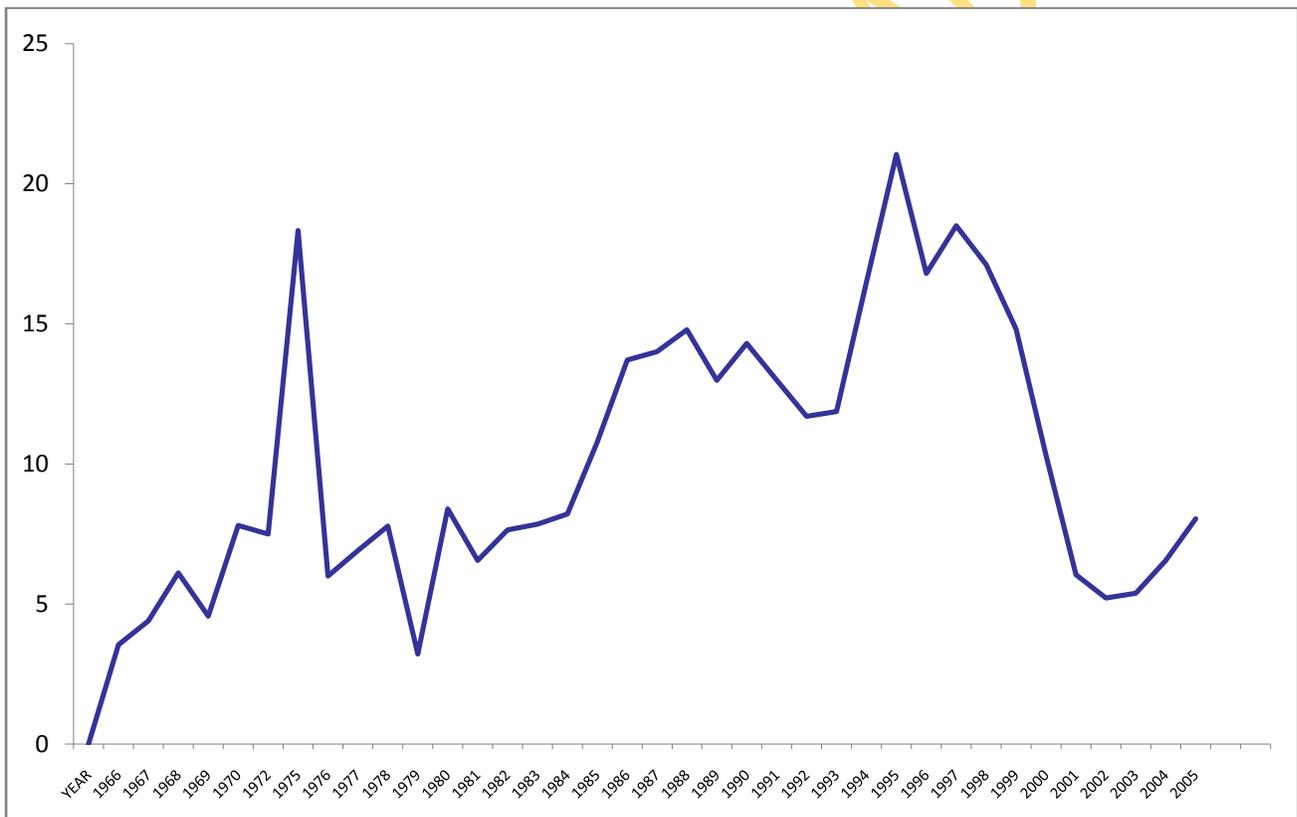
These promotional goals were to be implemented by the NMA and would require alot of planning, foresight, resources, commitment and autonomy to succeed. The organisational structure of NMA rested on ten departments and units under the control of the Director General. Out of these departments and units, the Commercial Department was assigned cargo sharing and cargo monitoring promotional functions while the Ship Acquisition and Ship Building Unit was responsible for the running of the SASB Fund. The Administration Department was in charge of training including support to outside maritime institutions.

As Stopford (1997; 2) has noted, “shipping is an international business and the economic forces that make it so significant in economic terms also make it a subject of national and international political intervention”. The linkage between international shipping and the global economy is well settled. Primarily concerned with providing spatial links in the global economy, more than 90 percent of international trade by weight is moved by sea transport (Gardiner, 1992). The growth of the world economy, over the years, has therefore brought demand pressure on shipping services. Using 1960 as a baseline, the growth of ships worldwide has remained phenomenal, rising from an aggregate number of 36311 (129.7 million grt), for nine broad types, in 1960 to 78,336 (423.6 million grt) in 1990 and 82,890 (490 million grt) in 1995. Apart from the general perception that shipping accelerates economic growth, being a source of cheap transport, a nation’s control of shipping, or active participation in international shipping, is seen as a vital base for its political power, prestige and strong defence capability. Yet, about fifty percent of world merchant fleet is controlled by five countries namely Greece, Japan, United States, Norway and China.

Trade creates demand for shipping activities. Nigeria is a major trading nation in sub-saharan Africa, with cargo throughput at its ports and terminal of over 101million tonnes in 1996, 85 per cent of which was crude oil, lifted by Tanker Vessels. The others were general cargo, carried by Liner Shipping and dry bulk cargo transported by Bulk Shipping. Of this volume, the study noted that public sector cargo accounted for over 97 million tonnes while private sector cargo amounted to about 4.2million tonnes. Not only did indigenous shipping companies control a paltry percentage of the trade (see fig 6.1), their vessels were old with an ageing crew. As a matter of fact, the average age of the ships was 27 years while the average age of Nigerian navigator (ship Captain) was over 56 years. Notwithstanding the shipping development programmes, indigenous shipping companies still did not have the requisite capacity to take advantage of whatever incentives the carriage rights provided, nor were the programmes working to assist them develop it. In the end, the national fleet did not increase, the ageing seafarers were shrinking in number and competence such that any increase in fleet would have created manning problem. The situation remained the same or even worse.

The study has revealed that Nigeria’s international and domestic shipping has been dominated by foreign shipping companies. The trade has been mainly import-oriented except for crude oil which accounts for over 90 per cent of export trade. After thirty one years of policy support and huge financial outlay, Nigerian flagged vessels carried just about 6 per cent of the non-oil cargo. (NPA Abstracts) and less than two per cent of the petroleum trade. Fig. 6.1 below shows clearly the stochastic manner Nigeria shipping has grown.

**FIG 6.1 PERCENTAGE OF NIGERIAN VESSELS THAT ENTERED NIGERIAN PORTS, 1966-2005**



*Compiled from NPA Abstracts, 1966 – 2006.*

The implication is that the loss of these earnings from shipping has continued to deprive Nigeria of the much needed funds which would have helped diversify its revenue base. Apart from the domination of Nigeria’s shipping industry by foreign interest, the study also revealed a total non-participation of indigenous shipping companies in the transportation of crude oil and Liquefied

Natural Gas (LNG) with an estimated loss of a gross freight earning of US\$10.5 billion estimated over a five year period, 1999 to 2003 (NPA Abstracts). However, the study noted that there was enormous opportunity for the implementation of cargo reservation in respect of public sector right rather than the aborted attempt to control and share out private sector cargo as a way of enforcing indigenous shipping carriage right. The structure of Nigerian seaborne trade revealed dominance of wet cargo over general and other cargoes. Consequently, it holds a potential niche for indigenous shipping companies to invest in tanker shipping and for the implementing agency to show more preference in applying its SASB Fund to support tanker vessel acquisition.

### **6.1.1 Stakeholders and Their Expectation**

The major stakeholders in the shipping industry are indicated in chapter two. They are represented both in Nigeria and outside its shores. Included in the group are the ship owners, the shippers, the various government agencies, major cargo/shipping services generators such as the oil and gas industry, the banking and insurance institutions, the maritime training institutions, the maritime media and policy makers. The interests of these groups vary widely in their core values but are united in the policy belief (Sabatier and Smith 1999). However, the main thrust of the national shipping policy lies in the promotion of shipping development which, through the NMA/NIMASA, primarily aims to protect the interest of indigenous ship owners. The NIMASA Act has however placed other responsibilities in terms of maritime safety, marine environment management, Port and State Flag Controls with NIMASA.

The expectations of the stakeholders can be grouped in three categories. The first group consists of the main beneficiaries of the national shipping policy. From this group, the expectation is that NMA/NIMASA must support them in building capacity and enhancing their hold on national cargo. These include financial support in terms of providing soft loans and other financial and fiscal incentives and the strict implementation cargo preference policy. The success of national shipping policy for this group depends on how much the NMA/NIMASA supports the shipowners to actualise the objectives. Their position is rested on the fact that shipping has

continued to be supported by serious maritime states because such protection to indigenous ship owners is important to the development of a virile national fleet. The national fleet in turn supports the national economy by job creation, stabilisation of freight rate and consequent promotion of foreign trade, conservation of foreign exchange and the general boom to ancillary shipping activities such as insurance, banking and training institutions. The role of national fleet in case of maritime emergency, security and defence has also remained one of the major reasons why local ship owners must be supported to develop national tonnage. In this category are members of the Nigerian Shipping Companies Association and Indigenous Ship Owners Association of Nigeria (ISAN), various maritime professional groups whose desire for manpower development support is consistent with the development of national fleet.

On the other hand, there is the group whose position could be adversely affected by the successful implementation of the national shipping policy. The group consists of those who are currently in a strong position, reaping the fruits of the absence of local competition as a result of the prevailing regime that tilts against new entrants. What the group demands then is a “level playing field” where shipping quality and standards must not be compromised. Besides, support for shipping industry should not be discriminatory because competition ensures high safety standards and sustainability of shipping investment. Most of the foreign ship owners and the major oil and gas companies who feel that policy intervention would necessarily breed inefficiency, higher cost, lower standards and in the end distortion and unreliability in the supply of shipping services. In a rather curious twist, the group includes some government agencies whose position and control of cargo shipments seem threatened by the surrender of shipping control to NMA/NIMASA. They will not hesitate to show why the implementation of the policy will injure the economy and impede development. Since shipping is like any other industry, they fail to see why priority should be given to the sector. Moreover, such preferential policy would invariably run contrary to the liberal economic reforms of the government.

In the middle are those shipping stakeholders who perceive that their interests will not be immediately affected by the policy. However, the burden rests on the implementation process of

the national shipping policy, stretching from policy formulation to the actual implementation of the programmes derived from the policy.

### **6.3 Review of the Performance of the Shipping Development Programmes**

The study will examine here whether the legal objectives of the policy were achieved: did the programme outcome show any improvements in the expansion of national fleet? Did the indigenous fleet increase their share of national cargo and did the number and quality of maritime manpower improve overtime? These are some of the outcomes to be examined in the subsequent sections and how did the stakeholders evaluate the implementation process focusing on the impediments and success of the programmes in the quest for shipping development. What informed a former Minister of State for Transport, Isa Yuguda, to conclude that "in the 14 years of its existence, NMA has not met the expectations of government and particularly the stakeholders in this dynamic industry"? Why is it a consensus among all stakeholders that NMA/NIMASA has not been able to achieve the desired result over the years in the area of promoting shipping development?

#### **6.3.1 Programmes' Outcome Under the NSPA and Cabotage Act**

##### **6.3.1.1 National Tonnage/Fleet**

Successful implementation of the national fleet expansion programme would indicate an increase in the number ships owned by indigenous ship operators. This is further indicated by the national tonnage in the national ship registry as well as the number of Nigerian ships trading in the cabotage and international trade. The programme was supported by the provision of financial assistance to National shipowners and operators. Under the NSPA, 1987, a Ship Acquisition and Ship Building Fund was established by Section 13 for this purpose. Likewise the Cabotage Act, 2003, provided for a Cabotage Vessel Financing Fund (CVFF) to support the acquisition of cabotage vessels. The causal theory underlining the programme is that provision of financial support to prospective shipowners would increase national tonnage. This also rests on the fact that since shipping is capital intensive, it would be difficult to finance ship acquisition through

equity investment. And given that the banks and financial institutions would be reluctant to provide funds as soft loans, shipping investment would be neglected. As an incentive to invest in this strategic sector, there would be the need to provide some incentives by the way of soft loans.

**Table 6:1 SASBF LOAN PERFORMANCE AS AT 31/12/2001**

S/N	COMPANY	PRINCIPAL		TENOR	DISBURSEMENT DATE	MATURITY DATE	OUTSTANDING BALANCE	
		FX (‘000)	LOCAL (‘000)				As at 31/12/2001 (‘000)	
1.	FAGET Nig. Ltd	\$1250	-	5yrs	04/04/95	05/04/00	\$1210	-
2.	East West Coast Marine Services	\$2000	-	6yrs	13/03/95	14/03/00	\$2401	-
3.	A & C Engr.	£150	<del>₦</del> 690 0	3yrs	02/03/95	03/03/00	\$183	<del>₦</del> 3733
4.	Genesis	\$2500	-	5yrs	04/04/95	05/04/00	\$2663	-
5.	Tarabaro z	\$1400	-	4yrs	02/03/95	03/03/00	\$41	-
6.	Cibra	\$550	-	3yrs	27/09/94	28/09/00	\$683	-
7.	Skolar	\$500	-	4yrs	21/02/95	21/02/00	\$32	-

8.	Bulkship	\$6000	-	5yrs	17/06/95	18/06/00	\$6236	-
9.	BM Tankers	\$5000	-	5yrs	21/03/97	22/03/00	\$4800	-
10	NNSL	\$47,620	-	NA	NA	NA	NA	-
11	Nig. Unity Line	\$18,976 ( Plus £64,622)	₦135, 000	NA	NA	NA	NA	-
		\$85,946 and £64,622	₦141, 900	NA	NA	NA	NA	-

Whether this played out as expected would first be contingent on adequate provision and availability of funds for the programme and the utilisation of such funds for the purpose of vessel acquisition.

Table 6:1 above shows that funds were disbursed under the SASBF scheme in 1995 to beneficiaries as loans for the purpose of ship acquisition. From the table, there were eleven beneficiaries of the loan scheme. Out of this number, two (NNSL and NUL) were companies owned by government and both received the bulk of the fund in excess of 77 percent (\$66.6m). Not only were these loans unsecured, they were for supporting mainly for supporting the operations of these government companies rather than to finance new acquisitions. For instance, between 1995 and 1999, the NNSL acquired a mere 16000 DWT vessel named MV Abuja, whose value at then international rate was under US\$10M. Nigeria paid over US\$16.5M! The disbursement for the nine private shipping companies constituted about 23 percent with the following spread. The highest disbursement of \$6m went to Bukship while the least beneficiary (AC Engr) received less than 150,000 pounds (Sterling). The maximum amortisation period was five years, which did not provide without a moratorium. Apart from the fact these loans were not

properly secured, they were granted on sound credit analysis and viability of the project. It was clear from the onset that the funds were inadequate to finance ship acquisition for national fleet. At the time of disbursement, the total amount given to the nine private shipping companies was hardly enough to acquire a 5-year second-hand building of 30,000 Dwt<sup>39</sup>.

Expectedly, the money for the government companies was not tied to any ship acquisition project but rather to help bail out them (NNSL) from financial difficulties. The same financial life-line was extended to the Nigeria Unity Line (NUL) to support run it as a shipping company, not for the purpose of fresh acquisition of ships. In effect, more than \$74million out of the so-called \$92million loan support was not directly for fresh addition to the national fleet. The result was predictable. The private shipping companies requests were not based on sound feasibility study and most of them did infact see the support as their “share of the national cake”, and not a loan to be repaid. From the amortisation schedule, they defaulted in paying back. In deed, there was clear evidence that the funds received were not invested into shipping. They were perhaps insufficient for the purpose or clearly diverted to other interests.

Table 6:2 below shows clearly that three years after the loans disbursements, the size of national fleet had shrunk from the peak of 28 ships and over 371,130 dwt in 1980 before the enactment of the national shipping policy to a situation of 13 ships and under 22,000 dwt in 1997. The SASBF scheme was suspended in 1995, the same year it was introduced. From the outcome, the national fleet expansion objective of the NSPA had not succeeded by the outcome. Whether there were other factors outside the control of NMA or the funding structure was defective and misapplied, or that it was not given enough time to grow would be discussed later. To the stakeholder, the national shipping policy failed in expanding the national fleet, whether it was due to the policy itself or the implementation will be seen in the next section.

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<sup>39</sup>See report of the interviews annexed as appendix 2, it was revealed that as Admiral Godwin Kanu

**Table 6:2 Number and Deadweight of Merchant Ships  
Owned by Nigerian Shipping Companies, 1980 - 1993**

<i>Name of Shipping line</i>	1980		1981		1982		1983		1984		1985		1986	
	<i>No of Ships</i>	<i>Total DW T</i>												
<b>Nigerian National Shipping Company</b>	27	361,030	24	321,040	24	321,040	20	280,000	20	280,000	20	280,000	19	268,000
<b>Henry Stephens Shipping Line</b>	1	10,100	-	-	-	-	-	-	-	-	-	-	-	-
<b>African Ocean Line</b>	-	-	-	-	-	-	-	-	-	-	2	34,740	2	34,740
<b>Niger Brass</b>	-	-	-	-	-	-	-	-	-	-	-	-	1	15,814
<b>Nigerian Green Line</b>	-	-	-	-	-	-	-	-	-	-	1	21,300	2	39,304
<b>Bulkship</b>	-	-	-	-	-	-	-	-	-	-	-	-	1	16,000
<b>Brawal Shipping Line</b>	-	-	-	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL</b>	28	371,130	24	321,040	24	321,040	20	280,000	20	280,000	23	336,040	25	373,858

Name of Shipping line	1987		1988		1989		1990		1991		1992		1993	
	No of Ships	Total DW T	No of Ships	Total DW T										
Nigeria National Shipping Company	19	268,000	19	268,000	13	192,000	13	192,000	13	192,000	13	192,000	13	192,000
Henry Stephens Shipping Line	-	-	-	-	-	-	-	-	-	-	-	-	-	-
African Ocean Line	2	34,740	2	34,740	-	-	-	-	-	-	-	-	-	-
Niger Brass	1	15,814	1	15,814	1	15,814	-	-	-	-	-	-	-	-
Nigeria Green Line	2	39,304	2	39,304	2	39,304	-	-	-	-	-	-	-	-
Bulkship	1	16,000	1	16,000	1	16,000	1	16,000	1	16,000	1	16,000	16,000	16,000
Brawal Shipping Line	-	-	-	-	1	12,000	1	12,000	1	12,000	1	12,000	12,000	12,000
<b>TOTAL</b>	<b>25</b>	<b>373,858</b>	<b>25</b>	<b>373,858</b>	<b>18</b>	<b>275,118</b>	<b>15</b>	<b>220,000</b>	<b>15</b>	<b>220,000</b>	<b>15</b>	<b>220,000</b>	<b>220,000</b>	<b>220,000</b>

*Source:- Survey by the National Maritime Authority, Research, Planning and Statistics Divisions*

The CVFF was designed to support indigenous shipping companies to acquire cabotage vessel. Uptil the time of concluding this study, the scheme is yet to take off. Although it has been

restructured to overcome some of the difficulties experienced under the SASBF, with the banks shortlisted to work with the fund as “primary lending institutions”, the CVFF is yet to grant any loan from its coffers which have accumulated to the tune of over \$150million by 2007.

However, Table 6:3 indicates improved activities in the Nigerian Ship Registry which has grown from the 2002 level of registration of five ships with 22,804 grt to 372 ships with gross registered tonnage of over 841,104 in 2010. A clear implication is that the national tonnage between 2002 and 2010 had peaked to over 1998 ships with over 2.6 million grt! It is not clear whether this improvement can all be attributed to the increase in the number of ships owned by indigenous ship operators or as a result of a relaxed registration regime, which with the advent of cabotage waiver, power gave foreign operators access to the Nigerian ship registry. However, it is estimated that 60 percent of the cabotage vessels belong to Nigerian shipping companies. Another implication is that the rise of registered tonnage was not induced by any financial support from either the SASBF or the CVFF. It was rather as a result of a new regime for ship registry. It would appear then that cabotage as a policy was more likely to expand national fleet over time than the NSPA.

