

## **LOCAL CONTENT POLICY: IMPLEMENTATION STRATEGIES AND DEVELOPING INDIGENOUS CAPACITY.**

### **INTRODUCTION:**

The main stay of the Nigeria economy is the oil and gas sector, which accounts for almost 95% of the foreign exchange earnings for the country. Oil production in Nigeria is carried out on joint venture bases between the international oil companies (IOCs) and the Nigeria government, represented by the NNPC.

This means that for every barrel of oil sold 40% of the revenue goes to the oil companies while 60% goes to the government. It also means that 60% of the cost of production is contributed by the federal government while 40% is from the oil companies.

According to Reuters a United Kingdom based news service, it cost between \$15 to \$40 depending on the location of the oil well (i.e. if it is onshore or offshore production) to produce a barrel of crude in Nigeria (both prospecting and drilling cost). At the present average price of \$75 to a barrel, if we decide to be very modest and take the lowest range of \$15 as the cost price, it means that 26.6% of the revenue from a barrel of oil goes to the cost of production. This is equivalent to \$36 million daily or \$13.14 billion annually

As at today, it is a general knowledge that there is less than 10% local content in the production of Nigeria crude oil. What this means is that 90% of the total cost spent on the production of Nigeria crude oil is earned by foreigners, probably the country of origin of the oil companies. If we look at the revenue implication of this situation it means that Nigeria's actual revenue earning per barrel is just 45% and not 60%.

Then you come to look at the actual carriage of the crude oil. Nigeria sales its oil on cost and freight bases, this means that Nigeria is in charge of shipping the crude oil to the buyers. The international average estimate for freight cost is 10% of FOB value. The implication of this also is that for every barrel of oil sold at \$75 per barrel an additional revenue of \$7.5 is generated. As I am talking to you today, not a single drop of oil is lifted by any indigenous shipping company. The revenue implication once again, is that Nigeria is losing an additional 10% of the revenue on freight which amounts to \$18 million per day or \$6.57 billion dollars annually if multiplied by the 2.4 million barrels daily production capacity of the country. We are not even talking of all other derivatives. If you do

all the deductions, Nigeria's actual earning per barrel of oil produced is 40% and not 60%.

The government over the years has become aware of these distortions in the revenue stream in the oil and gas sector. It was against this background and the desire for accelerated economic development and an increased Nigeria content in all aspect of our economic endeavors that made it necessary for government to intervene in the sector and come up with the local content policy

Shipping is the back bone of oil and gas production and marketing. Over 70% of the world oil are produced where they are not needed. This means that transportation is essential to get them at their point of need. Statistics has shown that over 80% of the global oil are transported by ships. In the case of Nigeria it is 100%.

Also the Nigeria oil and gas sector requires huge shipping and logistics services for its smooth operations. This sub sector of the maritime industry is estimated to worth over \$3billion dollars annually.

The federal government realized that the area that can easily be taken over by Nigerians in the short run, in its quest for increased local content in the oil and gas sector is the logistics and shipping aspect. Other production activities such as oil prospecting and drilling would still require a longer time for Nigerians to acquire the necessary technical know-how and capabilities.

Faced with this reality, and knowing that the Maritime industry has its own peculiar laws and conventions and realizing that a general local content policy might not be effective enough, the government then proposed a maritime specific local content policy which was enacted in 2003 and came into effect on April 2004. This policy is known as the Coastal and Inland Shipping (Cabotage) Act 2003.

### **THE COASTAL AND INLAND SHIPPING (CABOTAGE) ACT 2003**

The word Cabotage is from the French word Caboter which means sailing from coast to coast. Initially the word Cabotage was used to refer to the restriction or complete prohibition of foreigners from participating in the internal shipping business of a country. Today the word is used in other areas of transport; it is now common to hear of air Cabotage law, rail Cabotage and road transport Cabotage.

Most Cabotage laws seek to impose some form of restrictions or complete prohibition on foreigners from participating in the internal transport business of their country. The reasons for such restrictions varies from country to country. In the case of Nigeria, The reason behind the cabotage law is essentially economic.

