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THEME: PORT COSTS AND PORT CHARGES: ISSUES IN THE PORT REFORM POLICY.

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INTRODUCTION

The size and scope of the maritime sector demands close attention due to its value in the political, economic and social structure of the Nation. The issues at stake are the prime indicators of the critical factors that propel the growth and dynamics of Nigeria as a developing economy and the largest regional power in West and Central Africa.

In actual fact, Nigeria handles at least 70% of the political economy of the region. By recent statistics, Nigerian imports over 100,000 million metric tons of non-oil cargo and approximately 2 million units of containers a year.

These figures are from the formal trade alone and will certainly be bigger if we consider the informal trade aspects of cargo movements. Ships traffic into Nigeria by latest data exceeds 5,307 per annum.

The potential is certainly bigger when we consider the capacity of cargo traffic to Nigeria's landlocked neighbours- Niger and Chad. In real terms, over 85% by value of all the goods and services that enters the country comes through the sea ports.

The current aggregate exceeds \$15,000,000,000 a year through formal import order.

It is therefore settled that the maritime sector performance is indeed a major contributor to the economy and therefore must be given attention on any discussion on port cost and port charges.

In 1970, following the end of the civil war in Nigeria, government adopted a policy that focused on the need to reconstruct the infrastructure and super structures of those areas that are crucial to the restructuring of the commercial and industrial sectors of the country.

In order to give effect to the implementation of this policy, massive importation of building materials were placed on order shipped on about 600 vessels most of which arrived at the same time..

The cargoes included heavy lift items and million's of metric tons of cement. The available port infrastructure could not handle more than 12 vessels at a time in Lagos Apapa Port Complex which was the largest port facility in the country at that time. The result was long waiting days, weeks and even months at the anchorage.

The ships incurred huge running costs. Since the vessels were chartered, the charter party clauses provide for penalties for any breach of the provisions of the charter. The consequences of which resulted into demurrage, lien on cargo and other actions for default. The Federal Government was exposed to inestimable financial liabilities and losses while the cement armada lasted.

Lessons were learnt. It was then obvious that physical and infrastructural planning and survey of the ports and harbours should be mandatory. The fact is if we don't prepare for boom we must be ready for doom. Managing prosperity proved to be more difficult than managing poverty.

The attitude then was get the job done never mind the costs. Due diligence and cost benefit analysis were postponed to tomorrow. Revenue was being generated by all sides of the economy especially agricultural produce, crude oil and non oil mineral resources.

Banking and insurance businesses and other services were growing.

Finance was available for commercial and industrial development but not growth. Import Substitution Policy formulated to curb the alarming rate of importation levels did not succeed and suddenly we became an import depended Economy. Trade Liberation Agreements became very evident in the conduct of our International trade.

Overseas companies were ready to send us goods on 180 days credit and a new cadre of business men and women with the appellation of importer and exporter, manufacturing agents emerged.

The elite dress code changed to imported ready-made. Things were good. As imports increased, exports decreased. Additional ports were built in Koko, Sapele, Onne and Aladja in Delta.

The demand for raw materials for industries increased. The breweries for malt, sugar, iron and steel bullet for the rolling mills in addition to CKD (Complete Knock Down) vehicle assembly plants located in Ibadan, Kaduna, Bauchi were on stream. The strain on our foreign exchange started to show and importers demanded foreign exchange to remit to their suppliers without much delay.

Besides this, sharp practises began with the importation of sand in containers and empty drums purported to be carrying raw materials and machineries for industries.

The arrangement enjoyed 5% or lower import duties but gives opportunity for foreign exchange allocation in millions of Dollars.

After all, import duty of 5% on a non existing Cargo is nothing compared with access to 5 million U.S. Dollars for importation. This was the Era of over declaration.

This marked the beginning of capital flight in foreign exchange.

The huge cost of ports development is reflected in the computation of Nigerian Ports Authority's Tariff.

The currency of services rendered by the Nigerian Ports Authority was redominated from Naira to U.S. Dollars in 1986 partly to accommodate its own rising costs on imported cargo handling equipment, Pilot and Tug boats and other demands of the Harbour Services Department which are procured in U.S. Dollars and the rising costs of meeting its over head needs and also have funds to subsidise the cost of service to some of the Ports that are not commercially viable.