**Table 6:3 Nigerian Ship Registry, 2002 – 2010**

S/N	Year	Ships Registered	Tonnage In DeadWeight (DWT)
1.	2002	45	22,804.23
2.	2003	53	37,704.19
3.	2004	195	104,491.24
4.	2005	208	340,149.91
5.	2006	168	73,970.13
6.	2007	265	182,972.73
7.	2008	332	450,202.06
8.	2009	360	551,339.68
9.	2010	372	841,104.88
	<b>Total:</b>	<b>1998</b>	<b>2,604,739.05</b>

Source: NIMASA 2010.

### **6.3.2 Increased Participation of Nigerian Shipping Companies**

A critical concern of the national shipping policy has been to ensure that Nigerian shipping companies and national carriers effectively participate in the nation's seaborne trade. The expected benefits of the objective have been outlined elsewhere but it remains the pillar for the quest to expand national fleet. In other words, the promotion of national fleet is a step toward ensuring that Nigerians have enough ships to meaningfully engage in international shipping activities. The causal theory here is rested on the linkage between cargo (trade) and ships. Ships are not acquired for their sake but to meet the demand for shipping services. Ships therefore cannot exist without the demand for the service. One way to ensure indigenous participation has been the use of combined strategy of supporting vessel acquisition by Nigerian shipping companies and guaranteeing that these vessels have cargo.

**Table 6:4 Participation in Nigerian Foreign Trade By Nigerian flag and Foreign flag**

DOCUMENTS SHARED OUT, THEIR FOB AND FREIGHT VALUES CLASSIFIED BY ROUTES AND TRADE FOR 1990 AND 1991

ROUTE	TRADE	NUMBER OF DOCUMENTS				FOB VALUE (IN MILLION US \$)				FREIGHT VALUE (IN MILLION US \$)			
		1988	1989	1990	1991	1988	1989	1990	1991	1988	1989	1990	1991
COWAC	IMPORT	14700	23705	21306	26272	1606.24	1623.57	2,186.45	4,384.33	135.45	171.92	219.20	438.71
	EXPORT	592	1043	866	1464	94.31	129.76	82.41	144.95	7.23	12.42	8.22	5.58
	TOTAL	15292	24748	22172	27736	1700.55	1753.33	2,268.86	4,529.28	142.68	184.14	227.42	454.29
MEWAC	IMPORT	2967	8350	3871	6579	230.42	628.69	375.35	745.21	30.48	65.07	53.04	90.09
	EXPORT	160	460	371	650	11.60	42.33	18.67	35.24	1.79	5.12	2.10	3.34
	TOTAL	3127	8810	4242	7229	242.02	671.02	394.02	780.45	32.27	70.39	55.14	93.43
FEWAC	IMPORT	8828	13873	12443	19101	561.93	835.86	376.28	1,991.54	57.99	96.89	115.76	219.62
	EXPORT	167	457	251	270	20.06	29.25	15.50	256.5	2.32	2.97	1.49	2.96
	TOTAL	8995	14330	12694	19371	581.99	865.11	391.78	2,248.04	60.31	99.86	117.25	222.58
UKWAL	IMPORT	6816	11849	9727	11130	422.56	649.50	721.66	927.84	42.32	55.27	60.81	76.98
	EXPORT	349	726	509	943	43.87	78.70	53.84	908.90	3.03	7.42	5.01	9.06
	TOTAL	7165	12575	10236	12073	466.43	728.20	775.5	18,386.74	45.35	62.69	65.82	86.04
AMWAC	IMPORT	2302	5365	3937	5222	220.0	353.35	392.81	879.40	29.66	46.10	51.95	105.44
	EXPORT	70	251	279	461	31.32	50.54	30.59	528.06	426	8.12	2.9	5.26
	TOTAL	2372	5616	4216	5683	251.32	403.89	423.4	1407.46	33.92	54.22	54.85	110.7
NIG-BRAZIL	IMPORT	1727	2420	2729	2436	180.62	264.53	265.48	417.61	33.59	44.34	39.67	65.16
	EXPORT	4	2	3	12	1.82	.07	NA	0.42	0.18	0.01	NA	0.04
	TOTAL	1731	2422	2732	2448	182.44	264.60	265.48	418.03	33.77	44.35	39.67	65.20
NIG-INDIA	IMPORT	1084	2178	2271	3428	49.38	69.96	82.31	176.12	7.83	13.59	14.14	25.96
	EXPORT	8	64	79	61	0.25	3.93	2.19	4.01	0.03	0.58	0.27	0.14
	TOTAL	1092	2242	2350	3489	49.63	699.89	84.50	180.50	7.87	14.17	14.14	26.37
INTERMEDIATE	IMPORT			418	771			195.44	195.44			16.12	47.06
	EXPORT			219	469			24.60	24.60			1.23	2.31
	TOTAL			637	1340			220.04	220.04			17.35	49.37
TOTAL ALL ROUTES	IMPORT	38424	67740	56702	74939	3271.15	5051.46	9,717.49	9,717.49	337.32	493.18	570.69	1069.0
	EXPORT	1350	3003	2577	4330	203.23	334.58	1,902.68	1,902.68	18.84	36.84	21.22	38.96
	TOTAL	39774	70743	59279	79269	3474.38	5386.04	11,620.17	11,620.17	356.16	538.02	591.91	1107.9

**SOURCE: NATIONAL MARITIME AUTHORITY**

The NSPA, 1987, provided in various sections the active participation of Nigerian carriers by ensuring that certain percentage of cargo must be reserved for national carriers. NMA at inception considered this assignment as very important, even above the others. By 1987, it had already instituted measures to control and share cargo which by 1990 was reported to be successful. From Table 6:4, it was clear that certain Nigerian carriers within the various conferences had received roughly 40 percent of the liner cargo. The first set of fully processed forms C-1 and C-3 series were collected by the NMA for analysis and commencement of cargo sharing through the conference system on May 5, 1988. By the end of the year, 39,774 documents with FOB value of \$3,474,369,645.18 and freight value of \$356,153,230.03 had been shared out. Subsequent years posted even more robust figures: 1989 recorded 70743 documents, or 77.86 percent increase and freight increase of over 50 percent to \$538.02 million. In the other years; 1990 handled over 59,200 document with freight value of of over \$591.9 million, 1991 recorded 72,269 documents for the freight value of over \$1.107 billion, or 87 percent increase over the previous year. In terms of having some grip on its cargo, NMA recorded some progress which however did not reflect on any increase in national tonnage.

**Table 6.4a NATIONALITY OF VESSELS THAT ENTERED NIGERIAN PORT FROM 1990 – 1996**

NATIONALITY	1990		1991		1992		1993		1994		1995		1996		TOTAL	
		%		%		%		%		%		%		%		%
<b>NIGERIA</b>	520	14.30	509	13.0	468	11.70	468	11.87	402	16.5	511	21.05	537	16.8	3415	16.18
<b>OTHERS</b>	3120	85.70	3404	87.0	3516	88.30	3475	88.13	2021	83.5	1926	78.95	2665	83.20	17695	83.82
<b>TOTAL</b>	3640	100	3913	100	3984	100	3943	100	2423	100	2437	100	3202	100	21110	100

**Table 6.4b NATIONALITY OF VESSELS THAT ENTERED NIGERIAN PORT FROM 1997- 2005**

NATI ON- ALITY	1997		1998		1999		2000		2001		2002		2003		2004		2005	
		%		%		%		%		%		%		%		%		%
NIGER IA	53 5	1 8.	6 8	1 7.	5 5	14. 81	42 1	10. 30	2 7	6. 0	2 1	5. 2	2 3	5. 3	2 3	6. 5	3 6	8. 0
OTHE RS	23 63	8 1.	3 2	8 2.	3 2	85. 19	36 66	89. 7	4 2	9 3.	3 9	9 4.	4 0	9 4.	3 3	9 3.	4 2	9 1.
TOTA L	28 98	1 0	3 9	1 0	3 7	10 0	40 87	10 0	4 4	1 0	4 1	1 0	4 3	1 0	3 6	1 0	4 5	1 0
		0 7	0 2	0 2	6 2				7 3	0 3	4 3	0 5	1 5	0 5	0 5	0 5	8 6	0 6

However, both Tables 6.4a, 6.4b and Fig 6:1 show that the calls by Nigerian ships at the Nigerian ports were not increasing as there was still a huge dominance of foreign ships. From the evidence the national carriers lifted roughly 14 percent of the national ocean-borne cargo. Rather than the cargo support improving the participation of national carriers, the tonnage had indeed decreased as tables 6:2, 6:3 above and Fig 6:2 below indicate. It is clear that the mere administration of cargo support did not improve indigenous participation in terms of involvement of their ships. It was indicated that only a portion of the cargo was controlled and shared. The public sector cargo, especially the lifting of crude oil, remained outside the programme. Fig 6.2 shows the shipment of oil cargo by tankers owned almost entirely by foreign shipping companies. It may have created some benefits for the beneficiaries but that did not translate to increased national tonnage. The failure to bring about improvement of national tonnage will be discussed later in our analysis.

Fig 6:1

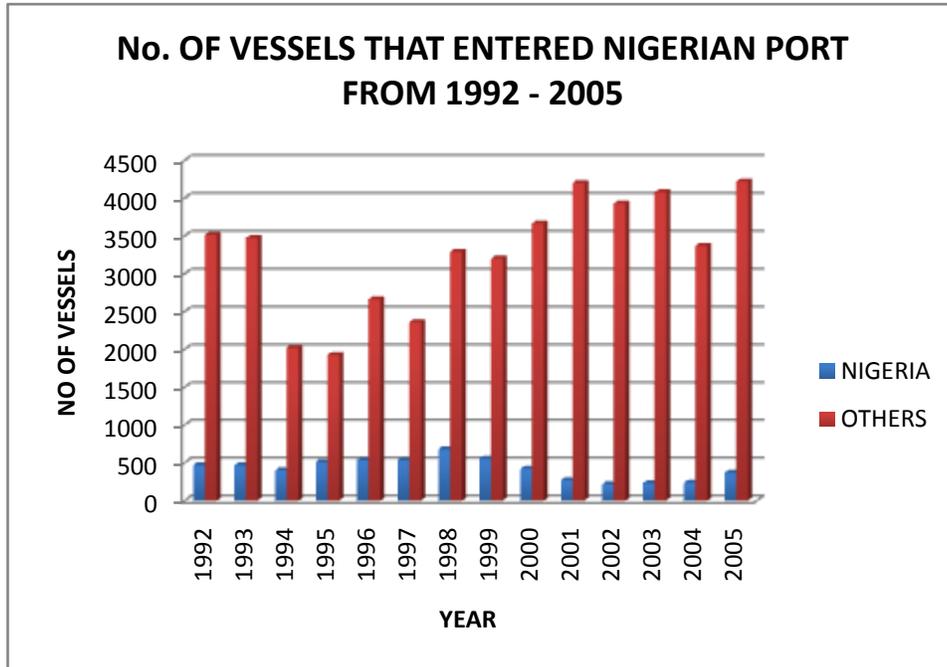
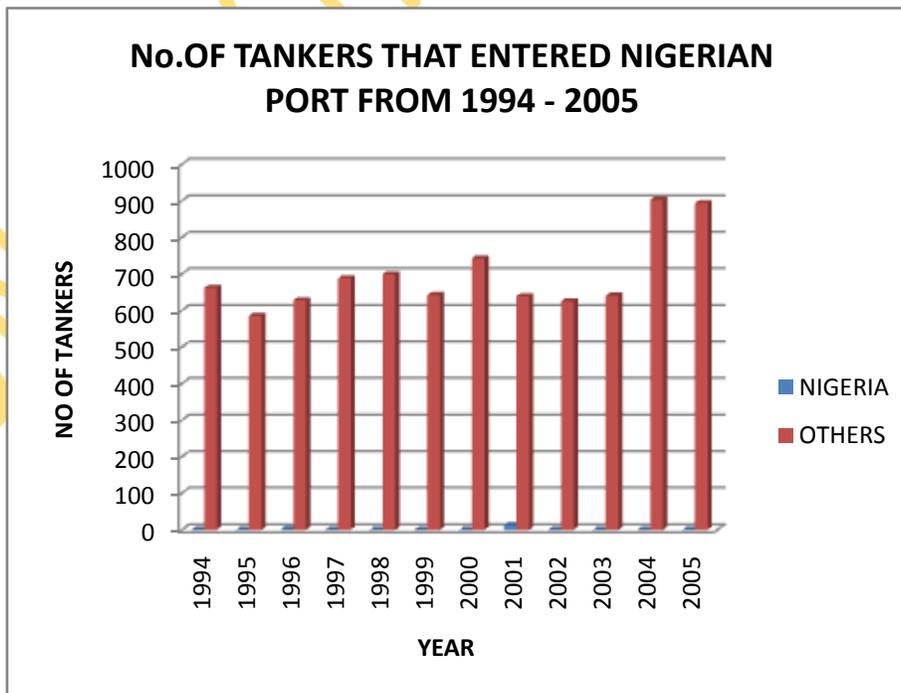


Fig 6:2



With the commencement of cabotage regime, the situation seems to have improved. Table 6:6 below indicate that 60 percent of the 4500 ships involved in the cabotage trade between 2002 and 2010 are Nigerian registered ships. Again this has not confirmed whether these vessels belong to Nigerians or foreigners hiding under the waivers granted to them to register such operating ships under the Ship Registry. This equally corroborates the figures in Table 6:4 above which indicated the increase in the number of ships and tonnage in the Nigerian Ship Registry.

**Table 6:6 Vessel Participation in Cabotage Regime**

1	Vessels Participation in Cabotage Regime	2002-2010	4500 Vessels
2	Flags of Vessels from 2002-2010	2002-2010	Nigerian Flagged Vessels 60% of Vessels within the Period.
3	Seafarers Participation	2002-2010	800
4	Single Hull	2002-2010	120
5	Double Hull	2002-2010	7

Source: Nigerian Ship Registration Office, NIMASA.

### **6.3.3 Capacity Building: Manpower Development Initiative and Shipyards**

Under the NSPA, 1987, the seafarers were not treated as if they were essential resource in the shipping industry. Whereas there was cargo support scheme and the SASBF, albeit poorly managed, there was no clear-cut programme or scheme to address the shortage of seafarers in Nigeria. Table 6:7 below compiled by BIMCO illustrates the position of Nigeria in relation to other countries on the pool of seafarers, a detailed data showing individual maritime country's pool as at the end of year 2000. Analysis of the figures actually confirms the fears of local maritime experts on the fact that Nigeria is no longer training seafarers. While Nigeria, according to the statistical report, has a pool of 975 officers and 1900 ratings, Ghana has 1879 officers and 7000 ratings. In terms of national economic need, size of country and length of coastlines, it is

quite clear that Nigeria has to do something quickly to redress the situation. A country like Philippines with a pool of 50000 officers and 180000 ratings is now a major supplier of sea personnel to world shipping and earns considerable foreign exchange there-from. The available pool of seafarers particularly the officer cadre are employed by the oil companies, coastal tankers and fishing vessels while those with internationally recognized certificates issued in accordance with STCW'78 convention obtain employment abroad and particularly in the Middle East. There is therefore the need to improve on the number in the pool of trained seafarers or at least to replace the decreasing number caused by natural wastages such as death, ageing, etc.

A national shipping fleet needs to be manned by seafarers that are both loyal to the company and to the flag if the state must get full value of its intervention. Although NMA by virtue of Section 3 (k), and indeed Sections 3(e) and 3(i), was mandated to “promote the training of Nigerians in maritime transport technology and seafarers”, it did not define such assignment as one of its priorities. Going by its maiden 1988 report, its major implementation programmes focused on mechanism of enforcing cargo control and sharing. Indeed, when it eventually realised that maritime manpower development was crucial and was one of its responsibilities, it interpreted it to mean a form of superintendency role to see that national carriers complied with Sections 7 (1) (a) and especially 19 which among other things provide that “the Minister on the recommendation of the Authority may suspend, or revoke the national carrier status of a company if the company fails to meet any of the conditions (including the training of seafarers) or fails...”.

In its 1990 report, it stated as follows: “to have an insight in the future of crew requirements of the Nigerian Shipping industry, a preliminary study was conducted on the number of graduands (sic) in Navigation and Marine Engineering at the Maritime Academy Oron, the only institution in the country offering those courses which are pre-requisites for taking up a seafaring career (sic). This study covered a period of five years (1986-90)..” From the result of the study, out of a total of 193 cadets who passed out within the period “only 43 or 22.3 percent were sponsored by the Nigerian Shipping Lines. Table 6:9 shows that only two shipping lines – Nigerian National Shipping Line and African Ocean Line – were responsible for the training of these

officers.....The Authority is however yet to determine how many of the seafarers trained by NNSL and AOL have actually entered into the second phase of their training programme”. It is equally important to note that the same report noted that “of the 193 graduates during the five year period, 136 or 70.5 percent were privately sponsored”. NMA did not sponsor any cadet from 1987 when it came into existence!

### **6.3.2 Under NIMASA: Cabotage Act and NIMASA Act As the Legal Framework**

Both Cabotage and NIMASA Acts were received with heightened expectations, especially from the shipping constituency who felt that all the “missing bolts and nuts” in the NSPA, 1987, together with restructuring NMA have at last been rectified<sup>40</sup>. If the implementing agency’s low performance, especially in enforcing the cabotage regime since it began operation from 2004, could be blamed on the institutional weakness of NMA vis-a-vis other sister agencies, the passage of NIMASA Act, 2007, has supposedly strengthened the agency. It could no longer hide under that excuse. Moreover, the NIMASA had become less ambiguous. It has provided the agency greater autonomy, very generous funding and above all sufficient guidelines and details, including enhanced power to apply sanctions. Coming at a time the national shipping policy was adjudged ineffective and by many as having become irrelevant, time definitely was not in favour of NIMASA. Its solutions package and demonstration of capacity and vigour were all expected at once.

At the Maritime seminar for Judges held in July, 2006, Mike Igbokwe SAN’s (2006) brilliant appraisal of the Cabotage regime after three years of operation was widely endorsed by the shipping community, including the Indigenous Shipowners’ Association of Nigeria (ISAN) and Nigerian Shipping Companies Association<sup>41</sup> as representing the shipping industry assessment. Another shipping expert and the secretary of ISAN reviewed Igbokwe’s paper and agreed with the scoring based on seven criteria put forth by the author. These were:

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<sup>40</sup>There were several seminars and roundtable to ensure a smooth take-off. For instance, see Igbokwe, M (2006), Nigerian Maritime Cabotage Policy and Law/ The Case and Advocacy (One United Thursday Company Ltd)

<sup>41</sup>Ibid

*ASSESSMENT CRITERIA**PERFORMANCE*

i) Cargo Support to (sic) Indigenous Operators	Dismal Failure
ii) Capacity Building in Manning/Ownership	Low
iii) Capacity Building in Shipbuilding	Low
iv) Application of CVFF	Total Failure
v) Economic Boom Resulting from Cabotage Multiplier Effect	Low
vi) Safe Shipping and Clean Environment	Average
vii) Enforcement	Low

Strong reasons were adduced for the scoring, which as we noted before, were seemingly incontrovertible. With the skill of a Senior Advocate of Nigeria, a very learned presentation full of facts was made. Besides, the review coming from ISAN scribe who in his own right stands very tall in the industry, and with the knowledge, skills and experience of a critical shipowning stakeholder was not one that could be easily dismissed. From the performance chart above, the first four criteria are squarely within the envisaged benefits of cabotage regime deriving from the national shipping policy on shipping development. The shipping constituency scored all of them low. The two most critical derivatives of the law with respect to shipping development, the cargo support being assessed as a “dismal failure” and the performance of the CVFF in 2006, three years after the passage of the Act, described as “total failure” surely give cause for concern.

As a follow-up, this researcher in line with the study methodology constituted a focus group (Nayar 1996) after the passage of the NIMASA Act to do two things: First and bearing in mind the verdict at the Maritime Seminar a year ago to further review the performance of the Cabotage regime. Did anything of significance happen after that seminar? What lessons could the implementing agency learn from the experiences of NSPA in implementing NIMASA Act? What would be the expectations with the enactment of NIMASA Act? The recruitment of seven

informed participants drawn from the shipping industry and academic institutions was helped by the researcher's knowledge of the industry and various roles he had played in both shipping advocacy and implementation review (Werner 2004). The session was scheduled in September 2007.

