AN APPRAISAL OF THE CABOTAGE ACT: THREE YEARS AFTER.

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1.0 INTRODUCTION.

1.1 The Coastal and Inland Shipping (Cabotage) Act, 2003 ("the Act") commenced on 30th April, 2003 but its provisions became enforceable one year after its commencement date.[2] In April, 2004, the Federal Minister of Transport ("Minister") published Guidelines on Implementation of the Act ("the Guidelines"). So in reality, the commencement and enforcement of the Act were three years old and two years old on 30th April, 2006 respectively.

1.2 Under the 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 Nigerian waters to any other place in Nigeria or above Nigerian 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-mineral 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 to 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 and non-mineral natural resources in or under Nigerian waters; and

(d) the engaging, by vessel, or 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."

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[1] Being the text presented by Mr. Mike Igbokwe, SAN at the Maritime Seminar for Judges organized by the Nigerian Shippers' Council at the Eko Le Meridien Hotel, Victoria Island, Lagos in July, 2006.

[2] See section 51 of the Act.

"Nigerian waters" has been defined as including inland waters, territorial waters or waters of the Exclusive Economic Zone (respectively, together or any combination thereof) and the meaning given to them by the National Inland Waterways Authority Act, 1977."[3]

The above statutory definition covers the general meaning of "maritime cabotage" or "coastal trade" or "coasting trade", that is, the movement of cargoes and passengers by ships between ports of the same coast or between ports of the same country and the exclusive reservation of the coasting trade of a country to ships operating under the flag of that country or to operate sea traffic within its coasts[4] but extends the cabotage zone up to the inland waters and 200 nautical miles from the baselines (comprising the Exclusive Economic Zone) of Nigeria.

1.3 Pursuant to the Act, unless a vessel[5] comes within the stated exceptions[6] or relevant ministerial waiver[7] has been granted by the Minister, it is prohibited from domestic coastal carriage of cargo and passengers from point/port to point/port within the Exclusive Economic Zone of Nigeria if it is not wholly-owned, wholly-manned by Nigerian citizens, built and registered in Nigeria[8] and a vessel is also prohibited from the carriage of materials or supply of services or the carriage of petroleum products to and from oil rigs, platforms and installations if it is not wholly-owned by Nigerian citizens.[9] A foreign-owned vessel may inter alia on paying a fee, be granted a yearly renewable restricted licence (for one year) by the Minister[10] to be registered and issued a registration certificate (by the Registrar of Ships, renewable every five years subject to yearly endorsement), to

[3] Section 2 ibid.

[4] See, "Dictionary of Shipping Terms", by Peter Brodie, 2nd Edition at page 27. See also generally the papers titled "Advocacy paper for the promulgation of a Nigerian Maritime Cabotage Law" and "Advocacy Paper for the Promulgation of a Nigerian Maritime Cabotage Law Part 2…Present and Potential Problems of Cabotage and Recommended Solutions." Pages 42-57 and 213-224 of the Supporting Documents for the Making of A Maritime Cabotage Law in Nigeria presented by Mike Igbokwe Esq. at the Public Hearing on the Cabotage Bill, at the House Committee on Transport, National Assembly Complex, Abuja in April, 2001.

[5] Under section 22(5) of the Act the following vessels are eligible for registration to participate in cabotage trade namely, passenger vessels, crew boats, bunkering vessels, fishing trawlers, barges, off-shore service vessels, tugs, anchor handling tugs and supply vessels, floating petroleum storage, dredgers, tankers, carriers "and any other craft or vessel used for carriage on, through or underwater of persons, property or any substance whatsoever".

[6] E.g. vessels engaged in salvage operations beyond the capacity of Nigerian-owned and operated vessels, marine pollution emergency or ocean or marine scientific researches. See section 8 ibid and clause 7 of the Guidelines.

[7] Sections 9 to 11 ibid.

[8] Section 3.

[9] Section 5.

[10] Section 13 ibid and Clause 5.1.10 of the Guidelines.

participate in cabotage trade upon the fulfilment of other conditions.[11] The Minister may on the receipt of an application, grant a waiver (for one year, but renewable) to a duly registered vessel on the requirement for 100% Nigerian ownership or 100% Nigerian manning or construction in Nigeria, if he is satisfied that there is no 100% Nigerian-owned vessel that is suitable and available to provide the services or perform the activity stated in the application or he is satisfied that there is no qualified Nigerian officer or crew for the position stated in the application or he is satisfied that no Nigerian shipbuilding company has the capacity to construct the particular type and size of the vessel in the application respectively.[12] This is why the Nigerian cabotage legislation can be regarded as liberal and not strict.