ROLES OF THE PORTS IN NATIONAL DEVELOPMENT

Ports are the gateways to the economy of a country. The delivery of cargoes for commercial and industrial activities that propel socio - economic development come through the ports. Port

performance depends on the roles of the providers the customers and the regulators of the key functions of all the parties concerned.

Ports are the most cost effective mode of Transportation.

The level of efficiency of ports systems can boost and make the economy of host states.

- Nigerian ports operate through the Nigerian Ports Authority under the Port Act of 1999 and by subsidiary legislation of 2004.
- Ports provide the corridors through which hinterland and landlocked trade needs are served. It also provides an interface between maritime and other transport modes.
- Serve manufacturing industries and the distribution chain of consumables
- Stimulate and evaluates exports
- Facilitates the Social culture economic and political integration of Countries.

CRITICAL ISSUES IN THE PORT INDUSTRY

- Ports and Harbours Management.
- Macro – Economic Indicators.
- Arbitrary Imposition of Freight rates.
- Disputes in Insurance Claims.
- Excessive Port Charges
- Multiple Interventions in the Clearing Processes.
- Difficulties in Export documentation and Contracts.
- Commercial and Domestic Imports and Exports Issues.
- Import Items Prohibitions.
- Parallel Tariffs and Duplications of Charges

Frequently presented complaints against providers of shipping service by consignees and shippers

- 1) Excessive or inappropriate charges and levies.
- 2) Damage, pilferage or short delivery of cargoes.
- 3) Demurrage and Terminals Rents.
- 4) Fraudulent Release of cargo to unauthorized parties.
- 5) Delays in locating and delivery of Cargoes.

- 6) Auction of cargoes by Nigerian Customs Service.
- 7) Multiple Agencies Examination and Scanning procedures delays.
- 8) Interventions of Cargo in transit between the ports and destination.
- 9) Non – processing and payment of claims by insurance companies.
- 10) Documentation and freight liability issues.

Port Costs and charges

Port costs and charges indeed have origins. The port reform policy of the Federal Government started in 1993 by the Federal Ministry of finance apparently to address the issues of rising costs in the delivery of port services and several other identified concerns in the system.

The focus is to harmonize the functions of the various agencies that have joined in the scramble to be present at the ports for one reason or the other and to generate revenue for their organizations while delivering their mandate. Proliferation of agencies at the ports was the order of the day.

The then Honorable Minister of Finance, Chief Patrick Ani reasoned that accountants are better administrators and managers and so appointed several accounting firms to monitor port process and operations.

It is understandable to an extent due to the shift from the abuse of over declaration to gain access to foreign exchange to under declaration to avoid payment of appropriate customs duty.

The Nigeria Customs Service under the Federal Ministry of Finance focus on revenue generation has stayed on as a result of the port reforms exercise.

In spite of this reform, the scramble for the port environment and its domain did not stop and has not stopped.

PORTS CONCESSIONING OVERVIEW AND TERMINAL OPERATIONS SYSTEM

BACKGROUND

Objectives of the privatization policy of the Federal Government of Nigeria are:

- ✓ To transfer operations of public sector activities to private sector.
- ✓ To improve productivity and achieve competitiveness
- ✓ To relieve public sector investments and substitute it with private sector investment
- ✓ To control waste of public sector funds.
- ✓ To maximize utilization of available investments.

- ✓ In the case of ports and harbours operations, government's aim is to react to public criticism of the Nigeria Ports Authority operations by concessioning the ports and cargo handling operations.

In the year 2000, the Federal Minister of Transport, Dr. Kema Chikwe, commenced discussion on another round of port reform which aimed at the concessioning of cargo handling operations in Nigerian ports and by May, 2006, the cargo terminals in all Nigerian operating ports were concessioned.

The focal aim of the concessioning regime is to achieve the operation of a highly productive Port, bring in investments and expertise of successful private sector companies both local and international.

Furthermore, it aimed to reduce the cost of doing business and install transparency in the conduct of port transactions. We would comment only on the areas that are self evident and leave to other times the ones that are opaque.

CORE AREAS OF SHIPPING SERVICES THAT ATTRACTS CHARGES AND PORT DUES

- ▶ Scheduled/ liner services
- ▶ Chartering
- ▶ Stevedoring
- ▶ Terminal operations
- ▶ Shipping agency
- ▶ Freight forwarding
- ▶ Destinations inspection service
- ▶ Bunker suppliers. Oil, water, diesel (ago) pms
- ▶ Hull and marine/superintending
- ▶ Equipment leasing/hiring
- ▶ Ship chandelling
- ▶ Cargo superintending
- ▶ Manning agency/ seafarers.