From the report of the session based on data some of which have been annexed to the study, it was held that although the prospects for effective implementation of shipping development looked brighter with the passage of NIMASA Act, the political will and adherence to rule by both the implementers and political sovereign would remain the most critical success factors. However, the achievement of NIMASA in bringing about shipping development was rated low. It was agreed that a lot has been done in terms of "discussions and talk", it was high time the agency applied "courage and vigour" in its actions. It was also noted that failure on government to "allow NIMASA enjoy its statutory autonomy", has continued to retard growth in the shipping industry. The panel also wondered why in spite of the Act, between 2005 and 2007, NIMASA had three Directors General. With so much uncertainty in tenure, the group pointed out that "it would be difficult to start any thing new and innovative without 'watching one's back.'"

#### **6.4 Why Did the National Shipping Policy Fail to Achieve Its Legal Objectives?**

Seeking explanation why national shipping policy's objectives were not met involves review of three vital components for successful implementation. From our framework, we have noted the importance of clarity, consistency and theoretical adequacy of policy and the attainment of its legal objectives. These issues among others are of interests to three of the conditions specified in our framework. It agrees with the suggestion of Raj Nayar (1996) that policy outcomes or results would largely be dependent on the state power, broken into the autonomy of state and the effectiveness of the implementing agency<sup>42</sup>. In this construct, the role and influence of the stakeholders who ultimately populate the categories of policy beneficiaries and losers have been ignored. But they do have influence over policy and programme outcome. It is therefore important to identify them and assess their opinion and attitude as these can affect the

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<sup>42</sup>Presidential Committee's Report on the Affreightment of Petroleum Liquids, 2003

implementation process. Mason<sup>43</sup> has as well made this point as he argues that in issues of implementation, it is necessary to determine the attitude of stakeholders concerning the policy.

While Chapter Four has analysed the adequacy and feasibility of the national shipping policy legislations in meeting its legal objective of developing indigenous shipping in Nigeria, Chapter Five has examined the implementation process of the policy. Chapter Six will attempt to expand the net by seeking to obtain opinions of stakeholders. The stakeholders' attitude on, and support for, the implementation process can be elicited and derived from a combination of four methods. These are i) to gauge the opinion of stakeholders as expressed in nine major newspapers over a fairly long period (eleven years), ii) to hold a number of focus group discussions (FGDs), iii) to administer questionnaires to members of the shipping constituency, and iv) to clarify certain issues through holding in-depth interview with carefully chosen personalities who have played prominent roles in the formulation and implementation of the policy.

Following Sabatier and Mazmanian (1983) implementation model, the study has been guided by three principal concerns of any thorough implementation analysis. They are as follows:

- i. To what extent are policy outputs of the implementing agencies and/or the outcomes of the implementing process consistent with the legal objectives enunciated in the original statute, court cases, or other authoritative directive? Are there other politically significant impacts?
- ii. To what extent were the objectives and basic strategies outlined anticipated in the original directive modified during the course of implementation, or during the period of policy reformulation by the original policymaker?
- iii. What are the principal factors affecting the extent of goal attainment, the modification of goals and strategies and any other principally significant impacts?

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<sup>43</sup>See the reports from the interviews attached as Appendix 3

The study's search is to seek for explanation why the implementation of national shipping policy which provided certain incentives failed to nurture a strong indigenous presence in international and domestic shipping.

#### **6.4.1 Newspaper Content Analysis**

The study has sought empirical evidence in its investigation as the failure of national policy to induce shipping development. Alan Werner<sup>44</sup> has suggested that this type of question can best be managed by the identification of major issues in the implementation research consisting of “programme design, resources, administration, services and outcomes.” The evaluation of the implementation process will rely on stakeholders' perspective which is captured both by the newspapers and survey questionnaires. The first class of data is generated from press cuttings archived at the Press Centre of the Nigerian Institute of International Affairs (NIIA), Lagos. The choice of NIIA was for the sake of reliability, given the advantages of steady supply of a wide range of national newspapers and press cuttings collected at NIIA.

Furthermore, there is stronger confidence in the result generated at NIIA because it has earned a reputation of providing credible service to researchers and the public as it maintains an up-to-date facilities, library and press services that offer:

- Comprehensive coverage of local and international newspapers, magazines and journals
- Regular supply of materials and records of related issues
- Being a research centre, it enjoys fairly robust financial and technical support for the maintenance of a press and reference library, and
- Serves as a major intellectual resort in Nigeria for hosting world class workshops, seminars, roundtables and conferences.

At NIIA Press Centre, nine national newspapers were identified to have substantial interests in shipping. The cuttings from these newspapers were collated. They were 155 articles identified as

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<sup>44</sup>Igbokwe, M (2006)

related to the issues of national shipping policy, especially the implementation of cabotage regime.

**Table 6.7**

**No. of Articles in Nine Newspaper Publications and Years, 1999-2010.**

News Papers	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total No. of Articles	% Total
Guardian	1	1	5	1	2	14	3	3	6	1	4	8	49	31.21%
Thisday	1	2	3	5	2	8	4	7	4	2	1	3	42	27.96%
Punch	-	1	-	1	1	4	2	2	1	1	2	2	17	10.96%
Comet	-	-	-	8	1	-	-	-	-	-	-	-	9	5.80%
Daily Champion	-	-	1	2	1	1	5	-	2	3	-	5	20	12.90%
Daily Times	-	-	-	-	1	2	-	-	-	-	-	-	3	1.93%
Nigerian Tribune	-	-	-	-	-	3	1	3	-	-	-	1	8	5.163%
The Nation	-	-	-	-	-	-	-	-	-	1	2	-	3	.1.93%
Business Times	-	-	-	-	-	-	1	2	1	-	-	-	4	2.580%
<b>Total</b>	<b>2</b>	<b>4</b>	<b>9</b>	<b>17</b>	<b>8</b>	<b>32</b>	<b>16</b>	<b>17</b>	<b>14</b>	<b>8</b>	<b>9</b>	<b>19</b>	<b>155</b>	<b>100%</b>

**No. of Articles and Years Published (1999-2010, See Appendix One)**

From Table 6.7, we present articles totalling 155 published in nine major Nigerian newspapers, which have over the years shown interests on shipping matters, especially national shipping policy and cabotage implementation and other aspects of shipping development between 2001 and 2010. These articles covering over 294 pages were identified and classified. Out of the nine

newspapers surveyed, *The Guardian* and *ThisDay* recorded the highest number of published articles. Both newspapers accounted for 91 articles or about 59 percent of the total number of articles identified during the period, with *The Guardian* having a slight edge (31.2%) over *ThisDay* (27.96%). The other newspapers contributed about 41 percent of the total number of articles. The finding buttresses the fact that these newspapers have over the years established strong maritime desks that their views have equally been respected, and most times considered to be reflective of industry position and tendency.

In 1999, only two articles were written, which represents less than 1.8 percent of the total number of articles. At this stage, the shipping issues had waned, and perhaps the public was more interested in other economic and political matters than shipping matters. It is instructive that even when in 2000, the cargo control and sharing programme was abrogated, it was not considered deserving of analysis. There was virtually no excitement, which suggested that it no longer mattered to Nigerians, or even the shipping community. However from 2001 which recorded a total of 9 articles, the idea of Cabotage policy was just introduced in the lexicon of the Nigerian Shipping Industry. In 2002, seventeen articles were written, which represents about 14 percent of the total number of articles. It is also indicative of a gathering momentum of a coalescing coalition of shipping interests in quest for shipping reform.

The increase by 4 percent over the previous year vindicates this view, and it can be traced to the prevalence of the issues and the advocacy for the bill on the Cabotage Act to be passed by the National Assembly. This interest continued in 2003. In 2003, sixteen articles were written. The number of articles in 2004 jumped to thirty-two (32) articles or about 20.6 percent of the total number of articles reviewed. This huge increase exhibited the air of expectancy and desire to contribute into the formulation of the implementation guidelines being proposed for the commencement of the Cabotage regime. By 2005, the interest had dropped with only fourteen or 43 percent of the previous year's. 2006 and 2007 recorded about the same figure of fifteen and fourteen articles respectively. After a drop to 8 and 9 articles for 2008 and 2009 respectively, 2010 recorded a renewed enthusiasm with 19 article led by *The Guardian* newspapers with 8 articles.

#### 6.4.1.1 Issues Covered by the Newspapers and their frequency

Table 6.2 identified the various issues relating to national shipping policy and implementation of the Cabotage Act and the shipping industry in Nigeria contained in the reviewed newspapers. In that table, five issues were prevalent as they recorded higher frequency than others, between 1999 and 2010. Furthermore, though 155 articles were identified, some of the articles had more than one opinion/issues strongly discussed. However, we insisted on classifying each article according to the preponderant issues contained in them such that we restricted the number of views to same 155 although more than 300 issues interspersed the collection. In other words, some of the articles dwelt on more than one issue. In all the issues generated, 31 percent of the issues focused on the problem of funding and specialist finance, the effective implementation of the Cabotage Act and the development of the Nigerian Shipping Industry.

This is not surprising as most indigenous operators have remained financially constrained to acquire modern vessels and meet the stringent measures demanded by the oil companies before giving them juicy contracts. This has often been used as explanation of the exclusion of the local shipowners in the petroleum and allied cargo lifting.

The next in terms of number was the problem of implementation of the national shipping policy relating to Cabotage regime. Thirty articles or 19 per cent focused on this issue because of its central importance in actualizing the objectives of the Cabotage Act. Again, the ranking of this issue is expected. Many in the industry including ISAN and NSCA have continued to blame the NNPC/PPMC/DPR for deliberately excluding the indigenous operators by the stringent pre-qualification requirement and conditions before being listed for petroleum liquids affreightment.

The remaining 50 percent of the opinions were spread across other issues such as the state of infrastructural facilities, the waiver clause and the issue of manpower development. Worthy of mention are the issues of waiver (12%) and cargo support (13%). Both of these made up to 25 percent of the contentious issues raised as impeding the implementation of the national shipping policy relating to Cabotage regime. In a sense they all relate directly to depriving indigenous

operators of cabotage cargo. If this number is added to the 19 percent of the articles on implementation process, it becomes worrisome.

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**Table 6.8: A Table Summary of Issues in the Newspapers 1999-2010**

ISSUES	NEWSPAPERS										
	GD	TD	P	C	DC	NT	DT	TN	BT	Total No. of Issues	% Total
Funding and Special Financing	14	11	5	2	9	4	-	1	2	48	31%
Implementation Modalities	8	7	1	3	4	1	3	-	3	30	19%
The State of Infrastructural Facilities	6	9	3	2	4	2	-	-	-	26	17%
The Waiver Clause	7	6	2	2	-	-	-	2	-	19	12%
Manpower Development	6	4	3	-	-	1	-	-	-	13	8%
Cargo Support Programme	8	5	3	-	3	1	-	-	-	20	13%
<b>Total</b>	<b>49</b> <b>(31</b> <b>%)</b>	<b>42</b> <b>(27</b> <b>%)</b>	<b>17</b> <b>(11</b> <b>%)</b>	<b>9</b> <b>(6</b> <b>%)</b>	<b>20</b> <b>(13</b> <b>%)</b>	<b>8</b> <b>(5</b> <b>%)</b>	<b>3</b> <b>(2</b> <b>%)</b>	<b>3</b> <b>(2</b> <b>%)</b>	<b>4</b> <b>(3</b> <b>%)</b>	<b>155</b>	<b>100</b> <b>%</b>

Where G=Guardian, TD=Thisday, P= Punch, NT=Nigerian Tribune, DT=Daily Times, DC=Daily Champion, C=Comet, TN= the Nation, BT= Business Times.

#### **6.4.2 Content Analysis of Major Issues Affecting the Take-Off of Cabotage Policy**

The deep core belief of the Obasanjo administration encapsulated in the Economic Reform agenda titled National Economic Empowerment and Development Strategy (NEEDS) implies that Cabotage policy is designed as a Government-led, but private sector driven policy. The succession administration of Yar 'Adua/Jonathan 7-point agenda continued on the track of liberal economic reforms and would not appear to have much sympathy for state intervention. We now discuss some of the issues as presented in the newspapers. Without doubt the debate has been

hinged on major issues affecting the speedy take-off and successful implementation of the Cabotage regime as a part of the national shipping policy.

#### 6.4.2.1 Funding and Specialist Financing

Industry experts such as Edikan Umoren, Ignatius Uba, Niyi Adeyemo and David Ogah writing for various newspapers (for example, Ogah in *The Guardian*, April 21 2004) are of the opinion that finance remains the core issue surrounding the effective implementation of the Cabotage regime. They identified the following as key challenges:

- (a) The Absence of Banks specialized in offering shipping financial products. Edikan Umoren in his comments in *Thisday*, April 27, 2004, observes that the issue of strong financial support in a Cabotage regime is necessary if Nigerian companies are to acquire the types of vessels for Cabotage trade. He also notes that as at October 2003, none of the 5 major Banks in Nigeria had any maritime/shipping desk in their operations.
- (b) The long gestation period for shipping investment neither makes it attractive to banks nor does the high interest rate charged by banks make investment in shipping attractive. Foreign ship owners who enjoy massive financial and fiscal support to sustain their fleets further compound this.
- (c) The lack of Support from the Government to finance shipping is also a source of concern. A marine Expert and former PRO of Nigerian Merchant Naval officers Association (NMNOA), Mr. Ignatius Uba argued that Cabotage law was not feasible in Nigeria “because at present (2002), Nigeria cannot boast of a single ship”. He attributed this to the Government withdrawal of support to the SASBF, meant to provide the financial resources needed.
- (d) The absence of adequate local funds/loans worries Captain Niyi Adeyemo. In a paper titled: *Investment opportunities in the Maritime sector (2002)*, Adeyemo argued that the mere signing into law of the Cabotage bill did not guarantee that Nigerian Investors could easily make money from shipping. This situation he blamed on “the absence of the much-

needed local funds/loans for effectively implementing the Cabotage Act”. This, he added, has been further worsened by high interest rate regime of Nigerian banks.

- (e) The absence of an efficient regulatory framework, including failure of government to provide enabling fiscal environment for shipping investment. Until these issues related to ship finance are addressed and agreed, the opportunities of Cabotage regime would remain illusory.
- (f) The delay in the approval of guidelines for the take-off of the CVFF has continued to draw the attention of the stakeholders and they wonder what has happened to the amount already collected in the fund.

#### 6.4.2.2 The State of Infrastructural Facilities

Vivienne Onyiuke, Emmanuel Iheanacho, Francis Ugwoke are all agreed that the poor state of infrastructural facilities constitute immense challenges for indigenous operators/investors. They identified the following issues as critical:

- (a) The Revival of the Nigerian Steel Industry. Vivienne Onyiuke, (Thisday, June 3, 2003) maintained that the revival of the Nigerian Steel Industry would be a catalyst in rejuvenating the poor state of the Nigerian ports facilities and the need to build local Shipyard. She concluded that the fact that only few Shipyards currently exist in Nigeria and the poor state of Nigeria ports infrastructure would hinder the effective implementation of the Cabotage policy.
- (b) The need for Marine Communication specialists and the central role of Marine Electronics in Ship and Coastal systems was highlighted by Edikan Umoren (Thisday, 2004). He noted that the NMA had operated without marine communication specialists up till date in disregard for the central role of marine electronics in ship and coastal systems. He further argued that the skewed politicization of everything within NMA does not offer an environment for core marine professionals in the

authority to quickly expand their base and position for the quantum and more exacting regulatory demands of Cabotage operation in Nigerian Waters.

- (c) Other issues include the need to revitalize the Maritime Academy of Nigeria, Oron, dredging of ports, in particular the Inland Water Ways to enhance inland navigation and development of local capacity in ship ownership, shipbuilding and ship management.

#### 6.4.2.3 Implementation Modalities

Another major issue that has received numerous comments by industry stakeholders such as the Nigerian Shipping Companies Association, NSCA, industry experts such as Cdr John Abulu, Vice Admiral Mike Akhigbe, have been the implementation modalities of the Cabotage Act. The range of issues identified consists of:

- (a) The structure and magnitude of fees to be paid by indigenous operators. The Nigerian Shipping Companies Association (NSCA) in 2004 took up this issue with the relevant authorities for instance, regarding the structure and magnitude of the fees to be paid by Nigerian ship owners for registration of their ships as excessive at \$50,000 per Nigerian vessel. They feared that the fees could jeopardize the implementation of the Cabotage policy.
- (b) The lack of an effective implementation agency has continued to disturb Captain Emmanuel Iheanacho, the Vice Chairman of Ship-owners' Association of Nigeria. (Daily Champion, 2004). Observing that the Cabotage Act was essentially a good law/policy but lacks an effective implementation framework through an appropriate implementation agency. For instance, he wondered why there was gap and little collaboration between NMA and shipping interests in the implementation of the Nigerian Cabotage law. Such cooperation between the Nigerian Transport/Shipping Administrative Authority (NMA) and the 'real' indigenous industry operators in fashioning out practical workable guidelines in relation to how the Cabotage concept would best be administered was a sine qua non for successful implementation.

- (c) The need for constant monitoring and evaluation of policies; and
- (d) The registration formality has been considered repetitive, cumbersome, and frustrating, given that documents required for Cabotage registration also have been filed at Nigerian Ship Flag Register.

#### 6.4.2.4 The Waiver Clause

Vivienne Onyiuke, Emmanuel Iheanacho, Edikan Umoren and Francis Ugwoke have all identified the following as issues provided in Cabotage guideline on waiver:

- (a) The provision of waiver could lead to administrative abuse. It also could be misused as a smokescreen where Nigerians could be used as fronts for foreign firms. Cdr John Abulu (2004) opined that the waiver clause could create loopholes for foreign firms to front some indigenous operators and therefore sabotage the process. He attributed this factor to the inadequate financial backing to take on the business, in securing loans and the concomitant instability threatening the Nigerian Banking Industry. He also argued that some oil companies in Nigeria are alleged to have signed about five-year contract upfront with foreign companies for all their coastal business. In this way, there could be inconsistency in the applications of the waiver clause.
- (b) There was need for checks and balances between the different governmental agencies responsible for administering the Act and the watchdog role by shipping operators. The non-consultation of the minister with key industry players like ISAN has been fingered as one grave omission in the Cabotage Act. This, it is held, would have helped check the arbitrariness in the use of the power, given the fact that ISAN would always be in a vantage position to advise the minister of existing capacity of indigenous ship operators.
- (c) Captain Iheanacho argues that the revenue derived from the issuance of waiver has become part of what he called the “monetisation of the cabotage opportunities.” He is worried that the consequence which “seems to be a complete loss of focus on the

part of cabotage implementing agency regarding the economic and strategic reason which underpinned the establishment of cabotage regime in the first place.”

#### 6.4.2.5 Manpower Development

Edikan Umoren, David Ogah and Francis Ugwoke have all taken issue with the level of manpower development and its effect on the ability of indigenous operators to maximize the potentials inherent in the Cabotage Act. They identified the following as core issues:

- (a) **The Number of Available Seafarers:** Edikan Umoren (2004) observed that an important issue at the heart of the Cabotage policy is the availability and level of Manpower Development. The number of available Seafarers under the current Cabotage regime is 4,283. This is a far cry from what is expected and needed for a successful Cabotage operation. A further breakdown of the Seafarers figure reveal that in the immediate future, manning by qualified Nigerians to operate the vessels of the Cabotage would be drastically reduced.
- (b) **The State of National Training Institutions:** There is need for the revitalization of the Maritime Academy, Oron, and the setting up of training institutions to facilitate training of Seamen.

#### Focus Group Discussion Analysis

The major aim of the FGD was to review the implementation of the Cabotage policy, express views on obstacles as well as what roles should be played by government to realize the policy objectives. The study has been focused on the national shipping policy implementation process provided in the following legislations: NSPA, 1987, the Cabotage Act, 2003, the NIMASA Act, 2007 and the NCMDA, 2010. From the content, spread and thrusts of these legislations, we held six (6) FDGs, one each focusing on the following issues:

- i) Evaluation of the Performance of the Cargo Support Programme under NSPA;
- ii) Review of the SASBF;
- iii) State of Maritime Manpower Development under NSPA;

- iv) Assessment of the Performance of the Cabotage Regime;
- v) Implementation Prospect of NIMASA Act, 2007; and
- vi) NCMDA and Prospects of Shipping Development

A closer look at the first three FGDs show that they sought to evaluate the implementation process under the first policy regime covered by the NSPA, 1987 to 2006. They were held in July, 2006, while the fourth FGD was sponsored by NMA but moderated by the researcher and the inputs formed the basis of the Communique issued after a successful interactive Stakeholders Forum at the Hotel Presidential, Port Harcourt on 2 September, 2006. Like the other four FGDs, the fifth one focused on the prospect of NIMASA Act, 2007 and the researcher was again invited to lead the discussion under the auspices of ISAN. It was held in August, 2007. The last FGD was at the instance of the writer relying on his position as a member of the Governing Board of the Nigerian Chamber of Shipping (NCS) in 2010 to assess the implication of the NCMDA, 2010 for shipping development in Nigeria. The results of these FGDs have been incorporated in the analysis as well as the questionnaires to the shipping experts<sup>[12]</sup> and the survey.