The law is the 2<sup>nd</sup> direct intervention by government through NIMASA to break the near monopoly or dominance of the Nigeria Maritime Industry by foreigners and rescue the indigenous operators from imminent extinction. The first was the 40:40:20 cargo sharing formula, introduced by Decree 10 of 1987. While the cargo sharing regime was aimed strictly at cargo reservation for indigenous shipping companies, the Cabotage law has gone a step further to protect not only the indigenous carriers, but other indigenous operators such as ship builders, seafarers and other allied maritime services providers.

### **STRUCTURE OF THE NIGERIA COASTAL AND INLAND SHIPPING (CABOTAGE) ACT 2003**

As earlier said, the Nigeria cabotage law was primarily an economic interventionist policy by the government. The law was designed to be a catalyst to drive the development of the indigenous maritime industry as a whole. With this in mind, the law was structured with four major target areas which are now referred to as the four pillars of the cabotage Act.

These four pillars are that all cabotage trade vessels in Nigeria must be owned by Nigerians, built in Nigeria, manned by Nigerians and registered in Nigeria. This means that the objectives of the cabotage law is to achieve self-sufficiency in the area of domestic tonnage capacity, building capacity, manning capacity and registration.

These requirements of the law were meant to be in absolute terms. Which is to say that if the indigenous capacities in these areas were to be optimum at the inception of the law, there would have been no room for any foreigner to participate in the cabotage trade in Nigeria after April 2004 when this law came into effect.

At the conception stage , it was evident that the Indigenous Operators do not have the tonnage capacity to immediately take over from their foreign counterparts, the manpower requirements were not adequate and the infrastructural facilities were far below optimum. To get around the situation it became necessary to introduce the concept of waivers

which was a strategy to buy time, so that the indigenous operators can gradually build their capacities and take over the domestic shipping market. Another major reason for the introduction of waivers was to avoid dislocating the smooth running of the oil and gas sector of the economy which is the economic main stay of the country and the major target market of the Cabotage law.

Another special innovation of the Nigeria Cabotage law was the creation of a special fund to be used to assist the indigenous operators in Cabotage ship acquisition. This fund is known as the Cabotage vessel finance fund (CVFF) this fund was to be built through the compulsory payment of 2% of total contract sum by all commercial Cabotage vessels and waiver fees charge for non compliance on the requirements

The objectives of the Cabotage law are;

1. To attain national sufficiency in tonnage capacity, shipbuilding and seafarers capability
2. To acquire the Technical know-how in ship management, shipbuilding and ship manning.
3. It is also aimed at conserving and earning foreign exchange for the country.
4. Preserving the internal and economic security of the nation and
5. Creation of employment in the maritime industry

### **IMPLEMENTATION STRATEGIES.**

At the conception stage of this law, the proponents knew that it was not going to be an easy task to achieve the above objectives both for the implementing Agent and the Indigenous Operators. First it was evident that the Indigenous Operators do not have the tonnage capacity to immediately take over from their foreign counterparts, the manpower requirements were not adequate and the infrastructural facilities were far below optimum. But government realized that if we continue to wait till all these factors are in place before such a law is promulgated, we can as well wait for ever.

As imperfect as the situation was then, the whole idea was to gradually build indigenous capacity and finally take full control of the market over a period of time.

While the role of government was clearly spelt out in the Cabotage act, the Indigenous Operators were expected to do the following:

1. Gradually invest in building more capacity by investing in ship acquisition and ship building facilities
2. Invest in manpower development
3. Upgrade and maintain the required international standard in the industry.
4. Go into technical partnership with their foreign counterparts to enable them acquire the technical know-how in the operation and management of specialized vessels required in the oil and gas sector and
5. Establish a good and cordial working relationship with relevant government implementing and enforcing Agencies for a smooth transition and take over of the market.