PORT CHARGES

Shipping Company Charges

A typical shipping company debit note in Nigeria would contain at least if nine (9) different element of charges.

This includes the following items:

- ▶ Shipping Line/Agencies Charge
- ▶ Container Cleaning/ Maintenance
- ▶ Container Deposit
- ▶ MOWCA Charge.
- ▶ NIMASA SEA PROTECTION LEVY
- ▶ MOWCA Fee
- ▶ Freight Levy
- ▶ Document Release
- ▶ Demurrage Charges
- ▶ NIPOST Stamp Tax
- ▶ Value Added Tax (VAT)

ISSUES OF DISPUTE ON CHARGES BETWEEN PORTS AUTHORITY AND SHIPPING COMPANIES.

- ▶ Provision Billing
- ▶ Under declaration of weight and volume
- ▶ Excessive Extra Service charges, Between the Ports Authority and Terminal Operators
- ▶ Through put charges
- ▶ Royalty
- ▶ Lease fees
- ▶ Use of foreign currency in computing charges
- ▶ Berthing fees

Between Importers/ Exporters and Terminal Freight Forwarders Operators.

- ▶ Terminal landing charges
- ▶ Cargo transfer charges
- ▶ Cargo storage charges
- ▶ Delivery charges

Between Shipping Companies and Importers and Exporters freight forwarders.

- ▶ Demurrage charges
- ▶ Administrative fees
- ▶ Container Deposit refund
- ▶ Publication and Notification of operating Tariff and Arbitrary Commandments.

PORT COSTS

Port Costs are the monetary measure of what port users` pay to the authority, terminal operators, and other ancillary service providers for using facilities and services of a port. Port Cost is an important component of total transport costs.

For seaborne trade, transport cost is extremely important; and it is made up of:

- ▶ Inland transport between the place of production and the port of shipment,
- ▶ The cost of handling the goods through the ports of export and import; and
- ▶ The cost of carrying the goods on the sea leg (maritime transport cost)
- ▶ Transport cost, of which port passage cost is an important component, is a major determinant of the landed price of goods.
- ▶ For low value primary products, transport costs constitute a major part of the landed price.

Port costs is a collective responsibility of both government and the private sector. Total port costs per a given cargo unit, customs duties/taxes account for over 70%. Port Terminal Operators account for 13%. The Port Authority`s share is negligible (+/-1%) excluding Customs duties, cost of cargo handling, storage and delivery accounts for (over 65%) of the total port costs.

The Relationship between Port Cost and Service Efficiency: Which are the key efficiency indicators?

- ▶ Ship turnaround time:
- ▶ Waiting time (pre-berthing),
- ▶ Movements into port/berth and out of berth/ Port (Pilotage &Towage)
- ▶ Time at berth (berth occupancy)
- ▶ Ship productivity (crane/container/moves/hr,etc)
- ▶ Cargo dwell time

Port Authority	Terminal Operators	Shipping Line	Freight Forwarder	Transport Operator	Other Government Agencies
Port dues – vessel	- Stevedoring (Loading/unloading of vessel) - Cargo receipt and delivery - Cargo storage charges	Sea leg Freight	Clearing Agent`s charges	Road/Rail/Inl and water cargo haulage charges	Customs – duties
Port dues – cargo		- Container			Destination Inspection
Pilotage		- Administration			Maritime Authority
Towage		- Cargo release and documentation			Shippers` Council
Mooring/unmoor		- Container evacuation			Standards Authority
Berth occupancy		- Demurrage			Port health,
Light dues		- Port security (ISPS)			Immigration Police Services National Security

Port Costs – THE KEY OPERATORS

COMMERCIAL REGULATION

There must be measures to regulate port cost and port charges. This could be achieved by way of technical and commercial or economic regulation by an agency of the government.

TECHNICAL AND COMMERCIAL REGULATION

WHAT IS REGULATION

Regulation is the application of official controls in the conduct or processes of the way or manner a policy or set of rules are carried out in the implementation or enforcement of standards set by an authorized agency according to Law.