#### **Focus Group Discussion as Input in the Resolutions/Communique of the Shipping Stakeholders' Forum, Port Harcourt, September 1-2, 2006**

On September 1 and 2, the implementing agency of Cabotage policy, the National Maritime Authority, NMA, hosted an interactive Stakeholders' Forum at Hotel Presidential, Port Harcourt. The major aim was to review the implementation of the cabotage policy, express views on obstacles as well as what roles should be played by government to realize the policy objectives. A Communique issued at the end of the discussion sessions identified the following problems:

#### **Weak Funding Base**

Like the opinion above, ship financing is seen as a major problem. It is further complicated by the reluctance of government to introduce and totally fund a scheme as it did in the defunct SASBF. Because financing ship acquisition poses a huge problem for Nigerian shipping companies, they cannot be engaged by Oil majors and other offshore service providers who insist

on quality and modern ships built to specification. Suggested steps to mitigate this problem would require a number of bold efforts including more departure by the implementing agency.

### **Inter-governmental Issues**

The inter-agency communication gaps and the various government agencies working at cross-purposes were highlighted as a critical factor that frustrated the NSPA and it is becoming a major drawback to a smooth take-off of the Cabotage programme. Specific mention was made of the distance in coordination between NMA and the Nigerian National Petroleum Corporation and its subsidiaries. To correct this anomaly, changes are expected from these agencies.

### **Access to Contract**

In addition to observed inter-agency gaps, it has also been noted that although the Cabotage policy provided full indigenization of the Cabotage trade including offshore services to Oil exploration and producing companies, Nigerian shipping companies are still denied access to such business opportunities. As a remedy, the discussants agreed on a number of measures that NMA should take.

### **Modalities for Enforcement**

The implementing capacity and style of NMA was considered as a key problem. The key areas include the regulation, registration of ships and enforcement of policy. To ameliorate the situation, the agency was urged to develop appropriate strategy for effective enforcement of Cabotage policy as well popularize communication channels for reporting Cabotage violations. NMA is encouraged to develop and maintain statistics and data of all relevant Cabotage development indicators.

### **Waivers**

One of the criticisms of the application of the ministerial waivers is that it is merely a revenue-yielding provision rather than being a stop-gap for the inadequate or absence of indigenous shipping capacities. So, some have argued that the practice whereby waiver applications on

manning of vessels are processed and waivers fees received before exhausting all locally available competent seafarers, (thereby presupposing that all such applications must be granted), deprives competent Nigerians of job opportunities which the Act was enacted to enable and gives the impression that waivers are for revenue purposes when they are meant to bridge a lack of local capacity until local capacity is acquired.

To check the abuse, it was resolved that:

- The NMA ship registry should be computerized to ensure easy at-a-glance knowledge of available indigenous tonnage for the purpose of the waiver application consideration and to reduce waiver period.
- JOMALIC is encouraged to undertake more stringent monitoring of Nigerian seafarers for a more comprehensive seafarers' data base.
- There should be no renewal of waiver after the first year, except for building requirements. In addition, input of relevant stakeholders should be sought and considered in the process for grant or refusal of Ministerial waivers.

#### **6.4.1.6 Age of Vessels**

NMA should rely on a rigorous classification regime by bodies such as American Bureau of Shipping (ABS), Bureau Veritas (BV,) etc., for determining suitability of vessels rather than the arbitrary 15-year rule since the age of a vessel is not always the best indicator of its state. Therefore 15 years age limitation should be removed from the Act.

#### **Enlightenment**

NMA should undertake a rigorous and continuous enlightenment for stakeholders on all its procedures for Cabotage implementation

## **Targets**

Targets should be set for compliance with Cabotage in the oil and gas industry. It is suggested that at least 50percent compliance within the next six months in the upstream and downstream sectors should be pursued.

### **6.4.1.9Manning/Training of Seafarers**

The inadequate number of seafarers where the law provides that Cabotage vessels are to be manned by Nigerians was identified as a bottleneck for the full realization of the gains of cabotage. Corrective steps, the session agreed, should include intensified support for the training of seafarers, financial and technical assistance to Maritime Academy of Nigeria (MAN), Oron.

## **Shipbuilding**

Cabotage requirements include that the vessels should be built in Nigeria. However, the number of Shipyards and their capacity can hardly meet with this requirement and as such has continued to constitute a major barrier for effective implementation.

## **Tariff/Taxes/Levies**

It was held that the current fiscal regime gives an edge to foreign shipping companies who are granted a number of concessions including duty waiver on temporary importation. To put indigenous shipping companies on equal footing, there is need to reduce the import duty on vessels to a flat 2.5 per cent or eliminate them entirely as most foreign ships are on temporary import and pay no duties. There should also be exempt charter fees from 10 per cent withholding tax since this presumes a profit margin of thirty-three and one-third per cent, which is not always the case. All government levies and taxes should be harmonized to make for a single payment through one government organ.

## **Operator Issues**

The state of Cabotage vessel crew has been noted as poor. Operators are enjoined and encouraged to re-train their crew on a continuous basis. They are strongly advised to ensure they

comply with International Maritime Regulations on certification, docking requirements and maintenance. To reduce risks, the need for operators to belong to and comply with P&I and other insurance requirements was stressed. Finally, the low level of professionalism was spotted as inimical to increased local participation in the trade. Consequently, operators are encouraged to ensure proper documentation of all their transactions and processes.

### **Analysis of the Survey Data**

The survey focused on the implementation process of the NSPA using three shipping development initiatives of NMA. The purpose of the analysis was to unravel some of the more important factors that affected the outcomes of the programmes. To do this, we distributed a total of 400 questionnaires to purposively selected sample from the shipping, banking and other financial institutions, academic institutions, shipping related government agencies and shipping professional groups. Three policy outputs and the role of the implementing agency were interrogated. Out of 400 people, only 152 or 38 percent returned the questionnaire. The age range of the respondents was between 28 and 54, with a standard deviation of 7.8. Over 97 percent or 148 of the respondents were male, and only four were women. While 120 or over 79 percent have university degree, and another 20 or 13 percent have other forms of tertiary education certificates, only 12 or 8 percent claimed other professional certificates.

Their workplaces reflect as follows: there were 58 respondents or over 38 percent from shipping companies and agencies, 54 (35.5 per cent) described as “other shipping professionals” included lawyers and lecturers, 16 (10.5 per cent) were staff of NMA and NPA while from MAN, Oron were 4 (2.6), banks 8 (5.3 per cent), Oil companies 4 (2.6 per cent) and 12 (8 per cent) did not indicate their place of work. Out of the number, 116 (76.3 per cent) have more than five years in their various establishments and 112 (73.7 per cent) with more than five experience in shipping industry. Being knowledgeable, it is no surprise that 148 (97.4 per cent) claimed awareness and knowledge of the national shipping policy and same number were satisfied that the policy was designed to promote shipping development in Nigeria. 144 (94.7 per cent) of the respondents claimed that they understood the functions and programmes of NMA as provided by the NSPA.

To further ascertain the veracity of the statement when asked to tick against the programmes of NMA, more than 90 percent listed SASBF, Cargo Support and Maritime Manpower Development as priority concerns of NMA.

### **Overview of Finding**

These programmes comprised cargo reservation programme through financing indigenous fleet and local maritime manpower development initiatives failed to deliver. It was quite clear from the responses of all the major stakeholders, from the policy makers, the implementers to the target groups, especially the beneficiaries, that lack of commitment to the goal of building a virile indigenous shipping industry was a major culprit. Although by 1974 the UN Code had created huge latitude and opportunity for state intervention in shipping, the reaction of the Nigerian policymakers were at best lukewarm. Even when the UN Code which Nigeria ratified in 1975 was finally domesticated in 1987, it would appear that from the experiences of other emergent maritime states, most of the provisions had become obsolete. There was also no step to consult widely with the shipping constituency and maritime experts for policy input or advice.

The survey revealed as follows: That there was a glaring lack of will and commitment to build a competitive indigenous shipping industry (89 per cent). The rising international resistance, especially the European Union, had already generated so much hostility (87 per cent) and aroused resentment and sabotage from the multinational companies and freight interests (100 per cent) that it was obvious that they were not likely to cooperate. The framers would have taken note of the fact to devise ways of accommodating such interests. The vital stakeholders consultation was not done with the result that the important indigenous coalition was not built and some of the provisions did not reflect realities and preferences on ground. Not only was the stakeholders' support elusive, government agencies showed little cooperation and coordination such that the rivalry affected both the process and the outcome (86 per cent). Noting the observation of Majone and Wildavsky (1984) in their typology of *Implementation in a Preprogrammed World*, the study discovered that whatever would have been the deficiency of NSPA in formulation was even compounded during the implementation process. Not only was

the choice of liner cargo an unsound inception step, the implementers' abortive attempt to control private sector cargo was infantile as suggested by over 92 per cent of respondents. Over 89 per cent of respondents blamed the implementation hiccup of the cargo reservation programme on the fact that NMA concentrated on control and sharing of private sector rather than public sector cargo (94 per cent). As a matter of fact, over 97 per cent of respondents said the non-involvement of indigenous shipping companies in the transportation of crude and petroleum liquid was a major obstacle in the implementation outcome. Moreover, the allocation of such cargo by fiat based on sentiments, political consideration and patronage did not only defeat its purpose (89 per cent), it destroyed whatever support the target group would have mustered, and in the end it discouraged the development of a credible shipping entrepreneurial class. The above missteps exposed institutional weakness and capacity problem of NMA and it affected the implementation process (92 per cent). The study found that the absence of real shipping entrepreneurs where most of those who pretended to have shipping companies were in deed "brief case shipping companies" (92 per cent) and even those who were not concentrated on cargo from NMA and lacked global marketing strategy to sustain their fleet (89 per cent). Over 97 per cent pointed out that the process was rendered ineffective due to insufficient number of indigenous vessels (97per cent).

Efforts by NSPA (see Section 13) to provide a fund to finance acquisition of ships suffered almost the same fate. A plethora of factors were identified to have affected the implementation process and outcome. Respondents blamed the undue political interference (92 per cent), poor policy design (73 per cent); and NMA's poor management practices in processing application (84 per cent), bureaucratic red tape and capacity problem (73 per cent) and absence of loans monitoring mechanism. Other factors from the survey included the absence of a revolving fund (71 per cent) and behaviour of beneficiaries towards loan repayment (81.6 per cent) and the unwholesome practice of fund diversion by beneficiaries (76.4 per cent). Even the tasks of preparing the take-off of shipping development by training the crew and other maritime personnel who would manage the national fleet experienced implementation difficulties. Although Nigeria by 1992 had more than 1297 officers trained in navigation, marine engineering

etc, by 2000, the country had only 975 officers (Chidi and Oyeshiku, 2003). Further analysis of *World Pool of Trained Seafarers By Flag 2000 Report* (BIMCO/International Shipping Federation) confirmed that Nigeria was no longer training seafarers. Those who had been trained at Maritime Academy Oron could not be registered as they had not been exposed to sea time which was an important aspect for their certification. NMA's attempt to provide Training vessel (MV Trainer) by the repurchase of a training vessel to solve the sea placement problem of cadets ended in a big scandal which ended in an investigation by the House of Representatives. Comparing our situation with a country like the Phillipines is depressing. While the Phillipines by 2000 had over 267,000 seamen and 5000 officers, Nigeria had only 975 officers and 1900 seamen, far behind smaller maritime nations like Ghana's figures of 1879 officers and over 7000 seamen. The study investigated the factors dominant in the implementation of the programme and identified the following: Funding (86 per cent), Policy Instability and Frequent Changes at NMA (83 per cent), Poor/absence of Training Ships, infrastructural Facilities (81 per cent) and Hostile International Environment (68 per cent). A more elaborate analysis of these is stated in the following subsections.

### **How well articulated and useful was the policy during implementation?**

The enactment of NSPA aroused instant attention, if not high expectation from the public. About 97 per cent of the respondents claimed to be aware of the legislation with about the same number agreeing that its objectives were realizable. In spite of the feeling, NMA in implementing the programmes did more of controlling, and perhaps becoming a cog, than promoting shipping development. Iheduru (1996) has noted that "rather than control foreign shipping companies, these institutions (like NMA, the Nigerian Shippers' Council, etc.) were, indeed, used instead to regulate and control access to huge economic rents, thereby creating a subservient, indigenous rentier class dependent upon the state". A classic case of institutional goal displacement at NMA was the initial preoccupation and squabble over the collection and handling of statutory three percent commission on total value of freight on all inward and outward cargo into the country. For whatever reasons, NMA abdicated the important function to major shipping companies which in return paid commissions at the countries of cargo origin into NMA's accounts. By

1990, the sum of over US\$15m that had accrued was lodged in the NMA accounts with the failed Bank for Credit and Commerce International (BCCI). The diversion and loss of funds was followed by an unnecessary power play by members of the board, who “allegedly saw themselves as representatives of various interests” and so regarded themselves as management by “reporting daily to the office daily (for work) instead of visiting” (Iheduru, 1996). The immediate implication was the inability to institute the right framework of action as both management and board became beneficiaries of both the cargo reservation and ship acquisition programmes, which rewarded them with “huge unearned wealth”. Also, the little interests they showed in the implementation process of the maritime manpower development was deliberately contrived to swell their pockets. The MV Trainer saga was a typical case, purportedly acquired for use in the training of cadets from MAN, Oron who as part of their training required some experience on the sea. This vessel was originally in the fleet of the Nigeria National Shipping Line, a state-owned shipping company. It was sold at a paltry price of US\$500,000 only to be repurchased a year later at the cost of US\$4.5m, dry docked in Greece for another US\$1.5m and yet was detained on her maiden voyage to Alabama, USA as she failed the Port State tests. This test determines the seaworthiness of any vessel visiting a port. To secure her release, another US\$1.2m was spent before the vessel was now arrested on the orders of the Admiralty court over breach of contract charge by the charterer. She hurriedly returned to Nigerian shores imballast (without cargo), another loss of earning to the state. Evidently, the legislation which mandated NMA to use approved resources with a free hand to determine the implementation approach to use was brutally abused by both political class and implementers. They had compromised the process to the extent that the “objectives of the programmes were already dead on arrival”. The respondents in the survey confirmed the sordid manner of the process and rated the programmes as having failed as follows: over 78 per cent for cargo reservation, 72 per cent for SASB Fund and some 65 per cent for maritime manpower development programmes.

**What was the level of resources and capacity of NMA in carrying out these promotional objectives of the Act?**

The Act as provided at Section 17 imposed a levy of three percent of the total freight on every inward and outward cargo and further mandated NMA to collect, on behalf of the Federal Government, such charge, which “the Minister (of Transport) may, after consultation with the Minister of Finance and Economic Development, make regulations for the implementation of this section”. Section 23 provided for the funds of NMA. Sections 42 through 45 of the Cabotage Act, 2003, provided for the establishment of Cabotage Vessels Financing Fund (CVFF) and the NIMASA Act, 2007 created a robust financing scheme referred to as Maritime Fund at sections 15 to 17. From the statute, it is clear that NMA did not have access to the levy but could only operate with funds provided by Section 23. The implication was that NMA could manipulate what it collected as levy but required higher approval to apply the funds for the purposes of shipping development programme other than the limits allowed in their operating budget. These shortcomings in terms of specific funding source and access were corrected by subsequent legislations. In spite of the fund, NMA/NIMASA lacked control in its disbursement and even lack capacity for the management of the funds.

As well, the technical status of the organisation was suspect as many saw it both as “a national cake” and a “dumping ground for political godfathers whose wards must be employed irrespective of their suitability”. A survey conducted by Badejo (2001), over 59 percent of the respondents had attributed the problems encountered by the various stakeholders in the maritime sector to “manpower inadequacy and incompetence” at NMA with the consequence that 94.2 percent of respondents described the manpower issue in the industry as “problematic”. On whose shoulders should the task of maritime manpower development lie, 70.9 per cent of the same respondents felt it should be the responsibility of NMA. The survey conducted by this study as earlier reported confirmed the findings and further indicated that over 65 per cent of the respondents rated the manpower development initiative as unsatisfactory. However, over 63 per cent responded that NMA did not have sufficient resources and technical capacity to design and

implement the SASB Fund programme, 44.7 per cent felt the same for the cargo reservation initiative and 47.45 per cent for the manpower development programme.

### **Did the implementation of the policy benefit the intended target group?**

The majority of respondents were of the view that the programmes did not positively affect the target group. Specifically, over 70 per cent felt so for maritime manpower development programme, 79 per cent for SASB Fund and 71 per cent for cargo reservation programme. These factors have been outlined earlier.

### **How could the policy implementation process be improved to achieve favourable outcome?**

In spite of the poor approval ratings and the myriad of factors militating against the implementation of the programmes and the outcomes, a majority of the respondents would still want the retention of the programmes. The following reflected their views respectively: over 92 per cent voted that SASB Fund be revived, over 84 per cent indicated that with increase in national fleet, the cargo reservation could be helpful and successful. There is an urgency to seriously address the maritime manpower programme as we cannot continue to neglect our huge maritime potential, its capacity for jobs creation especially to tackle the youth restiveness in the Niger Delta and to fully support our off-shore oil activities and the attendant pressure in building a credible national fleet. We noted earlier that the manpower development programme was hampered by the non-availability of training vessels, resources, technical facilities for training, retraining and recertification of seamen. Chidi and Oyeshiku (2003) have noted that shipping and seamanship are practical vocations. To avail our cadets of the mandatory “sea service” experience, NMA (now NIMASA) in the short run should approach and seek assistance of our major trading partners and major foreign shipping lines in respect of berth for our trainee cadets. These include Maersk Line, Delmas Line in France, Oil Tanker Owners lifting Nigerian crude, Grimaldi Lines of Italy, Messina Line, the Japanese Government and Owners of Nigerian Registered vessels including NLNG and NNPC. For training of seafarers for domestic or coastal trade, it has been suggested that NMA and MAN, Oron should collaborate and design the

requisite courses and recertification programme based on the STCW ‘95 Code (STCW standing for Convention on the Standards, Training, Certification and Watchkeeping ‘95 as amended in 1997). There is also need to fund and support maritime institutions in the country, especially MAN, Oron. Interesting times seem to be back as there has been positive signs in shipping development with the following: The reformulation of our shipping policy thrust and content either by the enactment of Coastal and Inland Shipping (Cabotage) Act 2003 and the passage of Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007 as a successive agency to NMA and amendment to the erstwhile NSPA, 1987. These measures have strengthened the implementing agency, NIMASA, in both domestic and international shipping. Additional powers, greater autonomy and more resources have been granted with ample provisions to support indigenous shipping activities, national fleet retonnaging, greater access to captive cargo and wider opportunity for local maritime human resources.

### **Analysis of In-depth Interview Data**

The National policy was a major effort to address three core areas in shipping development in Nigeria. These are the expansion of the shipping fleet, the improvement of Nigeria’s participation through the carriage rights and training and manpower development in the shipping subsector. According to Mike Igbokwe, a Senior Advocate of Nigeria (SAN), the National Shipping Policy Act, was enacted in 1987 to set up the National Maritime Authority (NMA), with set objectives and also functions geared towards developing the local shipping/maritime industry. It has objectives to promote training of seafarers, with a view to also growing the National tonnage, with a view to promoting the acquisition of vessels by Nigerians and also being conferred with National career status. It also has provisions for cargo support in terms of Cargo Sharing and Cargo Allocation and preference cargo through which National carriers, Nigerian ship owners are patronised in terms of Cargo Allocation – and then, based on the UNCTAD Code quota of 40-40-20, with a view to ensuring that they are able to be in a profitable shipping business. There was also a Ship Acquisition and Ship Building Fund, to support – acquisition of vessels by players in the shipping subsector.

