CHALLENGES OF INDIGENOUS SHIPPING UNDER THE CABOTAGE AND NOGIC ACT

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PROTOCOLS:

With the passage into Law of the Nigerian Oil and Gas industry Content Development Act otherwise known as (Local Content Act). The regulatory authorities, operators and contractors in the Nigerian Oil and Gas industry, are to strictly consider indigenous content, as an important element of project development and Management.

The policy direction of the Act represents a new frontier of opportunity for Nigerian entrepreneurs, but equally presents a challenge of policy implementation strategy to the public sector. As we are aware, foreigners dominate the supply side of International Oil and Gas economy including maritime related contracts. The Local Content Act like Cabotage Act is therefore a liberal protection policy and the magnitude of foreign restriction will continue to depend on the strict implementation of the Law and provision of adequate institutional capacity to take advantage of its provisions. The key implementation issues of Local Content Development in the marine sector include:


THE WAY FORWARD

The Nigerian Maritime Administration and Safety Agency Act 2007 and especially the Coastal and Inland Shipping Cabotage Act 2003, places a great responsibility on the Agency to develop the Nigerian Maritime Industry. We are conscious of this fact therefore the Agency is working assiduously to transform the sector in line with federal government transformation agenda. The Executive Management team therefore came up with a four (4) Action Point Agenda for tackling sectorial challenges in building of institutional capacity and Local Content development. The elements which are conceived in medium and long term implementation Strategies are as follows:

‘To empower indigenous Capacity to participate in Shipping through fiscal and operational incentives that will result in access to vessels’. The aim here is to
build young indigenous fleet of vessels through a mix of new built and second hand acquisitions in order to make Nigeria a fleet owning nation with combined tonnage capacity to carry at least 60% of her sea Bourne (coastal and deep sea) Cargoes.

The Action statuses of this point of the Agenda include improved modalities for collection of the Cabotage Vessel Financing Fund (CVFF) 2% surcharge. The disbursement of the fund will commence as soon as relevant approvals are obtained modalities formassive charter party schemes as well as lease arrangement of Cabotage of Vessels are being embarked upon.

The Agency has also recently concluded Capability Audit of the maritime industry and a committee has been set up to recommend ways of increasing their capacities to handle vessels for Cabotage trade and general repair needs of Vessels using Nigerian ports. The Agency has set up a committee on the modalities for establishment of ship building yard in Delta State.

Agenda point 2 is ‘Rapid domestication of human capacity such that will produce composite and sustainable manpower to meet the needs of the sector’’.

The Agency is to draw up academic curricula in key Maritime fields with select tertiary institutions as well as ingeniously pursue the Graduate cadetship scheme of the Seafarers Development Programme (NSDP).

A key Action status of this point is that NIMASA/ Obafemi Awolowo University joint Committee has submitted its report for the establishment of an Institute of Maritime Studies in the University. The Agency has also set up a committee for the building of more Maritime academies and more maritime institutions in various parts of the country. The graduate cadetship scheme of NSDP which is being implemented through a counterpart funding framework with states government of the federation has recorded more than 13 states as opposed to 3 in 2010. Under the scheme, about 250 cadets are already being trained as navigators, marine engineers and naval architects in foreign maritime academies around the world accredited by the International Maritime Organisation (IMO).

The Agency has been in the steering committee of D8 summit and participate actively in the summit where avenues technical assistance for building of surveying capacity are being explored.
Agenda 3 is to ‘Develop an operational system for discharge of Flag and Port State obligations and enhancement of statutory revenues regimes’. In this wise the Agency aims as domesticating and enforcing relevant international conventions, embark on vigorous recruitment and training of vessel surveyors as well as establish offshore operational platforms and associate vessel surveillance systems.

Action recorded thus far in this regard includes the concessioning of offshore operational platforms and associated vessel surveillance system to Global West Vessel Specialist System on Public Private Partnership basis. Implementation, which has already commenced and it is hoped to occasion total maritime domain awareness needed for implementation of international conventions on safety and security, marine environment management as well as enforcement of statutory revenue regimes such as 3% levy and 2% Cabotage Surcharge which are cargo support control mechanisms. As we are aware, voyage to Nigeria got so risky that vessels were required to take costly War Risk insurance, cost of which is ultimately borne by the consumer. Hence this concession initiative will help in strategic positioning of investors in Local Content development.