- Technical regulation deals substantially on the procedures and processes of Harbours and Port Environment Operations while Commercial Regulation is with regard to shipping and related services particularly in setting the modalities and guide lines of operations including charges, levies and applicable taxes. Other principal issues covered are freight rates administration, control and the fixing of fair benchmarks and its enforcement.

The role of the Ports economic regulator will include:

- ▶ Fair hearing
- ▶ Anti-monopoly and fair trade practise
- ▶ Rights and Obligation of all Practioners
- ▶ Mediation, Conciliation and Arbitration.

GLOBAL CONCEPT OF PORT REGULATION

REGULATOR	REGULATORY TOOLS	EXAMPLES
Sector Ministry	Performance contracts Directive Policy statements Informal day-to-day contracts	Italy, France.
Shareholder Ministry	Statement of Corporate Intent Shareholder compact Budget approval	New South Wales, Kenya.
Competition Commission	Ex-post investigations. Ex-ante approval	EU
National Audit Office	Expenditure reviews One-off investigations	Portugal

Port Authority	Concession Agreements Lease Operating Licences Participation in Joint Ventures	Rotterdam, New York, Tema.
Port Regulator	Traffic Regulation Market access requirements Performance Standards Compliance rules Adjudication of Complaints	India, Brazil
Multi-Sectorial regulator	Similar to Port Regulator	Peru, Tanzania, Nigeria, Victoria (Australia)

Strategies to Reduce Port Cost

1. Deliberate Government Policy to:
 - Reduce Customs duties and taxes
 - Set up an effective and efficient Single Window platform
 - Regulate the port and shipping sector(service and costs) port infrastructure development especially in port environment and common user areas.
2. Port Community System as a framework for stakeholder dialogue to improve service quality and reduce costs
3. Encourage PPP in port business; invest in modern facilities & IT enablers; provide good quality human resources.

THE WAY FORWARD

The broad objectives of the reform have been hampered by several fundamental issues from conception, implementation processes, and operations of the concessioning regime. The imperative factors are the prerequisite installing the concession were side lined for expediency.

Port reform is all encompassing and must include the reform of all the key institutions in the port system. The challenges which was faced before by port authority from cargo handling operations was enormous.

Port cost is a critical factor in the cost of doing business at the ports and not only port charges which relates to tariffs, levies and taxes. Computed costs of delays, documentation process, corruption,

bureaucracy and lack of political will are some of issues that created the problems and will continue to affect the achievement of the objectives.

The following Golden Rules Must Be Addressed Adhered to for Change

1. Political will. All agreed processes and terms must be implemented without delay.
2. Transparency must be entrenched in the concessioning and port reform process.
3. Laws are made to promote port productivity and fair trade and competition and not to create monopolies.
4. The landlord model must be administered in the very technical, ethical and objective structure. Concessionaires obligations are not to replace the responsibilities of the port authority, a modern productive infrastructure in an element in a LANDLORD MODEL.
5. Port Reform must be total and all inclusive of the key players who provide and consume port services including Nigerian Customs Services, statutory agencies, freight and logistics operators, and law enforcement agencies
6. The Port Authority must monitor performance and compliance of their own obligations as well as those of the concessionaires and other service providers in the enforcement of the Concession Agreement.
7. Both the technical and economic regulation enforcement guidelines that protect and ensure the realization and sustenance of the objectives of the Reforms must be establish
8. Major restructuring of the port industry must commence with the review of the applicable laws and building of capacity for the management and staff of the Nigerian Ports Authority, Nigerian Maritime Administration and Safety Agency, The Nigeria Custom Service and the Nigerian Shippers Council.
9. The terminal Operators must consent to yearly operational plans that can be measured.
10. The economic regulators must issue guidelines that are open, transparent and enforceable. Its operations must exhibit very professional ethical behavior and must not be compromised.
11. Corruption which is clearly endemic in port must be challenged.
12. Documentation processes must be IT Complaint

If the port industry truly deserves to be productive, competitive and earn a hub status in the region. It must reform and stop deluding itself that it's on course otherwise Nigeria Ports will continue to perform at best a little above average.

The colossal growth in traffic, environment and empowerment which we deserve will forever elude Nigeria unless the entire port industry is reformed to meet the performance level of the ports in the sub-region now husbanding Nigeria destination cargo traffic.

There is much more to do to achieve the objectives of building an efficient productive and competitive Ports Environment. The Reforms must start now in an all inclusive way. It must be total. That is the only way, and that is the way forward.

Thank you for listening