It is believed that although the Act was geared towards supporting or promoting participation of Nigerians in deep sea shipping, it neglected the domestic water borne trade which of course is what the Cabotage Act of 2003 was enacted to address. In the Cabotage Act, the carriage of cargos and passengers from point to point within 200 nautical miles from the base lines is to be reserved to ships that are built in Nigeria, owned by Nigerians, crewed by Nigerians and registered in Nigeria, except in certain situations where waivers have been granted or as a result of the nature of the activity involved, say, in the area of salvage or towage where there are some exemptions.

One of the important issues emphasised by the interviewees was the role of the political economy of global shipping, especially imperialism. As told by Dr. Ekong, the first Director-General of the National Maritime Authority, the United Nations felt the developing countries that were interested in shipping should become part of the on-going operations by themselves and for themselves. So they passed the UNCTAD Code. Nigeria adopted it in the hope that it was going to work but it did not work. In 1987, the National Maritime Authority (NMA) was established on the basis of the UNCTAD Code. What we had in the Code was the sharing formula of 40:40:20 but unfortunately the developed countries were not interested in having it succeed from the beginning. Nigeria had to be involved in cargo sharing in order to survive in the shipping business. So Nigeria was accused of cargo sharing by ambassadors from the developed world, particularly the European Union and the US. Meanwhile, there are certain thirteen (13) types of violations of international trade and Nigeria was only guilty of one – cargo sharing. These accuser countries themselves were guilty of almost all. After we put our case before them, they dispersed. Later the whole of North America and Western Europe in Geneva proposed new things making sure the question of that policy did not come up and did not work at all. The goal was not to allow developing countries like Nigeria benefit from the carriage of that trade. Up till now, we are not benefiting.

Some other respondent thinks the international political economy should not be the main focus. For such respondent, the most pressing issue relate to building local capacity. According to Nwokorie, the Cabotage Act is built on three pillars of indigenous ownership, indigenous

crewing and indigenous manufacturing of ships. Of these three, we are very deficient. Even in manning, which requires human resource capability; we are still deficient in that aspect. So, Nigeria's potential is something that we will have to look very hard at and think about how to develop. The capacity for us to be competitive even in our own waters should be addressed before talking of international shipping.

The second point emphasised by experts was the scarcity of vessels. There were few or no vessels. At first, we had the National Shipping Line. But this organisation was run down. The vessels were sold. Under the NMA, a vessel acquisition fund (Ship Acquisition and Ship Building Fund (SASBF) was set up. "But of course, Nigerians themselves were not helping themselves. When you give \$500,000 to someone to buy a vessel, you want to make sure that the person not only buys the vessel but can also refund the money. The project was not well monitored so, money was disbursed and no vessel bought".

The third point of emphasis was the mismanagement of the Fund and the NMA itself. The NMA was immersed in the patronage network of government. Many people were employed to critical offices in the organisation, especially people who knew nothing about shipping. They disbursed the Fund money without any plans to make sure that this money actually went even as deposit for vessels. So, most of the people who took the money did not pay back. No vessel was fleet. And to take effective part in carriage, you must have vessels. Thus, the modalities for the disbursement of fund were tailored to respond to political patronage. People got the money and consumed it. Indeed, "the amount given to each person or each group was so small that it could not buy even a canoe. That is why it failed. If we are going to change this policy, we must examine a number of things". In the same vein, Allison Madueke argues that the fund was viewed as a political hand-out to loyal people and party men".

While some experts and stakeholders are of the view that government support, financial or otherwise, to private operators in the industry is necessary to develop the kind of tonnage that will make Nigeria country a maritime power, they agree that the way the SASBF was introduced and implemented was very faulty. Those who got the funding were not maritime people, they were simply businessmen. The government should have targeted genuine maritime operators

who are indigenous Nigerians. Experts are also of the view that the government cannot rely on foreign tonnages or platforms for stability and security reasons. As one of the respondents put it, “Right now if a bomb drops in Nigeria today all the foreign vessels will leave our waters; it is only Nigerian ships that will be here. This is why it is important that Nigeria develops her own tonnages – we don’t have a choice in this matter. And government cannot shy away from these things no matter how long it takes for them to do so – they have to take interest in developing the tonnages for Nigeria”.

The urgency of this support is underscored by the fact the right to cargo allocation and also cargo sharing provisions have not been operated. The ship building fund too has also been suspended for alleged abuses. The government is reluctant to financially support the acquisition of vessels by the local operators because of the experiences that it had under the ship acquisition and ship building fund which is why the legislature has tried to create a the Cabotage Vessel Financing Fund under the Cabotage Act. The Cabotage Vessel Financing Fund is designed to be independent of the government for its fund. The National Assembly is however empowered to allocate a part of government funds from fines, tariffs, sub-charge of 2 per cent of the contract, etc., to support the industry. Igbokwe is of the opinion that if the government “really wants the shipping industry to grow and performs its role in growing the economy, it cannot totally withdraw from supporting the industry financially or creating the enabling environment to make it grow. He observed that there are hardly any of these foreign ships you see in our waters that are not supported by one subsidy or the other and guaranteed, adding that even the United States does it. This is because shipping is capital intensive; it is long term. So, a situation where those who are interested in shipping cannot get long term funds with very favourable interest rates or soft loans to go into shipping discourages people from getting there especially when the cargos are not available. “If the government does not come in, many Nigerians will not be interested in shipping because they won’t want to get their fingers burnt”. With time, all vessels in our waters will be foreign owned. The implications of these are that:

1. In the case of emergency or any national crisis that will require national vessels or Nigerian owned vessels to come to our assistance, there will be none, there will be none that will do so and we cannot rely on foreign vessels to do that for us.
2. National pride is defeated. We cannot say that we are a maritime nation and citizens don't own ships.
3. We will continue to lack the tonnage that will help us in the committee of Nations especially in IMO. When it comes to decision-making, there will not be enough ships that require protection. This whittles down image internationally as a maritime nation, and that is why we need to grow the industry.

Nigerian has not been able to create a conducive atmosphere for the development of shipping. Up till now, the Cabotage Vessel Financing Fund that was permitted by the Cabotage Act of 2003 has not taken off. This is because the law guidelines to be developed and approved by the National Assembly may not have been prepared. In any case, none has been sent to the National Assembly. The latest information is that they are being vetted by the Federal Ministry of Justice or has not been sent to them. The National Assembly seems to be ready to get this approved but they cannot do so because the executive arm that is to initiate the guidelines has not done so. Whatever is being collected now under that fund is just being warehoused in some bank and not being used for the purpose it was meant for. Private sector actors in shipping continue to suffer because they don't have ship fund or they don't have long term funds they can use to bankroll or expand their shipping business.

Concerning Cargo Allocation and Cargo Sharing, there is a new regime in the shipping industry worldwide that makes these practices out of date. Competition and competitiveness are now the hallmark of the industry. The Cargo Allocation and Cargo Sharing provisions of the National Shipping Policy Act were meant to guarantee the availability of cargo to Nigerian ship owners. The reason being that if you have a ship and you don't have cargo you are in trouble because without cargo there is no money. A ship is not like vehicles that you can park and if you park you are not consuming fuel. Because a ship floats on water you have to keep it running on generator which will consume fuel or diesel or whatever oil/bunkers it uses. The seafarers, the

captain and the crew that are on board will be paid. It is like a hotel on water, you will have to be paid running expenses whether or not you have business. These regular payments include insurance policies and some other overheads. In which case, if you don't have any contract or carriage throughout the year, you may have to close shop! The Cabotage Act has tried to address this challenge by ensuring that carriages of cargo and passengers from the basement up to 200 nautical miles which is the exclusive economic zone of the National waters would be reserved to ships that are built in Nigeria, owned by Nigerians (and) crewed by Nigerians and registered in Nigeria except of course where there are waivers because the capacity is not there, that is where we can't do without them. The Cabotage Act has not been effective however. Nigerian ship owners/operators who are supposed to benefit from these good provisions of the Cabotage Act are not benefiting and they have been complaining. There is a need to fine-tune the implementation; the monitoring of the implementation should ensure that beneficiaries receive those benefits intended to accrue to Nigerians.

There is a need to ensure that serious ship owners/ship operators have access to ship fund or guarantees that government will provide. Government must support the Nigerian operators in shipping in terms of having access to ship finance to acquire vessels. The law structured the Cabotage Vessel Financing Fund so that the money is put in a commercial bank and managed under certain guidelines to ensure that the loans will be re-paid. Part of the problems of Ship Acquisition and Ship Building Fund was that it was being operated by NMA that did not have the capacity or the competence to manage such funds in terms of banking, lending, and repayment. But this arrangement is not working because the money is being warehoused in a bank account and it is not being put to the use. The whole essence of putting it in place is being defeated.

There are arguments in some quarters about the need of the maritime industry to have a Bank, especially to finance and support shipping development in Nigeria. These proponents think that a special financial Marine Bank will help with funding the maritime subsector. Others think the best thing to do is for government to support certain designated banks to run the funds. Government could identify one, two or three Banks and support them with the finances and let

the Banks now threat allocations or funding for ships as a Bank loan. So they can now use all the parameters they use in granting loans. This is to avoid what happened in the past, where people got loans just because they had access and so the money was misused. The government may also have to provide support or encourage the banks to develop manpower in managing maritime business because it is a peculiar or specialised area.

Another related area that has to be looked into is the area of Ship Building or Ship Repairs – you have the ships, you have the seafarers, if you don't have a good ship building industry or ship repair industry, what will happen is that these ships will have to be taken abroad for repairs and that is capital flight because they have to pay in hard-currency. And what is more, you make the elements of shipbuilding like the raw materials like steel readily available. Something has to be done to Ajaokuta Steel Industry to ensure that they are able to produce what we will use in these areas. A good ship building industry without ship/easy accessibility to steel may not be profitable. So, there is also a need to provide the incentives to enable the private sector or in joint venture with the government to go into those areas which are capital intensive in order to ensure that we do not have to go to foreign countries to have these things done when we can do them here.

The third is related to manpower development. Nwokorie thinks the Manpower Development components of the shipping policy to a certain extent has succeeded because the Authority has been able to make input into training the staffs and staff from other maritime agencies like Maritime Academy, Oron and so many others. For others, the quality of training is another thing. First, the training facilities in Oron are not up to international standard. For instance, there are no training vessels. So the trainees only have classroom training and not sea training. As a result, nobody wants to employ them. Nigeria therefore cannot claim to have a systematic training of Manpower. As far as training the seafarers is concerned, Nigeria does not have the ships and therefore cannot achieve the required number of competent and experienced seafarers to play a significant role in maritime subsector. It will have to rely on foreigners. So, in terms of the education, exposure, experience and the training of the seafarers, Nigeria must have enough

vessels to give them spaces for employment and opportunities to go for sea training and be competent to manage any of these vessels.

No effort is even being made to acquire vessels. “What we are now doing is to apply the 1819 laws of America (Cabotage) and this we are not doing properly. We start with waivers. The foreigners take advantage of anything we do. There is no need granting waivers. In my own opinion, the shipping policy when reviewed should permit cargo sharing. These are the things America and Western Europe applied to rise up in the trade. What I do not know is why every white man who comes here and makes any suggestion becomes an expert. We have not been able to device homemade information system and tactics of allowing Nigeria to enter the trade.” The government is too responsive to the “internationally acceptable” and does not advance its own interest. Government embraces suggestions by foreign experts without sieving through the foreign interests behind them. “When Americans passed their own law in 1819, they were able to exclude foreign nationals so as to build themselves. A new policy would require a new setting, understanding, and philosophy. Inland Waterways Shipping should not be open to the international public. The coastal trade should not also. We have to decide on what we want to do to propel ourselves and the government has to contribute. When the grounds are well laid, then it could be passed on to private hands that would pay for such provisions for a stated period of time. The government cannot isolate itself from this”.

Nwokorie emphasised the weakness of monitoring as responsible for the failure of the Ship Acquisition and Ship Building Fund. For him, the fund was not closely monitored to the extent that “those who were given the money weren’t monitored to find out whether the monies that were given to them was sufficient to purchase ships and even when they were given the money, they weren’t monitored closely to ensure that they applied it into purchasing of ships”. The ship expansion and maritime development scheme has monitoring clauses that will allow the authority facilitate private ownership of ships not necessarily putting money into the purchase. Government can play a facilitating role by ensuring that the financial houses, ship building yards and individual investors come in with significant equity. “Cargo support system in any developing nation’s maritime life is a required ingredient. So is the effort to try to provide

support like funds for acquisition of ships because it requires huge capital outlay. But the problem is that do you enunciate these policies with the mechanisms that will allow them to survive, or to make them sustainable?” The initial policies did not.

For Olisa Agbakoba, the current policy in Nigeria is not up-to-date. Besides, previous instruments if viewed from the perspective of results cannot stand. The NMA is not in the position to implement what the Cabotage Act has given. The NMA is designed with the old regime in mind. Now we have the new style based on competitiveness. So NMA would need to shift and become management driven not administration.

There should be management by Nigerians in private sector to develop ships. So how many ships has the NMA helped Nigeria develop since it was established? What we want to see today is NMA that can bring up 300 ships in about 5 years. So NMA based on the Act is in no way able to help Nigeria’s potential and make her competitive in Cabotage. If Nigerians don’t have ships, Cabotage won’t work and Cabotage is all about allowing Nigerians preferential treatment in our Cabotage trade. When British Airways flies from London to Lagos or Abuja, that’s where it stops. Can you think of British Airways with smaller planes now flying Lagos – Enugu, Abuja – Kano? Is that what is happening in the shipping industry? Cabotage says allows foreign ships to come but they should come from International routes and stop at the local ports where the local Nigerian vessels will carry on. But if you don’t have a good shipping policy, that is competitive, if you don’t have money to cede the private sector to own ships, how are you going to get the ships? In terms of competition, the Cabotage regime is actually not helping and therefore the target group (Stakeholders) is not seeing anything. This is because the Shipping Policy is not current and if it is not current; it produces nothing and so develops nothing. So Nigerian’s shipping programme is in a very bad state.

Some of the interviewees also identified lack of awareness of the importance of the maritime sector to national development by policy makers and the private sector actors as important factors in explaining the failures of policy. For instance, Allison-Madueke is of the view that “the maritime sector did not receive adequate attention of government early enough. Take for

instance, our services in the Navy; most Nigerians don't understand what naval support is all about. They thought that we have coastal shores and some Nigerians are by nature of maritime people yet we are very ignorant about the sea, as a people – which is most unfortunate. That affects the thinking of Nigerians and those in authority because, they don't understand”.

Somehow the implementation of the NSPA, 1987, failed to catalyze the nation's shipping development. As Dr. Okey Udeh has argued, Nigeria's maritime policy, which hinged on NSPA was perhaps built on a faulty foundation.<sup>[13]42</sup> Indeed, the situation can be summarized in some of observed shortcomings of the NSPA, namely that:

- The statutory objectives of the Act concentrated on ocean-borne trade and shipping which permitted cargo support and control to indigenous shipping companies or lines involved in deep-sea shipping activities. Nothing was extended to those indigenous companies to strengthen their participation in coastal and domestic shipping;
- Cargo sharing and cargo reservation principles in the Act were concerned with Nigerian companies enjoying national carrier status and involved in foreign trade and not in domestic waterborne transport. Act;
- NMA objectives include assisting indigenous ship acquisition and ship expansion, with preference given to those engaged in international shipping over the shipping companies that are into domestic waterborne transportation or deep sea shipping;
- It failed to clearly specify the programmes' details such that the looseness created room for undue implementation interference by the political class.

#### **Analysing the Issues Using the Advocacy Coalition Framework (ACF)**

The issues in the shipping (Cabotage) subsystem basically take two forms - the core policy issues and the secondary aspects or attributes of the policy. The other category referred to as the deep core belief system transcends across subsystems and can hardly be changed or altered within the shipping subsystem. The issues listed above from our review were mostly operational, which are decisional instruments designed to affect the realization of the policy goals. While these could easily be altered over time, it has equally been noted that those with impact spanning across

policy subsystem may not be so easily changed or altered. For example, certain instruments developed by NMA may require the cooperation of NNPC for successful implementation. Besides, some issues have been identified as core policy issues which could as well pose problems given the numerous coalitions in the subsystem.

Having identified the obstacles to successful implementation of Cabotage policy, our modified Advocacy Coalition Framework (ACF) together with its implications suggests that we understand and analyse how these teething problems have continued to challenge the smooth take-off of the policy. The following section will evaluate the following core issues:

1. Funding – the Economic Reforms Programme of government captured as NEEDS is steadily de-emphasizing the role of government in business, including reduction or removal of all forms of subsidy. The request for a reintroduction of SASBF or government contribution would not be viewed as being consistent with the NEEDS. The approach adopted by government is for a government-led but private-sector driven economic engagement. Cabotage subsystem is considered a subset of the overall economic reforms.

From the ACF hypotheses, the implementation of Cabotage programme if dependent on government for funding would continue to experience difficulties based on the divergence between this need and core policy issue of economic reforms. Changes here can only arise from the intervention of the sovereign. Secondly, the ACF advises that where failure or loss has occurred earlier, street-level bureaucrats, NMA in this instance, will be conservative and moderate in programme design. There is a palpable reluctance to venture into uncertain weather. Applied in this case, the failure of SASBF will continue to influence the role and form of financial support NMA will be willing to extend to the shipping operators.

Another coalition group that could resolve the financial issue is the banking and other financial institution. This coalition will support shipping so long as its core interests who

are profit and viability of investment are guaranteed. It does neither charity nor does it have obligation to forsake its core policy for shipping development when there are other sectors with brighter prospect. Against the background of the average operator whose core policy expectation is that government must play a key role in supporting shipping including financial assistance, it appears that there are divergent interests of these coalitions in the subsystem. Without a resolution of these divergent core interests and expectations, it is not likely to surmount the funding obstacle.

However, the shipping operators could aim for a grand mobilization of public opinion and formation of a grand alliance, which can threaten the party in power. It is doubtful if this very implementation hurdle can be scaled over. On the other hand, such change could arise at the expiration of the present administration. A mid-ground, however, is to sufficiently sensitize the bulk of the shipping operators to begin to align with government reforms posture. Inter-governmental and Access to Contract Issues – the frontier-extension mind-set of government agencies and departments create little room for meaningful cooperation and coordination.

These issues transcend the shipping subsystem and, following the ACF, the absence of hierarchization of the agencies whose functions overlap, would require a higher authority to order collaboration and cooperation for smooth policy implementation. So far, the initiatives to forge a working relationship between NMA and NNPC subsidiaries are still at the level of planning, some eighteen months after the act has been in force. Moreover the other coalition groups, especially the major oil companies engaged in off-shore exploration and production activities would not be willing to put their operation in any form of jeopardy, or terminate a successful business interest/relationship. There has to be some kind of incentive or sanction. Again, given the sensitivity of oil to the nation's economy, would the sovereign have the political will to sacrifice steady oil operations just to promote indigenous shipping companies? It is a matter of political priority and in the absence of clear directives by a sovereign whose core interest overrides these

coalition members, Cabotage interpretation would continue to mean different things to the groups in the Cabotage subsystem. The implementation process can identify engagement strategy with other agencies but definitely would entail more involvement of a higher sovereign.

2. Fiscal Incentives – The fiscal incentives sought by the shipping operators’ coalition to smoothen effective take-off of Cabotage programme are not provided in the Act and would require amendment to the Act. Meanwhile, this amendment would affect the core interest of other policy subsystems, particularly the Federal Inland Revenue Service (FIRS), and Nigeria Customs Service (NCS), and the overall revenue target of the Federation Accounts, hence the involvement of Revenue Mobilization, Allocation and Fiscal Commission (RMAFC). Without intensive mobilization of public opinion and extensive lobby, the policy status is unlikely to change soon. Evaluation of implementation progress is therefore outside the control and determination of NMA or the Federal Minister of Transport for that matter. Consequently implementation of Cabotage policy based on fiscal incentives requires more political horse-trading than the role of implementing agency.
3. Modalities For Cabotage Implementation/Enforcement – The demands here are largely administrative, and as such fall within the class of secondary aspects of policy. The pressure placed on NMA to engage the stakeholders more is in order. The shipping operators input here is more likely to cause changes in guideline on waiver, scales of non-statutory fees and collection method. The request to establish a private sector monitoring group is still part of the secondary aspect of Cabotage policy and can be treated at the ministerial level. Other suggestions include computerization of the process, public enlightenment, and engagement with the operators. At the level of NMA, the issue of manpower training can be addressed while the minister may be involved in extending financial support to MAN, Oron for seafarers’ development.