NIMASA is the government organization saddled with the task of implementing this law and ensuring that the set objectives are achieved. Since the inception of this law in April 2004, NIMASA has adopted strategies towards implementing and enforcing the law so as to increase the indigenous capacities in the four target areas of the cabotage law, which are tonnage capacity, manpower, ship building capabilities and ship registration capabilities. Some of the steps taken so far are:

#### **TONNAGE CAPACITY BUILDING.**

- Modalities for the collection of the Cabotage vessel finance fund (CVFF) have been developed. Over eight billion Naira have been collected so far. Disbursing banks have been selected and very soon operators would start accessing the funds for the acquisition of cabotage vessels
- The Agency is developing a Credit guarantee Schemes to provide institutional leverage for access to loan/credit facilities by indigenous operators.
- It is also proposing zero duty on ships and ship spare parts, ten years tax holidays as a start up incentives to compensate for long gestation period of investment in the sector and an accelerated depreciation regime for ships and capital assets to accumulate capital for future investment in fleet expansion.
- With the passage of the local content bill, the Agency has started discussions with officials of NNPC to give indigenous operators the right of first refusal in the award of shipping and logistics contracts in the oil and gas sector.
- Also NIMASA has started refusing waivers for foreign Cabotage vessels that are available in the country.

- The Agency has also opened talks with multinational oil companies on the need of not renewing contracts of foreign Cabotage vessels that are available in the country and to give such contracts to indigenous companies. The Agency is of the view that indigenous tonnage capacity is bound to improve as soon as they are given easy access to lucrative contracts in the oil and gas industry.

## **2. MANPOWER CAPACITY BUILDING.**

- The Agency has established a manpower development program targeted at increasing the pool of seafarers in the country. This program is called the Nigeria seafarers development scheme. It is a collaborative effort between the Agency and the state governments. As at today two states have responded and their candidates are already undergoing training in India.
- In addition to this, the Agency is working at domesticating all level of manpower needs for the industry through collaboration with Nigeria universities. Already two universities, ABU and FUTO have been chosen to kick off this pilot scheme. Courses such as naval architecture and marine engineering would be established with the backing of the agency both in human and material resources.
- Income Tax exemption is being proposed for seafarers employed locally. This is to encourage more people to take up seafaring jobs and retain those already trained.
- The Agency is Subsidizing the cost of acquiring Seafarer Certificates to bridge the cost of seafarer certification. This, the Agency is doing by giving the Maritime Academy of Nigeria 10% of its annual revenue.
- It is also fast tracking (give priority) the Waiver Application of companies who provide Sea berth opportunities for at least three (3) Cadets annually, to encourage the provision of sea berth to Cadets.
- The Agency is also working on providing registered stevedoring companies /Dock labour Employees with slots in the Agency's annual capacity building programs for dockworkers.

## **3. SHIPBUILDING AND REPAIR CAPACITY:**

- The Agency has embarked on a comprehensive census of all ship

building and ship repair yards facilities in the country with a view to increasing their capacities to handle vessels for the Cabotage trade and the general repair needs of the vessels calling our ports.

- The Agency has proposed to the federal government that Ship yards should be designated as free trade zones to allow for import of equipment spares and allied infrastructure.
- That there should be Zero duty on ship-building parts, ship spare parts marine equipment spare parts, this is to act as subsidy for the peculiar capital intensive nature of investment in the sector.
- 10-20% rebate on Port dues for ships using local shipyards for repair and regular maintenance to encourage patronage of existing shipyards facilities in the country and
- 5 years minimum amortization for loans on ship building /repair infrastructure to give allowance for operators to accumulate operating capital.

#### **4. SHIP REGISTRATION CAPABILITIES.**

- The Nigeria ship registry is being upgraded to international standard to encourage classed vessels to fly Nigeria flag
- Special Cabotage Registers have been opened according to the implementation guidelines of the Act
- Over 390 vessels have registered in the Cabotage Registry since inception
- No vessel is allowed to operate in the Cabotage trade without registration.
- Cabotage offices have been opened in all the ports in Nigeria with enforcement officers.
- The Agency has embarked on massive enlightenment and information campaign on the provisions of the Cabotage law.
- The Agency is making the flying of Nigeria flag as a precondition for accessing the CVFF fund.

#### **CONCLUSION.**

A lot have been done by NIMASA since the inception of the Cabotage law towards realizing the set objectives of the cabotage act and a lot still need to be done. But it is important to note that the success of the law does not depend on NIMASA alone but also on the indigenous operators who are the major beneficiaries. If they are not able to take advantage of the law and improve their lot, nothing much would be

achieved. The shipping industry is a goldmine. More Nigerians should invest in the industry, with laws such as the Cabotage act, a good return on their investment is assured.