In addition, 24/7 Ship Registry operations is also being implemented along with other measures under the Nigerian Flag Development Programme, in order to rebrand the Nigerian Ship Registration Office.

The Executive Management have set up ad hoc Committees to work on the underpinning values, Structural Consequences, resources requirements and action that will drive projects and Programmes.

**CHALLENGES IN CABOTAGE IMPLEMENTATION**

S.22 (1) (i) empowers the Nigerian Maritime Administration and Safety Agency to enforce and administer the provisions of the Cabotage Act, 2003.

In implementing the regime, the Agency has been faced with some challenges which include the following:
1) **LACK OF INDIGENOUS CAPACITY:**

Part II, Section 3 of the Act stipulates that the under mentioned requirements qualifies a vessel to participate in Cabotage trade in Nigeria:
- The vessel must be wholly owned by Nigerians.
- The vessel must be wholly manned by Nigerians.
- The vessel must be built in Nigeria.
- The vessel must be registered in Nigeria.

However, there is dearth of indigenous ownership, building and manning. The indigenous operators do not have enough vessel for Cabotage operations as envisaged by the Act. There is also lack of ship building and ship repair yards in Nigeria to handle the building of Cabotage vessel and on Manning there is a dearth of seafarers especially of the officer cadre to take over from the foreigners.

**BUILDING:**

Instead of insisting that **ALL** vessels must be built in Nigeria, this requirement may be reduced to vessels of 1,000 GRT and below to be built in Nigeria. The Agency is recommending the Public Private Partnership.

**MANNING:**

Due to the near absence of professional Training of Mariners for about 1 1/2 decades, the NSDP was initiated as a short term intervention strategy to address the dearth of competent seafaring labour in the industry.

The Agency has started well with the Nigerian Seafarers Development Programme but more needs to be done. More Maritime Academies are to be established, and the Agency has set up a committee to facilitate same.

In addition to establishing credible Academies, the existing institutions have to be upgraded to maintain standard maritime Education &Training Management System and administer credible accreditation and certification processes.

To ensure complete training circle, both the NSDP as a short term measure and establishing maritime Academies as a more permanent solution must be backed by securing the required onboard training berths.
2) **LEGAL FRAMEWORK:**

The need to review and amend the Cabotage Act to reflect the actual situation on ground cannot be over emphasized and this will also take care of some contentious areas which include the definition of ships which can be expanded to include FPSO’s Stevedoring activities. The National Assembly is now at the verge of amending the Cabotage Act.

3) **ENFORCEMENT:**

Lack of platforms, however the recent PPP arrangement entered into by NIMASA with Global West Shipping for the provision of platforms will address the problem.

4) **TEMPORARY IMPORTATION LICENSE:**

The grant of Temporary Importation License should cease.
- The grant of Temporary Importation to importers by the Nigerian Customs and Excise without recourse to NIMASA has negative impact on the implementation of the Cabotage regime as it is against the Cabotage Act, 2003. The vessels concerned sail in and trade in Nigerian waters without the Agency being notified.
- There should be collaboration between the Nigerian Customs and NIMASA in this regard.

5) **CABOTAGE VESSEL FINANCING FUND (CVFF):**

a) It has been observed that local operators who apply to access the CVFF do not meet the basic risk criteria of the PLI’s
b) On the issue of equity contribution of 15% by applicants of the fund, most indigenous operators are unable to provide this.

The Agency has concluded modalities for the disbursement of the fund which will commence as soon as relevant approvals are obtained.

6) **LACK OF ADEQUATE COOPERATION BETWEEN GOVERNMENT AGENCIES:**
The local content Development Act provides for compliance with the provisions of the Cabotage Act which should be a requirement in all contracting processes. However, in most cases, this is not adhered to by operators. Advertisements made by some International Oil Companies for contract tender do not mention compliance with the Cabotage Act as a requirement.

The need to ensure Local Content development in the Marine sector can only be achieved if all concerned agencies of Government collaborate with each other.

The Local Content Monitoring Board, NIPEX etc. should collaborate with NIMASA to ensure compliance with the Local Content requirement in both Acts.

**CONCLUSION**

In conclusion, NIMASA as a National Institution is poised to play its role in creating the ambience for indigenous Shipping entrepreneurs to survive and thrive. The Agency will therefore not rest on its oars in ensuring full effect to the vision of adequate capacity to develop the Local Content as this is the key that will also unlock the much anticipated potential of Cabotage and transform the maritime economy.

Thank you.

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