4. Shipbuilding – The third requirement of the Act provides that Cabotage vessels should be built in Nigeria. However, there are few local shipyards. For full benefits of the policy in terms of job creation and industrial development, suggestion was put forth for support and incentives to shipyard investors. This has a hybrid policy implication- part of it could be classed as core policy issues like fiscal incentives while another part can be addressed administratively by proper design of enforcement mechanism within NMA. Operators' issues as well can be taken at both levels for remedy.

## 6.5 Conclusion

The chapter considered the outcomes of the various programmes of the national shipping policy under two regimes. The outcomes did not achieve the objectives of the policy as there was clear evidence that shipping activities are still dominated by foreign shipping companies. It was nonetheless improving gradually with the commencement of the Cabotage regime. During this period, the national tonnage recorded an increase while the reservation of Cabotage cargo was affected by the frequent issuance of ministerial waiver and the reluctance of some oil exploration and producing companies and the tacit support of NNPC. The evaluation of stakeholders opinion and attitude on the policy and the implementation process took a combination of approaches. First, nine national newspapers with strong maritime desks were reviewed and a total number of 155 articles were identified as relevant to the study. The search was for a period of eleven years, from 1999 to 2010. The issues were classified and subjected to content analysis. The impediments in the content and implementation of policy were identified. These were further verified by the results of the survey questionnaire administered on over 156 respondents from the shipping, banking and academic institutions.

Together with the in-depth interviews, the consensus of opinion was that the NSPA regime promotion of indigenous shipping development was an abysmal failure. The cargo support programme was grossly abused and yielded no impact in terms of improving indigenous participation in the carriage of cargo. The national fleet expansion scheme equally failed with the result that national fleet noticed a deep decrease and the maritime manpower situation was worse

with the depleting number and quality of seafarers. The causes were also identified which led to two policy reformulations.

The Cabotage Act, 2003 redirected the policy focus to the control of domestic shipping by indigenous shipping companies and the NIMASA Act, 2007 together with the NCMDA, 2010 have given even greater muscle to the implementing agency. However, the recurrent issues have remained the reluctance to allow NMA or NIMASA exercise its autonomy over the years. Such meddling with the internal process, including incessantly disgracing its leadership after every fourteen months neither provides for stability, focus and planning. In a situation where the agency remains without courage, initiative and drive coupled with frequent stories of corruption and absence of professionalism. It is indeed doubtful whether much can be achieved in the immediate future. Besides, the low quality of staff and morale without statutory provision for stakeholders' consultation and the absence of direct legislative oversight could lead to political plundering of the huge resources domiciled in the agency. Shipping development being just one of the numerous functions of the agency may ultimately remain retarded. The story so far does not seem to contradict this position.

## CHAPTER SEVEN

### CONCLUSION AND RECOMMENDATIONS

#### 7.1 Overview

The main concern of the study has been to investigate why the implementation of the national shipping policy did not lead to shipping development in Nigeria. The study reviewed the explanations often proffered by the liberal school, who insists that policy intervention is alien to shipping development and as such cannot be of any use. This school further asserts that intervention has proven to be disruptive to the growth of international shipping, which in the end imperils international trade and the prosperity of all. This “free marketers’ school” is also referred to as the internationalists. On the other hand, another school, which promotes shipping nationalism, blames the failure of developing countries in their quest for effective participation in international shipping on the existing maritime order foisted by the hegemonic powers of capitalism. Largely comprising political scientists, the thrust of their research has been on how to dismantle or change the existing maritime order in order to create room for the emergent maritime states to effectively participate.

For us to understand and unravel why national shipping policy failed to induce shipping development in Nigeria, the study reviewed the positions of the neo-liberal (internationalist) and the statist or nationalists schools. Although they largely reflected more of their ideological differences, thus the polarization and controversy between the so-called shipping internationalists and nationalists, the study was guided by their respective merits. It adopted a combination of different approaches. It reviewed the issue of policy and shipping development, traced the evolution of shipping in Nigeria and finally settled on a framework that though incorporates the relevance of international environment but insists on the primacy of domestic policy design and implementation structures in explaining institutional performance. Baldev Raj Nayar (1996), in his study of the Indian shipping industry, has argued along the same line. While he recognised the importance of the international environment, he insists that ultimately, “state power is a key determinant in the success of a state in guiding the economic development of a country.”

According to him, the state power consists of two analytically distinct elements: state autonomy and state capacity. While the state autonomy relates “to the ability of state to formulate its preferences or goals independently...(T)his ability is a function of the degree of consensus within the state.” The state capacity, on the other hand, “relates to the ability of the state to implement its chosen preferences, and it is a function of ‘the effectiveness and cohesiveness of government institutions.’”

## **7.2 Summary of the Study**

The first burden of the study was to investigate whether Nigeria has had a shipping history before trans-Atlantic trade, and to determine what has been the underlying structure of Nigerian shipping. This was to determine whether there has been a maritime culture, or what Stromme Svendsen (1996) refers to as “vigorous shipping milieu,” to support shipping development in modern Nigeria. Chapter Three has been able to trace the evolution of shipping and shipping related policies in Nigeria, from the pre- to the post-colonial era. It has also followed the dynamics and structure of the shipping industry, from a self-help stage of the riverine communities in the Niger Delta region and riverine areas of Nigeria to the disaster of the trans-Atlantic trade. This period dealt the severest blow to indigenous shipping enterprise and entrepreneurial spirit following the evacuation of the Nigerian youth during the slave trade era. Not only were these natural seafarers shipped off to foreign lands, the manhunt for slaves reduced riverine and coastal communities to “ghost towns”.

The abolition of slave trade in the early 19th Century was quickly replaced with the imperial trade of unequals, with the prime goal of controlling trade and shipping business for maximum expropriation of the colonies by the metropols. The subtle but effective practice by the colonial administration was the use of instrumentalities of government under the cover of “law and order” to support British businesses in Nigeria. The result was twofolds: the monopolisation of certain trade and the cartelisation of shipping in the form of liner conferences. Leading British shipping interests like Elder Dempster were actively supported by the British Home Officials in London even against British colonial officials, competitors and local shippers. This continued to define

the structure of Nigerian shipping industry even after 1960 when Nigeria became an independent country.

Chapter Four began with the analysis of the main thrusts of the NSPA, 1987, to assess the likelihood that its programmes would achieve its legal objectives. From our theoretical framework, we identified the critical stakeholders in the Nigerian shipping industry. We found a high prevalence of poorly conceived objectives which were neither conflict-resolving nor realistic; and that the causal linkages implicit in the policy objectives were not strong. It was evident that the NSPA was poorly conceptualized and designed. It did not pay particular attention to the national peculiarity and reality as well as its failure to recognize the importance of institutional autonomy for the smooth implementation process. Apart from its statutory institutional constraints, the implementing agency lacked the proper visionary leadership and personnel from inception, and as a result it was grossly ill-prepared for the highly technical challenge of transforming the shipping industry. Given these weaknesses and failure to deliver its objectives, it was no surprise that the National Shipping Policy Act, 1987, was repealed and replaced with the Nigerian Maritime Administration and Safety Agency (NIMASA) 2007.

But midway, the Coastal and Inland Shipping (Cabotage) Act, 2003 was enacted to redirect national shipping policy thrust from international shipping to coastal trade. The chapter also analysed the Cabotage policy which was enacted to redirect the focus of the shipping development objective of Nigeria's shipping policy. Unlike the analysis of NSPA which was done with the aid of our modified Implementation Model Framework (IMF), the study on Cabotage regime was largely based on a model adapted from the Advocacy Coalition Framework (ACF). This helped us address the twin issues concerning the strong coalition assembled by the majority of the shipping subsystem during the advocacy for a reformulation of the national shipping policy framework:

- i) After achieving the objective of passage of the Cabotage Bill in 2003, what happened to the coalition?

- ii) Why was the coalition not particularly successful and effective in pressing for speedy Cabotage implementation process?

From the target groups' perspectives, we were able to identify and compartmentalize the problems confronting the coalition into core policy issues and secondary policy attributes. Guided by this approach, we were further able to analyse the implementation prospect. For issues of core policy, different interests of various cabotage coalition groups were identified and they exhibited certain contradictions. Besides, some issues straddled across policy subsystems such that redress could only be gotten from a higher sovereign. Consequently, we were able to deduce that the implementation remedy to these issues was more political than administrative. Hence, clamour to induce effective implementation of the Cabotage regime would entail more concerted efforts, planning and lobbying in order to bring the issues to the attention of, and resolution by, the political masters. A convincing case that the increase in implementation tempo would catalyze into shipping development, in line with the reform programme, could be more fruitful, than the incessant attacks on the implementing agency. NIMASA cannot give more than it has – it cannot, for instance by fiat, force the hands of NNPC over oil cargo contracts as the later also derives its powers from the statutes to exclusively determine the most efficient manner of discharging its responsibility to the state in regard to crude shipment<sup>45</sup>.

The NIMASA Act, 2007 repealed NSPA, 1987 and JOMALIC Act, 1999 and subsumed their agencies, NMA and JOMALIC, into the Nigerian Maritime Administration and Safety Agency, NIMASA. However, the new Act did not score very well from our analysis in a number of areas. First, the Act's programmes were not strongly supported by adequate theory and secondly it did not make bold attempt in institutionalising key implementation process, absence of rigour in insulating key leaders of the implementing agency from external political control. It also was deficient in statutorily providing for institutionalised consultation with constituency groups to secure their support and assistance in ensuring the rule of transparency and good governance in NIMASA. There was a huge gap in the area of prioritising the legal objectives or at least adequate provision for substantive criteria for resolving goal conflict. We did not see a strong

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<sup>45</sup>See the NNPC Act.

theory or logic guiding the enlarged scope of activities assigned to the agency. This absence of programme prioritisation and timeline could become a source of confused implementation, distraction, incompetence and corruption. This is because the guiding posts for good governance practice rests on the indicators of transparency and accountability.

The main promotional thrusts of the national shipping policy under the NSPA and NIMASA Act regimes were identified in Chapter Five. The shipping development programmes derived from the national shipping policy which were purely promotional in their objective included i) the cargo control and sharing, ii) the national fleet expansion through the SASBF, CVFF and the Maritime Fund, and iii) the maritime manpower development scheme have varied a little. It was noted that in spite of changes in the law strengthening the implementing agency, which was enlarged from NMA to include other agencies like the GIS and JOMALIC to form the NIMASA, the challenge of shipping development has remained the same, from inadequate national fleet with insignificant carriage rights to the challenge of manpower development in the face of ageing and depleting indigenous maritime and seafarers' workforce.

The study also examined the implementation hiccups of the national shipping policy against the backdrop of the conclusion reached in Chapter Four. It was confirmed that the design of the programmes for shipping development at inception by the implementing agency was heavily constrained by the provisions of the statute. The NIMASA Act, 2007 sought to strengthen the implementing agency by repealing NSPA, 1987 and JOMALIC Act, 1999 and amended the Marine Shipping Act 2004. The three maritime agencies, NMA, GIS and JOMALIC have been subsumed into the Nigerian Maritime Administration and Safety Agency, NIMASA. One would have expected a more audacious implementing agency spear-heading drastic shipping development reforms in the various programmes but from all angles, four years have witnessed little activities. There was not sufficient evidence to conclude that these legislative reforms, which followed the NSPA, 1987 have produced much salutary effect, necessitated by agency's fresh innovative approach in redesigning and expediting shipping development in Nigeria.

It was, therefore, necessary to probe why shipping development has recorded unimpressive results despite the shipping reforms. Chapter Six considered the outcomes of the various programmes of the national shipping policy less than two eras: the NSPA and NIMASA regimes. The outcomes did not achieve the objectives of the policy as there was clear evidence that shipping activities has continued to be dominated by foreign shipping companies. However, it has shown little improvement in domestic shipping with the commencement of the Cabotage regime. NSPA regime's promotion of indigenous shipping development was an abysmal failure. The cargo support programme was grossly abused and yielded no impact in terms of improving indigenous participation in the carriage of cargo. The national fleet expansion scheme equally failed with the result that national fleet noticed a deep decrease and the maritime manpower situation was worse with the depleting number and quality of seafarers. The causes were also identified which led to two policy reformulations.

However, the Cabotage Act, 2003 redirected the policy focus to the control of domestic shipping by indigenous shipping companies and the NIMASA Act, 2007 together with the NCMDA, 2010 have given even greater muscle to the implementing agency. During this period, the national tonnage recorded an increase while the reservation of cabotage cargo was hamstrung by the frequent issuance of ministerial waivers and the reluctance of major oil exploration and producing companies with the tacit support of NNPC to cooperate with NIMASA. The recurrent issues have remained poor institutionalisation and lack of internal capacity of the implementing agency due to the reluctance to allow NMA or NIMASA exercise its autonomy over the years. Such meddling with the internal process, including incessantly disgracing its leadership out of office after every fourteen months, on the average, neither provided for institutional stability, focus, sound planning and will. In a situation where the agency remained without courage, initiative and drive coupled with frequent stories of corruption and absence of professionalism, it was indeed doubtful whether much could be achieved in the immediate future.

### **7.3 Summary of Findings**

Shipping has remained critical to international trade. Consequently, shipping remains at the heart of national competitiveness, a source of wealth and a major catalyst of economic development, which any state with maritime potential can only ignore to its peril. Nigeria is a potential maritime power as the study has shown. To maximise its economic potential, Nigeria from 1987 introduced a number of legislations to promote and support shipping development. Shipping development arises from the performance of the policy, which is determined by understanding of external environment, and formulating the right mix of “correct policy” and strengthening the capacity of the implementing institutions. The study has clearly shown that the implementation of national shipping policy in Nigeria has not achieved its goal of shipping development. Foreign interests still control both the deep-sea and the cabotage trades for a variety of reasons. Our findings are classified along these lines.

#### **7.3.1 The Failure of State in Policy Adaptation and Control**

External environment to international shipping is controlled by the developed countries, hence the insistence on the principle of “freedom of the sea.” It is also a common practice that each state seeks to support its shipping industry in a variety of ways. It is the responsibility of the aspiring maritime state to come up with the “correct policy” as South Korea, Taiwan, Malaysia, China and Singapore to develop national fleet and shipping competitiveness. The formulation of national shipping policy requires detailed knowledge of the environment of international shipping and sound understanding of the nation’s core competencies and alignment of shipping objective with its economic policy. A starting point is to have a detailed review of the experiences of other successful maritime countries in the use of various policy tools and determine the ones most appropriate and applicable to the state. There is no one-fit solution.

The Nigerian state apart from exhibiting a luke-warm approach to use of policy to develop shipping until 1987, at the point it decided to enact a national shipping policy, the final product NSPA, 1987, was lamentable. It not only lacked depth, it was evident that it was poorly conceived and designed; the policy makers’ refusal to learn from the experiences of other states

reflected heavily on its failure in timely policy adaptation. The poverty of adaption skill can be demonstrated by a number of issues which at the time of the enactment had reared up thier heads.

The list is long but a few would suffice: Why for instance did the enactment of NSPA wait for fourteen years after the UNCTAD Code resolution in 1974 till 1987, at a time the EU countries had ganged up to cause massive policy retreat for most of West African countries? Why was NSPA solely reliant on the UNCTAD Code, which by 1987 had already become controversial and difficult to implement? Why did the NSPA focus on wrestling with major maritime interests over international cargo when it would have commenced its shipping development journey by seeking to control domestic shipping, a lesson it learned some sixteen years late with dire consequences? Why did the policy makers fail to learn from the success stories of china, South Korea and Malaysia? Indeed, it was as if the state either lacked the depth, skill or humility to consult, or it hoped that “once the national shipping policy was enacted, all parties must comply.”

From the NMA to NIMASA, the objective of using three programmes to support the creation of indigenous shipping entrepreneurs require more than agency strengthening, there has to be a fresh governance culture. The loose provisions only encouraged opportunistic shipping by-standers whose commitment to shipping has been as uncertain as their understanding of the journey toward national shipping development. Like the study observed earlier, the absence of a tight good governance standard, implementable coherent casual theory in the type and manner of prospective ship-owners constituted a big minus to the policy. Moreover, without statutory provision for the creation of independent stakeholders’ forum to monitor performance and programme choice and the absence of statutory imperative for inter-agency coordination under the aegis of NIMASA for the purpose of shipping development and the requirements will continue to constitute implementation impediment.

To repeat a point, which has been made, earlier, it is misleading to assume that shipping development programmes, without logic and sound theoretical foundation, *ip so facto* constitutes sufficient incentives and attraction for the emergence of the right calibre of people who would

become the maritime entrepreneur. The assumption that with cargo support and soft loan, then there would emerge indigenous shipping entrepreneurs who are capable of competing in international shipping is dead wrong. It rather created a patrimonial shipping structure where sense of entitlement pervaded and obfuscated the industry. Access to cargoes must be politically sterilized to avoid the re-emergence of “brief case shipping” companies. The rules must be followed and defaulters sanctioned. Second, in terms of providing for financial support, the causal theory rests on the assumption that subsidizing certain financial costs would reduce operating cost of shipping companies with a view to making them competitive. The same argument is advanced. Without clear provisions on rules and control involving periodic reporting to both stakeholders and the legislature monitoring and oversight, which should provide the base for this causal link, the fund could become a “reserve bank for the boys” and a form of slush fund for sundry political financing. The results are in line with Claude Ake’s (1996, pp 7 ff) hypothesis that a prominent feature of a patrimonial state is that politics permeates every facet of life and consequently every facet becomes politicised. Consequently, the strengthened position of NIMASA to allocate cargo and fund institutions, etc without institutionalised governance structure and practices have turned the agency into a source of waste of public fund and institutional embarrassment.

### **7.3.2 Ministerial and Bureaucratic Control of the Implementing Agency**

The low level of autonomy of implementing agency has continued to frustrate the realisation of the objectives of the national shipping policy. As a matter of fact, the implementation of the NSPA has been a story of state’s meddlesomeness with NMA/NIMASA. It has been one that definitely impeded smooth implementation. Over the first ten years from 1987 to 1997, the state had removed and disgraced seven Directors’ General (DGs) out of office<sup>46</sup>. Even as the

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<sup>46</sup>The first Director General Dr. B Ekong, a former Director at Central Bank of Nigeria (CBN) and shipping expert, was relieved of his position in a rather controversial circumstance. He served from 1987 to 1991. The next was Mr. Akinfe who was disgraced out of office under one year at the helm of affairs following the failed BCCI saga. See Iheduru (1996). The third was Alhaji Mohammed whose tenure was as short as it was uneventful. By 1993, the fourth DG was named as Alhaji Muniru Ja’afaru who restored some semblance of order until a power play shoved him out in 1996, with Engr. Buba Galadima taking over. He lasted till 1997 as Mr. John Egesi, a seasoned maritime administrator succeeded him and was also replaced by Dr. Eneh, an economist in 1999. Mr. Ferdinand Agu again replaced Eneh after two years in 2001.

reformulation of the policy brought about by NIMASA Act, 2007 purportedly strengthened the agency and granted it more autonomy, between 2007 and 2010, there was still no intention to allow for the institutionalisation of the agency. Beyond routine directives and control, the management of the agency has remained tied to the apron of some ministry bureaucrats. Between 2007 and 2010, three DGs were removed without respect to tenure provision in the act. As the implementation of cabotage policy unfolds, the most criticised aspect of the law relates to the abuse of ministerial discretionary use of waiver. The waiver clause in the law provided a mitigating instrument which allowed the minister to grant waiver with respect to the four cardinal conditions of cabotage in the event of absence of indigenous capacity. Instead of the granting of waiver as a stop-gap measure, deliberately introduced to force the grooming of indigenous shipping industry, it has totally neglected them and has brought enormous frustration to beneficiaries of the scheme. These indigenous ship owners have continued to protest that they are neither consulted nor their interest secured in the use of the waiver.

Meanwhile, the so-called promotional programmes of the agency and the appointment to agency management have remained sources of political patronage. The state dabbled into the control and allocation of cargo, only for such “sharing of cargo” to tilt in favour of some “brief case” shipping companies. It determined the beneficiaries of the SASBF loans and stopped the operation of the same fund at will without recourse to the law. From the investigation of the ill-fated MV Trainer<sup>47</sup>, it was revealed that “top ministry officials selected those cadets” who were to be trained on board the vessels without recourse to standards of training requirements and their eligibility as provided in the STWC. The interference of state as a huge impediment to implementation was pointed out repeatedly by the various FGDs, in-depth interviews as well as the survey. For instance, the survey listed the causes of failure relating to the state as follows: i) undue political interference (92.1 per cent), ii) inappropriate policy design (73.7 per cent), iii) government lack of leadership, especially in resolving interagency conflicts (86 per cent) and iv) policy (macro economic) instability (89 per cent) among other factors.

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<sup>47</sup>Overbearing bureaucratic meddlesomeness was identified as part of the cause of the MV Trainer Saga. This researcher served as the technical consultant to the House Committee of Transport under the chairmanship of Hon (Dr) Okey Udehand the proceedings of the investigation of the ill-fated MV Trainer were recorded and submitted to the House of Representatives in March, 2001.

### **7.3.3 Inter-agency Issues and Absence of Political Will**

The state's failure to resolve inter-agency rivalry and conflicts together with palpable fissiparous predilection of various government institutions affected the implementation process as it was very evident in the case of NMA/NIMASA and NNPC/PPMC. Although all these agencies belonged to the same federal government, each carried on its own, refusing to cooperate with the other as if they served different governments<sup>48</sup>. It was this absence of cooperation that defeated the cargo reservation policy and has continued to afflict the implementation of the cabotage act. In the event of interagency face-off, the situation was exacerbated by the unwillingness of government to stoutly support the implementing agency. Indeed, our survey confirmed that there was a glaring lack of will and commitment to build a competitive indigenous shipping industry (89 per cent).

### **7.3.4 The Incompetence and Corruption of the Implementing Agency**

Whatever shortcoming the national shipping policy design had was exacerbated by the incompetence of the implementing agency, NMA. We have earlier observed that the capacity of the implementing agency was of extreme importance to the realisation of policy objectives. The NMA/NIMASA did not exhibit sufficient readiness for the huge responsibility it was given. The enactment of NSPA aroused instant attention, if not high expectation from the public. About 97 per cent of the respondents claimed to be aware of the legislation with about the same number agreeing that its objectives were realizable. In spite of the feeling, NMA in implementing the programmes did more of controlling, and perhaps becoming a cog, than promoting shipping development. Iheduru (1996) has noted that "rather than control foreign shipping companies, these institutions (like NMA, the Nigerian Shippers' Council, etc.) were, indeed, used instead to regulate and control access to huge economic rents, thereby creating a subservient, indigenous rentier class dependent upon the state".

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<sup>48</sup>During the sitting of a 2003 Presidential Committee on the Affreightment of Petroleum Liquids, which the research served as member, it was very evident the NNPC's then MD Mr. Gaius Obaseki saw his assignment as superior and beyond the scope of any law or the reach of any other agency. He vehemently maintained his position as he often interjected that in clear terms that he would certainly not yield to any pressure that "would expose the shipment of my crude to any risks". And that was the last word, which not even the committee report could change.

Even within the agency, it was apparent that the motley crowd assembled together in the spirit of “jobs for the boys” could not cohere, it was not a team and there was the recurrent “banana peel” trap, to use a terminology of the Nigerian Senate<sup>49</sup>, where every one was out to sabotage the other. There was a glaring absence of hierarchical integration of the agency to work as a team. The interviews with the first Director General of NMA (Dr. B. Ekong) and his two other successors<sup>50</sup> were very revealing. Little surprise that they lost their main support base- the shipping operators who never understood where they were headed for<sup>51</sup>, as the agency itself did not know where it was going! The survey highlighted some of this as follows: wrong programming, including poor judgment and sequencing, especially the decision to control private cargo rather than public sector cargo (89.5 per cent), corruption within the agency (92 per cent), institutional weakness and incapacity (92 per cent), inexperienced leadership/management in maritime matters (94 per cent) and lack of will to enforce sanctions (92 per cent) among others .

### **7.3.6 Non-Integration of the Critical Stakeholders**

Apart from the fact that there was gross omission of cultivating the shipping stakeholders in the pre-design programme stage, the stakeholders themselves did not help matters. Both sides did not understand the need for partnership between the state and civil society if only to confront the dilemma posed by international shipping. The perplexing situation of emergent shipping nations in international shipping has been captured by Mahatma Gandhi metaphor of a relationship between “a giant and a dwarf.” He argues that any claim that the dwarf can effectively compete against the giant without support amounts to mere wishful thinking. There is need for the state agency and shipping group to be agreed on the purpose and goal to be achieved. Whereas the foremost aim of the partnership should be the development of a national fleet that ultimately emerges globally competitive, the shipping group has always viewed the support of the state as a permanent crutch for the “infant” who has refused to grow. Whatever incentive or privilege

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<sup>49</sup>Following the removal of the Senate President, Dr. Chuba Okadigbo due to “banana peel” effect, the phraseology came into use to describe intra-agency back-stabbing and intrigue to quicken the ouster of the superiors.

<sup>50</sup>In the interviews with Dr. Ekong, Mr. Egesi and Mr. F Agu, it was very evident that the NMA, later NIMASA, was never run as a team; everyone was after their interests to the detriment of the agency.

<sup>51</sup>This was very obvious from the survey analysis and the accounts of the major industry stakeholders, who never were consulted before the design and announcement of vital programmes or decisions.

extended by the state was considered a right without any string, duty or responsibility. The abuse of the SASBF was a classic case.

As a result of a phenomenon Iheduru aptly describes as “the use of state power by the political class to create a rentier class unable to develop agenda for the industry,” real shipping entrepreneurs could not emerge. The task of building the indigenous shipping industry squarely rests on this class as Nigeria has witnessed in the telecommunication sector after the liberalisation of the industry. It is the responsibility of the state to provide a “level playing ground” for the Nigerian shipping companies by removing critical impediments that have put them at a disadvantage over time. But it is the challenge for the beneficiaries to rise to the occasion. The disconnect between the stakeholders and the state has remained harmful. Survey findings indicate that the national shipping policy failed partly because there was poor communication between the state and stakeholders (73 per cent) and absence of entrepreneurial initiative (84 per cent).

### **7.3.7 Management of Funds and Absence of Fiscal Incentive**

One critical function of state in promoting investment remains at a minimum to create a level playing field, an environment that is conducive for the development of shipping. The Nigerian environment has not been so friendly to indigenous operators in a number of ways. There remains a dichotomous fiscal regime where the import duty for ships is waived for the so-called temporary importation for ships that are admitted to compete over the same jobs with the Nigerian vessels. In addition, these foreign interests are exempt from a number of taxes all of which in the end gives the foreign companies competitive edge. Moreover, they are supported by their home government in a number of ways to reduce their operating costs both through fiscal and financial assistance. Even when Nigerians attempt to go into certain areas of investment, there seems to be some harsh application of local and foreign regulation including the age of their vessels rather than the sea-worthiness. Even up till now, the Cabotage Vessel Financing Fund established by the Cabotage Act of 2003 and the Maritime Fund under the NIMASA Act, 2007 are yet to take off.

## 7.4 Conclusion

The main highlights of our finding were first; the state did not get its policy right in the first generation national shipping policy as contained in the National Shipping Policy Act, 1987, due to poor policy adaptation and design, poor governance culture and weak institution. Subsequent legislations attempted to resolve some of these inadequacies but the NMA was already caught in “path dependency” web<sup>52</sup>. The failure of the implementation process and poor outcome of NSPA programmes has informed the current policy transformation going on in the industry. However, to what extent has past experience served as lessons to guide the implementation process of the new legislations? Is it likely that the gap between policy and outcome will become narrower? The capacity of NIMASA to rise up to the challenge of effective implementation has remained doubtful. The study concludes that policy action deviated from policy intention and rendered impotent national shipping policy. Promotional policies were used for patronage. Effective policy implementation demands that the entire policy cycle, from formulation through implementation process require constant interaction among public officials, target groups and the broad stakeholders. It elaborated factors that accounted for the gap between policy objectives and policy outcomes. These included uncertainty regarding the autonomy of NMA and political interference in its operations, conflicting State policies, corruption and patronage system, hostility of the international community and capacity of, and instability in the leadership of NMA weighed heavily, and indeed constituted a cog on the implementation process. Other factors that adversely affected implementation included the political culture of the target group (85 per cent), the near absence of notable shipping entrepreneurial class, effective leadership, technical knowledge and skill, lack of commitment and political will, low level of interagency cooperation and paucity of resources for implementation solution.

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<sup>52</sup>See Raj Nayar, Op cit, for exposition on path dependency concept.

## **7.5 Recommendations**

Although the wave of liberalisation has continued to leave its ripples in shipping, the state in the developing world still has a role to protect the industry. Indeed, liberalisation as Raj Nayar rightly observes calls for a “new partnership’ between the state and the industry in the defence of national interests. But this should not be in the old fashion of acting as a “commander and administrator,” but as a facilitator and sympathetic supporter of local enterprise. Based on these observations and conclusion, the following recommendations are made for a more effective implementation of the national shipping policy.

### **7.5.1.1 Review of Extant Laws**

The Cabotage Act, 2003 has correctly refocused the policy thrust of national shipping development in favour using indigenous control of coastal trade as a learning curve and gaining experience in shipping. However, certain clauses in the act, especially the waiver power of the Minister of Transport, the interpretation of Nigerian shipping companies and recent judicial decision to exclude rigs from the cabotage list, need a legislative review. There has to be clear legislative declaration on these and other grey areas to smoothen implementation. The ministerial waiver power should be subjected to a degree of consultation with the critical stakeholders and amenable to annual legislative oversight. There should also be granted certain fiscal incentives to indigenous operators including removal or reduction of customs duty on ships and steel for shipbuilding and introduction tax and related fiscal incentives. The enactment of NIMASA Act, 2007 has gone a long way to strengthen the implementation agency, although there is abundant evidence that the agency supervision. However, the ministerial and bureaucratic grip and deliberate suffocation and control of the agency need to be reviewed. Ministerial targets and timelines are essential but the agency as a technical regulatory and promotional organisation must be properly staffed based on merit and professionalism and allowed to a degree of autonomy subject to periodic legislative reporting and oversight

### 7.5.1.2 Institutionalising NIMASA

There should also be more ministerial delegation of his/her powers under the Cabotage and NIMASA Acts to NIMASA, thus promoting the autonomy and institutionalisation process of the agency. Reduced political interference and institutionalizing sound governance practice will likely improve efficiency and transparency. Also, the calibre of personnel in the agency should be first rate professionals whose commitment to shipping development should never be in doubt, whether in programme design or implementation. Consequently, the recruitment and all appointment decisions in the agency should be strictly in accordance to the statutes and devoid of patronage. In order to further improve good governance practice, the shipping stakeholders' consultations and reviews should become part of the policy. All NIMASA operations including ship registry should be computerized to ensure easy at-a-glance knowledge of available indigenous tonnage for the purpose of the waiver application consideration and to reduce waiver period. Again, it should continue to improve its capacity and build on more partnerships, relying on critical partners like the classification societies to discharge its duties. For instance, NIMASA in enforcing its Flag and Port-State functions should rely on credible bodies such as American Bureau of Shipping (ABS), Bureau Veritas (BV,) Lloyds, etc., for determining suitability of vessels rather than the arbitrary 15-year rule since the age of a vessel is not always the best indicator of its state. Therefore 15 years age limitation should be removed from the Act.

### 7.5.1.3 Financial and Fiscal Incentives

First, the CVFF and the Maritime Fund should be structured towards reducing the disadvantages of the Nigerian shipping entrepreneur in terms of financial costs. Rather than outright loans for the acquisition of ships, the state should offer guarantees, establish links with shipyards and reduce interest rates from these funds. Beneficiaries should not be given access to the money but based on sound proposal be supported to acquire the ships. The operators should for a limited period enjoy certain subsidies, especially in areas like shipbuilding where their quotations could be above the market rate at its inception period. Such cost differential subsidy will also protect the prospective shipowner from bearing the brunt of avoidable costs. The industry should also

enjoy a number of fiscal supports, ranging from import duty waiver and reduction of taxes and other incentives, just as the Liquefied Natural Gas Act did<sup>53</sup>. The government should reduce the import duty on vessels to a flat 2.5 per cent or eliminate them entirely as most foreign ships are on temporary import and pay no duties. Other areas include the exemption to charter fees from 10 per cent withholding tax since this presumes a profit margin of thirty-three and one-third per cent, which is not always the case. All government levies and taxes should be harmonized to make for a single payment through one government organ. These measures, no doubt, will cost money but neglecting them will be worse as remarked by the first Indian Prime Minister Nehru in 1959 that “it would have been enormously preferable to have built the country’s tonnage through increased investment rather than paying vast sums to foreign shipowners in freight charges” (Nayar 1996:81).

#### 7.5.1.4 Cargo Preference and Reservation

One major finding of the study is that serious maritime countries provide a variety of support to their national fleet. Most of them provide one form of cargo reservation or another. It cannot be overstretched that successful shipping operation rests on ships, cargo and competitive freight. Reservation of national cargoes for national fleet therefore provides a certain degree of stability of earnings in an otherwise volatile and cyclical market. National fleet offers several benefits including savings to the country in terms of trade and balance of payment position even to a country as strong as the USA. Senator Inouye of the USA Senate has brilliantly summarised them in his speech moving for the adoption of Resolution 11 of United States Senate (107<sup>th</sup> Congress), as follows:

“Whereas the Federal Government has expressly recognised the vital role of the United States merchant marine during Operation Desert Shield and Operation Desert Storm; whereas cargo reservation programs of Federal agencies are intended to support the privately owned and operated United States-flag merchant marine by requiring a certain percentage of government-impelled cargo to be carried on United States-flag vessels; whereas when Congress enacted the

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<sup>53</sup>See the incentives in the LNG Act, 1997.

cargo reservation laws, Congress contemplated that Federal agencies would incur higher program costs to use the United States-flag vessels required under those laws.....whereas cargo reservation programs are very important for the shipowners of the United States , which require compensation for maintaining a United States-flag fleet; whereas the United States-flag vessels that carry reserved cargo provide high-quality jobs for seafarers of the United States; whereas, according to the most recent statistics from the Maritime Administration, in 1997, cargo reservation programs generated \$900,000,000 in revenue to the United States-flag fleet and accounted for one-third of all revenue from United States-flag foreign trade..”

As most countries have the right to determine on the definition of their strategic commodities and reserves so also do they have a right to prescribe the terms of carriage of those cargoes. France as early as 1928 enacted legislation requiring that two-thirds of its oil imports to be carried in French vessels. The United States observes similar requirement. Even India as far back as 1964 used its Indian Oil Corporation (IOC) to lift its petroleum imports from the Soviet Union. By 1958, India established a Shipping Coordination Committee, later to be known as Transchart, to “ensure that government cargo would, in the exercise of the government choice as the shipper, be available to Indian ships.” Under this dispensation, government agencies were “obligated to channel their shipping arrangements through Transchart, which in due course emerged as the largest chartering organisation in the world.”

Other measures used in implementing cargo reservation has been the requirement that all agencies should adopt selling their cargo on CIF (cost, insurance and freight) while buying on FOB (free on board). This is to retain control over shipping arrangements. The implications here are that there should be genuine effort on the part of government to reserve sufficient public sector cargo for national carriers who now should compete among themselves for the contract. Whatever could be the shortfall should be subsidised by the Funds. A key concomitant programme for optimum benefit derivable from shipping is the promotion of local shipyards for the reasons of facilitating the development of national tonnage, generating employment and the overall economic and strategic development.

### 7.5.1.5 Integrating the Stakeholders

The study recommends that for more fruitful engagement of, and results for, the policy targets, effective shipping development programme should be supportive and facilitatory towards the nurturing and establishment of a strong class of shipping entrepreneurs. The shipping coalitions should be coalesced into a more enduring advisory body, like the Shipping Catalyst/Work Groups in India and Britain. Apart from exchanging notes and reducing intra-shipping subsystem differences, this body should serve as a strong shipping lobby, promoting the industry interests. This body will also serve both as a liaison with implementing agency and a watchdog.

- i) Presidential Committee - As a first step, a presidential committee should be set up to intensify effort to implement the Cabotage Act akin to the US maritime taskforce to induce certain measure at the presidential level. The presidential committee is necessary because successful take-off of the enforcement of Cabotage regime straddles over a number of critical government each with its institutional forte and ego to protect. Besides, it is only a presidential support that will send signal of required seriousness needed to extract compliance from major interest groups including the oil companies.
- ii) Terms of Reference - These include but not restricted to the following: First is the establishment of a presidential committee on harmonizing the agency roles and duties for successful kick-off of Cabotage regime. Second, it should mount pressure at the Presidential and National Assembly levels for the immediate harmonisation of procedure for lifting crude oil involving Nigerian shipping companies in order to develop a viable Nigerian Tanker Fleet. The gains are legion<sup>[15]</sup>. Another area of urgent presidential attention is the revamping and upgrading of Maritime Academy of Nigeria, Oron, and the establishment of another training institute to quickly tackle the problem of seafarers' shortage in Nigeria. It should also address the prospects and issues of shipbuilding/shipyards in Nigeria. Finally, this committee should prepare a detailed checklist with timelines for critical activities for sustainable take-off of Nigeria's shipping revolution for presidential approval and supervision.

- iii) Membership – The presidential committee on implementation of Cabotage team should be a strong, tight and manageable taskforce, with membership drawn from both the public and private sectors of the economy including relevant government agencies, but dominated and headed by maritime experts and professionals. Armed with clear terms of reference and powers, this body should be charged to kick-off effectively the Cabotage regime in Nigeria.
- iv) Tenure – The tenure of this team should not exceed one year, within which period the regime would have become fully operational.

## **7.6 Contribution to Knowledge and Need For Further Study**

The concern of the study is to examine the implementation process of promotional aspects of Nigerian national shipping policy with a view to analysing shipping development in three specific contexts. Our conclusion is that the failure of the implementation process and outcome of the policy has informed the current policy transformation going on in the industry.

7.4.1 The findings in study have been able to confirm some propositions, thereby supporting existing state of knowledge on why national shipping policies fail. They include the following propositions identified in our literature review, to wit:

- i) That the more a developing maritime nation according to Nayar (1996: 45) exhibits lack of state autonomy and capacity for effective implementation the more likely the assigned agency fails in achieving its shipping development goals ;
- ii) That, as Iheduru (1996; 38) proposes, the “style of political management” affects implementation outcomes of national shipping policy and consequently the “responses from those segments of the civil society involved in shipping.”
- iii) The study provided empirical evidence from the Nigerian case that demonstrate that state policy is critical to shipping development, especially in a less developed country. It showed that such policy

intervention must be focused and clearly targeted for it to be effective and successful. This is because of the possibility of policy capture. Yet without policy intervention, the chances of an autonomous private sector driven shipping development process is very thin.

7.4.2 The reconstructed eclectic theoretical framework adopted in the study was useful in validating the implications of Mazmanian and Sabatier's revised Policy Implementation Model (PIM) in understanding the critical conditions necessary for the successful implementation of national shipping policy of emergent maritime state. Thus, the adaptation of Sabatier and Mazmanian model of policy analysis is useful in assessing the likelihood that legal objectives (shipping development) enshrined in the national shipping policy will be attained. Additionally, the approach the study adopted by incorporating a modified Advocacy Coalition Framework has provided insights into the behavior of shipping coalition partners, even for over a less than proposed ten-year period. The findings supported this proposition by exposing how the interests of these partners, defined as non-core to the entire shipping subsector could affect their unity, cohesion and coordination. Finally the use of a comparative shipping policy analysis is indeed added to understanding the performance of shipping policy outcome overtime and could indicate the little effect of proposed reforms.

7.4.3 However to the extent that past experiences would serve as lessons to guide the implementation process of the new legislations, to that extent would the gap between policy and action become narrower and suggestion for future study will be limited to these selected areas. The policy target for effective shipping development programme should be supportive and facilitatory towards the nurturing and establishment of strong class of shipping entrepreneurs. Viewing implementation research, therefore as "the development of systematic knowledge regarding what emerges, or is induced, as actors deal with a policy problem" (O'Toole, 2000), the study can only be regarded as a first step in closely analyzing the implementation of shipping development policy. It could not have covered all the ground as it is still evolving. It is therefore useful to continue to monitor and analyse outcome of policy as the agency matures, or falters,

overtime. It is equally important to conduct more investigations in other complementary areas, which are beyond the scope of this study. They include areas of studying:

- i) The Policy Design and Implementation over a longer period to uncover the activities and response of various coalitions of interests over time and the effect on policy change:
- ii) Number of ships required in the National Fleet over a Ten-year Period – the size of the national fleet is important in determining among others the number and mix of ships to be financed, giving policy makers a clearer needs assessment study backed by analysis of costs and benefits
- iii) There is need for a detailed study on the nation's maritime manpower and training needs assessment; and detailed inventory of government generated cargo, users and beneficiaries, the transportation mode and a schedule for indigenous participation and control.

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## APPENDIX I

### PROFILE OF EXPERTS ENGAGED IN THE IN-DEPTH INTERVIEWS

#### **1. Rear Admiral Ndubuisi Godwin Kanu**

Was twice a Military Governor of Imo (1976) and Lagos (1977) States and served at the apex military councils, especially as a member of the Armed Forces Ruling Council (AFRC) between 1985 and 1992. It was during this period that the NSPA (1987) was promulgated into law by the

AFRC. On retirement, he moved into shipping as a shipowner and major influence in the industry.

## **2. Rear Admiral Patrick Koshoni**

Admiral Koshoni was both a member of the AFRC (1985 to 1992) and the Minister of Transport at the time the NSPA (1987) was passed into law.

## **3. Admiral Alison Madueke**

Rear Admiral Allison Amaechina Madueke is a retired [Nigerian](#) naval officer. He was appointed military governor of [Anambra State](#) from January 1984 to August 1985, and then of [Imo State](#) until 1986. He later became Chief of Naval Staff. After retiring from the navy, Madueke became Chairman of Radam Maritime Services Ltd., executive chairman of Interconnect Clearinghouse and Chairman of the Board of Trustees of the National ICT Merit Awards. He also was appointed to the boards of Regalia Nigeria Ltd, Excel E & P (Marginal Oil Fields) Ltd., Solid Rock Securities and Investments Ltd. and Image Consultants Ltd.

## **4. Hon (Dr.) Okey Udeh**

Dr. Udeh was a key member of the fourth Assembly as member of the House of Representatives. He was Chairman of the House Committee on Transport and indeed was the major sponsor of the Coastal and Inland Shipping (Cabotage) Act. His legislative skills and dexterity indeed ensured the passage of the Act, which act is fondly referred to as “Udeh Act”.

## **5. Dr. Raymond Dokpesi**

Dr. Dokpesi is indeed an international maritime expert whose doctoral thesis was in shipping development. He was the Managing Director/CEO of African Ocean Line (AOL), one of the indigenous shipping lines.

## **6. Chief Isaac Jolapamo**

He is the President of the Indigenous Shipowners’ Association of Nigeria (ISAN) and owns the Morlap Shipping Co. As a committed advocate of national shipping development, he has been part of several presidential and ministerial reform panels.

## **7. Captain Emma Iheanacho**

Captain Iheanacho was trained as a navigator in the defunct NNSL. He is the Chairman of Genesis Worldwide Shipping, a major indigenous shipping company and is also the Vice Chairman of ISAN. As a staunch advocate for Nigeria’s shipping development, he has been part

## **8. Dr. Bassey U Ekong**

He was an economist and director at the Central Bank of Nigerian, heading the maritime department. It was from the CBN that he was appointed in 1987 as the first Director General to establish National Maritime Authority (NMA). His stay there was however brief.

## **9. Alhaji Muniru Ja'afaru**

Under the watch of Alhaji Ja'afaru from 1992 to 1997, NMA acquired some sense of purpose and influence. However, his removal as the Director General was rather inauspicious, consistent with what has now become a tradition for political termination of the tenure of agency chief executive officers.

## **10. Mr. John Egesi**

Mr. Egesi gained reputation as one of those trained maritime officers within NMA as one of the longest serving directors before he was appointed Director General in 1998. His tenure was brief as he was replaced in 2000.

## **11. Arc. Ferdinard Agu**

Agu though trained as an architect was appointed as Director General in 2001. He brought a number of innovations including regular industry consultations before proposal for reforms. It was under his watch that the Cabotage Act, 2003 was enacted. However, his tenure was ended in 2005 just as he was expanding the scope of ship finance for the indigenous shipowners.

## **12. Mrs. Mfon Usoro**

Mfon Ekong Usoro played a key role as one of the legal consultants to the National Assembly for the passage of Cabotage Act, 2003. She was appointed as DG in 2005 but became the pioneer Director General and CEO of the Nigerian Maritime Administration and Safety Agency (NIMASA) in the years 2006 and 2007 when she was replaced. As such, she was the first and so far only female chief executive officer of a Federal Government maritime agency in Nigeria. She served as WISTA Nigeria President from 2002 to 2005. Part of her position as the Managing Partner of Paul Usoro is to oversee the Maritime/Environment and Infrastructure Project Finance Section of this company.

## **13. Chief Nelson Oyesiku**

Chief Oyesiku was the first Managing Director of NNSL and has remained the father and committed leader in the nation's shipping industry. His record in maritime manpower development remains solid as most of the ageing seafarers were trained by NNSL which he midwife.

## **14. Mr. Gerald Chidi**

Gerald Chidi's tenure as MD/CEO of NNSL was eventful. His removal in 1992 perhaps marked the commencement of decline of NNSL. He is currently the MD/CEO of Brawal Shipping, a major indigenous shipping concern dominating the lighterage and barge shipping niche.

#### **15. Dr. Kingsley Usoro**

Dr. Usoro was the pioneer MD/CEO of the Nigeria Shippers' Council, charged with the protection of the Nigerian shippers.

#### **16. Engr. Alex C Peters**

Engr. Alex C. C. Peters is the Chief Executive Officer at ACCEPTERS NIGERIA LTD. He studied at Riversdale College of Technology, Liverpool, England and The Hull College of Technology and The Hull College of Higher Education, Kingston-upon-Hull, England, UK; and at Yaba College of Technology, Yaba, Lagos, Nigeria.

#### **17. Olisa Agbakoba, SAN**

Olisa Agbakoba, is the former president of the [Nigerian Bar Association](#) from 2006–2008 and a founding partner of Olisa Agbakoba and Associates, a leading maritime specialist law firm in Lagos. He is also the founder of Nigeria's foremost human rights organization, the Civil Liberties Organisation (CLO). He became known through his work in human rights and democracy movement in [Nigeria](#). He was also the founder of [United Action for Democracy](#) and the [Zambian pan-African](#) human rights organization AfroNet.

#### **18. Mike Igbokwe, SAN**

**Mr. Michael Ifeanyichukwu Igbokwe, SAN, ACI Arb.** A Senior Advocate of Nigeria, Notary Public for Nigeria, Associate of Chartered Institute of Arbitrators (UK), Founder and Principal/Senior Counsel, Mike Igbokwe & Company. He is one of those who assiduously worked and advocated for the enactment of the Cabotage Act, 2003. In recognition of his character and contribution to the development of the law, in 2004 he was conferred with the prestigious rank of 'Senior Advocate of Nigeria' by the Legal Practitioners' Privileges Committee.

#### **19. ENGR. N. O. NKPUBERE**

Engr Nkpubere was the last Managing Director of Nigerdock before it was privatized. He is the founder of Green Field International, which is involved in ship design and repairs, including marine structures and shipyards.

#### **20. Engr, E Ekong**

Engr E Ekong was the Rector of Maritime Academy (MAN), Oron, which is the institution training Nigerian seafarers.

## APPENDIX II

### NATIONAL SHIPPING POLICY AND SHIPPING DEVELOPMENT IN NIGERIA QUESTIONNAIRE FOR EXPERT OPINIONS

**Question 1:**

You were/are one of the key players in Nigeria's Shipping Industry. Please tell us what factors in your assessment influenced the enactment of the National Shipping Policy Act, 1987, the timing, objectives, programmes choice and implementation strategy?

**Question 2:**

Assume you were called upon to review the programmes of Cargo Allocation, Ship Acquisition and Ship Building Fund (SASBF) and Manpower Development designed by NMA to realise NSPA objectives, do you think they were appropriate? Were the objectives feasible? Was there strong connection between expectation and reality? Or what other programmes or policy objectives do you think that could have been pursued? Why do you say so? Please take them one after the other.

**Question 3:**

Do you think the target group was adequately supported? If no, what major factors do you think hindered the realization of the goals of those programmes? Were the problems from the design of the programmes or the implementation? Was the implementing agency sufficiently prepared, in terms of resources and capacity, for the tasks? How? Please treat them one by one, and feel free to make further comments.

**Question 4:**

As an expert or someone with appreciable understanding of NSPA, how do you think these programmes should have been designed, sequenced and implemented?

**Question 5:**

Do you think the politics of international shipping can affect, and indeed did affect, the pursuit of national shipping interest and development, as in NSPA? How?

**Question 6:**

Do you think Nigeria's potential is sufficient to make her competitive in Cabotage and/or international shipping? Do you think the target groups, or beneficiaries of NSPA were ready for, and receptive to, the challenges of shipping development? In terms of appropriate sequencing of the two policies, which do you consider a sound starting point? Why and what strategies?

**Question 7:**

Which areas do you consider a priority in Nigeria's shipping development?

Development of maritime infrastructure, other land based services and Shipyards

Acquisition of Ships, Manpower Development including seafarers; and

Cargo Reservation? And what are your reasons?

**Question 8:**

How do you assess the role of NMA in Nigeria's Shipping Development between 1987 and 2002 (era of SASBF, Cargo Allocation etc.) and now?

**Question 9:**

Please make any observations or comments about any aspect(s) of this survey, especially the failure/success of national shipping policy as a tool for inducing Nigeria's shipping development.

**Question 10:**

Make further comments on other areas we may not have addressed through the above questions in terms of national shipping development.

UNIVERSITY OF BADAGRY

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APPENDIX III

NATIONAL SHIPPING POLICY AND SHIPPING DEVELOPMENT IN NIGERIA

RESEARCH QUESTIONNAIRE

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This Survey is designed to elicit information on the National Shipping Policy and Shipping Development in Nigeria with the main objective of advancing the need for Shipping Policy reforms.

The findings are expected to assist the researcher who is doing his doctoral research on National Shipping Policy and Shipping Sector Development in Nigeria.

Any information given will be used mainly for the purpose of this research and will also be treated with utmost confidentiality. Please kindly cooperate with the Interviewer in the completion of this questionnaire.

Thank you for your patience and understanding.

SECTION: I

DEMOGRAPHIC QUESTIONS

1. **Respondent's Number:**

2. **Age:**

3. **Sex:** Male  Female

4. **Marital Status:** Single  Married

5. **Level of Education:** No Formal Education  Up to Secondary/Technical School  
Certificate  Polytechnic/College of Education  University Degree   
Others including Professional Certificates

6. **Place of Employment:** Government Shipping Agencies (NPA, NSC, NMA, Customs, etc.)   
Shipping Companies  Shipping Professionals (Seamen, Marine Engineers, Master Mariners,  
etc.)   
Shippers (Importers & Exporters)  Others (Banks, Insurance, Freight Forwarders,  
etc.)

7. **Position** .....

8. **Year of Company Establishment:** 0-2 years  3-5 years  6-10 years   
11-20 years  20 and above

9. **Years of Experience:** 1 – 5  6 – 10  11 – 15   
16 – 20  20 and above

**SECTION: II**

10. **Are you aware of the National Shipping Policy Act, NSPA 1987?**

Yes  No

b. **Do you agree that the policy objectives as provided in the NSPA are realizable in terms of promoting shipping development in Nigeria?**

Yes  No

11. **Do you understand the role/functions of National Maritime Authority (NMA) as provided in the NSPA?**

Yes  No

b. **If 'yes', list in order of priority the policy objectives and programmes of the NMA. (Please rank the importance of the following roles of NMA with "5" Extremely Important; "4" Very Important; "3" Important; "2" Somewhat Important and "1" Not Important:**

	EI	VI	I	SI	NI
Using Ship Acquisition and Ship Building Fund to render financial support to Nigerian Shipping Companies/Shipyards.					
Using Cargo Allocation Programme to increase the carriage rights of Nigeria Shipping Companies.					
Building Maritime Manpower Development and extending support for same purpose to Oron and other similar tertiary institutions.					
Collection of freight levy.					
Enforcing safety regulations on ships.					

12. Which of the following NMA's programmes were appropriate responses to the objectives of the National Shipping Policy Act (NSPA) for shipping development?

- (i) Ship Acquisition and Ship Building Fund
  - (ii) Cargo Allocation Programme
  - (iii) Maritime Manpower Development/Cadet Training
- (a) I only (b) I and II only (c) I and III only (d) All of the above (e) None of the above

13. Do you think the NMA has sufficient resources and was technically equipped in designing and implementing these programmes?

	YES	NO
Ship Acquisition and Ship Building Fund		
Cargo Allocation Programme		
Maritime Manpower Development		

b. Why do you say so? .....

.....

14. Do you agree that the following NMA's programmes, as derived from NSPA, have not had any effect on the development of Shipping in Nigeria?

	YES	NO
Ship Acquisition and Ship Building Fund		
Cargo Allocation Programme		
Maritime Manpower Development		

15. Do you agree that the implementation of these programmes was affected by the nature of the politics and business of International Shipping?

	YES	NO
Ship Acquisition and Ship Building Fund		
Cargo Allocation Programme		
Maritime Manpower Development		

- b. If no, why do you say so? .....

.....

16. How well would you rate the success of the following programmes?

(i) Ship Acquisition and Ship Building Fund.  
 Very High \_\_\_\_\_ High \_\_\_\_\_ Moderate \_\_\_\_\_ Little \_\_\_\_\_ Very Little \_\_\_\_\_

(ii) Cargo Allocation Programme  
 Very High \_\_\_\_\_ High \_\_\_\_\_ Moderate \_\_\_\_\_ Little \_\_\_\_\_ Very Little \_\_\_\_\_

(iii) Maritime Manpower Development and Training  
 Very High \_\_\_\_\_ High \_\_\_\_\_ Moderate \_\_\_\_\_ Little \_\_\_\_\_ Very Little \_\_\_\_\_

17. Do you agree that the programmes promoted the following in the table?

Strongly Agree: S A: Agree: A; Undecided: U; Disagree: D; Strongly Disagree: S D

	SA	A	U	D	SD
<b>i) Employment Generation</b>					
Ship Acquisition and Ship Building Fund					
Cargo Allocation Programme					
Maritime Manpower Development					
<b>ii) Development of National Fleet</b>					
Ship Acquisition and Ship Building Fund					
Cargo Allocation Programme					
Maritime Manpower Development					
<b>iii) Transfer of Technological Skills</b>					
Ship Acquisition and Ship Building Fund					
Cargo Allocation Programme					
Maritime Manpower Development					
<b>iv) Foreign Exchange Conservation</b>					
Ship Acquisition and Ship Building Fund					
Cargo Allocation Programme					
Maritime Manpower Development					

18. **On the whole do you think NMA has played an active role in promoting shipping in Nigeria?**

Yes  No

**SECTION III**

19. **Are you aware of Nigeria’s international trade volumes?**

Yes  No

b. **If ‘yes’, what do you think is the level of involvement of Nigerian Shipping Companies?**

Very High \_\_\_\_\_ High \_\_\_\_\_ Moderate \_\_\_\_\_ Little \_\_\_\_\_ Very Little \_\_\_\_\_

20. **Rank the following factors in term of constraint to the actualization of the cargo carriage share of Nigerian Shipping Companies. (Please indicate choice).**

Extremely Important: E I; Very Important: V I; Important: I; Somewhat Important: S I;

Not Important: N I

	<b>E I</b>	<b>V I</b>	<b>I</b>	<b>S I</b>	<b>N I</b>
Nigerian Shipping Companies’ over-reliance on NMA Cargo Allocation and lack of global marketing strategy.					
NMA’s concentration on private sector cargo for programme control and allocation.					
Inability of NMA to allocate public sector cargo.					
Insufficient/inadequate number of Indigenous Ships/Vessels.					
Existence of “briefcase” Shipping Companies.					
Non-involvement of Nigerians in crude oil transportation.					
Lack of monitoring and evaluation by NMA regarding programme performance.					
Bureaucratization of NMA Allocation System.					
Poor inter-agency cooperation/co-ordination for Cargo Control and Allocation.					
Low Cargo Throughput in the sub-region.					
Allocation was politically influenced.					

NMA difficulty in Cargo Identification and Control.					
Lack of will to enforce sanctions.					
Lack of entrepreneurial initiative by the shipping class to take advantage of programme.					
Institutional weakness/incapacity of the NMA.					
Corruption and rent seeking behaviour of NMA staff.					
Sabotage from multinational companies and other foreign interests.					
Inexperienced leadership/management in maritime matters by NMA.					
The hostile effects of the politics of International Shipping.					

21. **Do you agree with the following as major goal of Cargo Allocation Programme designed to assist Nigerian Shipping Companies?**

Strongly Agree: S A: Agree: A; Undecided: U; Disagree: D; Strongly Disagree: S D

	SA	A	U	D	SD
To make them grow and become competitive global shipping business.					
To give them a fair share and access to the Nigerian International trade tonnage.					
To always protect and sustain them in the midst of hostile International Competitive practices.					
To support them to remain in business in order to provide jobs.					
To support them for national security, defence and political reasons.					

22. Do you think NMA design of Cargo Allocation Programme has helped to enhance carriage rights of Nigeria's Shipping Companies?

Yes  No

23. If 'yes', how would you rate its success? (Please indicate)

Very High \_\_\_\_\_ High \_\_\_\_\_ Moderate \_\_\_\_\_ Little \_\_\_\_\_ Very Little \_\_\_\_\_

24. Do you think the Cargo Carriage Share of Nigerian Shipping Companies would improve when more ships are acquired?

Yes  No

b. If 'yes', how? .....

.....

25. What other factors do you think have hampered success of Cargo Allocation Programme?

.....  
.....

26. What suggestions do you proffer to address them?

.....

#### SECTION IV

27. Are you aware that NMA had a Ship Acquisition and Ship Building Fund (SASBF) Programme?

Yes  No

b. If 'yes', how would you rate its success?

Very High \_\_\_\_\_ High \_\_\_\_\_ Just About Right \_\_\_\_\_ Little \_\_\_\_\_ Very Little \_\_\_\_\_

28. Did the SASBF programme reach and help the Shipping Industry?

Yes  No

b. If yes, please explain .....

29. **Do you agree that the following posed great difficulties in the implementation of the SASBF programme?**

Strongly Agree: S A; Agree: A; Undecided: U; Disagreed: D; Strongly Disagree: S D

	SA	A	U	D	SD
Structural/Institutional incapacity of the NMA.					
Undue political interference.					
No provision for ship maintenance cost and absence of other support.					
Poor Management and Slow Loan Processing Method.					
SASBF programme was not actively supported by government's funding.					
SASBF programme did not reflect the needs of the Shipping Companies/Shipyards.					
Inappropriate policy design/concept.					
Absence of monitoring/evaluation, feedback system for programme reinforcement and improvement.					
Self-inflicted bureaucratic red tape.					
Poor communication of programme goals, procedures, and requirements by NMA Staff.					
Inadequacy of the loan for ship acquisition.					
Unfavourable repayment terms and tenure of loan.					
Diversion of funds by Nigerian Shipping Companies.					
Absence of a revolving pool of Fund.					
Loans Beneficiaries poor repayment habit.					

30. **Some Shipping Companies have accused the NMA of unfavourable loan repayment terms while the scheme lasted. Do you agree?**

Strongly Agree: S A; Agree: A; Undecided: U; Disagreed: D; Strongly Disagree: S D

S A	A	U	D	S D

31. **If 'agree', why** .....

.....

32. **Do you think the Ship Acquisition and Ship Building Fund (SASBF) should be revived?**

Strongly Agree: S A; Agree: A; Undecided: U; Disagreed: D; Strongly Disagree: S D

S A	A	U	D	S D

33. **Why?** .....

.....

34. **In your opinion, what others factors have hampered success of SASBF Scheme?**

.....

35. **What suggestions do you proffer to address the problems?**

.....

b. **Any other comments?**

.....

.....

Thank You.

Person Interviewed .....

Date .....

UNIVERSITY OF IBADAN