1.4 The Minister may consult the relevant Government agencies such as National Maritime Authority (NMA), Joint Maritime Labour Industrial Council (JOMALIC), Department of Petroleum Resources (DPR), National Petroleum Investment Management Services (NAPIMS) and Petroleum and Products Marketing Company (PPMC) for advice upon his receipt of an application for waiver.[13] It should be noted that a ministerial waiver is not required in respect of registration of a vessel in the 2nd Cabotage Register for Vessels and Ship Owning Companies engaged in Cabotage,[14] but is required only in respect of ownership, manning and building of a vessel intended to be used for cabotage in Nigeria.

2.0 Methodology.

2.1 The difficult task placed on the writer by the Organisers of this Seminar, is to assess or judge the performance of the Act (at this Maritime Seminar for Judges), since it was enacted or came into force. However, the writer not being a claimant or a prosecutor or the defence in the matter and in order to be seen as an impartial judge/appraiser of the Act, the writer as a judge would do, decided to call for evidence (memoranda/information) on the performance, failure or success of the Act in three years and suggestions on the way forward from key players in the Nigerian maritime industry. These key players are those whose businesses and

[11] See sections 15, 16, 17, 18, 21, 22; Clauses 4.5 and 4.6 of the Guidelines.
[12] Sections 9 to 11 ibid.
[13] Clause 5.1.3 of the Guidelines.
[14] See section 15 of the Act.

other activities either as implementing Federal Government agencies, investors and practitioners, affect others or must have one way or the other been affected by the Act; so as to afford them an opportunity to be fairly heard on the Act before the writer passed his judgment on same. In this regard, relevant questionnaires were drafted and sent out to NMA, Nigerian Ports Authority (NPA), National Inland Waterways Authority (NIWA), JOMALIC, the Marine Transport Committees of the Senate and the House of Representatives, Indigenous Shipowners Association of Nigeria (ISAN), Marine Industrial Services Consultative Organisation (MISCO), PPMC, NAPIMS, Federal High Court, Nigerdock Nigeria Plc (Nigerdock), Starz Shipyard, Capricorn Marine Technologies Plc (Capricorn) and Japaul Oil and Marine Services Plc (Japaul). Out of these persons, only PPMC, NAPIMS and Japaul did not send the writer, their evidence on the performance, success or failure of the Act and suggestions. Moreover, the writer gathered relevant information from newspapers and interviews of key players and other published papers. However, the conclusions reached in this paper by the writer on and/or his appraisal or judgment of the Act after three years are mainly based on the facts and figures or evidence supplied by and obtained from the key stakeholders of the Nigerian maritime industry who were kind enough to provide the evidence to the writer.

2.2 At this juncture, the writer wishes to acknowledge the immense contributions by and to express his profound gratitude to, those who responded to his questionnaires without whose evidence, figures and suggestions, it would have been impossible for him to deliver a well-informed judgment on the Act after 3 years, which is based on authentic and reliable data.

2.3 Furthermore, the Act would also be appraised largely on the extent to which it has achieved or failed in achieving the benefits or the impact the Legislature intended that it should give or have on and the mischief it is to avoid in the indigenous shipping industry after three years of its commencement, so that the local shipping industry and nation can grow. It is appropriate to state here that in a paper titled "The New Cabotage Act-its intended effect on the local shipping industry" delivered by the writer as far back as 2003[15], the writer listed the intended effect of the

[15] Delivered at the Annual Maritime Seminar of the Nigerian Maritime Law Association held on 13th and 14th May, 2003 at the Muson Centre, Onikan, Lagos.

Act on the local shipping industry to be inter alia Cargo support to the indigenous ship operators to remain in profitable business, Promotion of indigenous tonnage, Capacity building in manning, owning and building of vessels, Financial assistance for ship acquisition through the Cabotage Vessel Financing Fund, Safe shipping and clean environment, Protection and advancement of national interest, Revenue and conservation of foreign earnings, Boom in economic activities due to multiplier effect, Creation of a 2nd Register of Ships etc.

2.4 The author also wrote in the said paper inter alia as follows:-

"An intended effect of the Act on the local shipping industry is the institution of a "liberal protectionist maritime industrial policy" for the protection or resuscitation of the local shipping industry from death or incapacitation due to the domination of carriages from point to point within Nigerian waters and unhealthy competition by the highly subsidised foreign vessels. In this regard, the Act sees the local shipping industry as a strategic industry which being in its "infant" stage of development and not being in control of indigenous shipping operations, navigation and ship ownership, in the interest of Nigeria's economy and national security, requires some guidance, conducive environment and protection from foreign competition so as to be nurtured into maturity and given room to develop through its acquisition and building of the necessary capacities to become sufficiently commercially viable and strong. Thus, the local shipping industry will be able to control and become very strong in domestic shipping before venturing into regional or international shipping where it will then be able to withstand competition from the highly subsidized foreign ships in international shipping. Furthermore, the Act intends that if the local shipping industry cannot or it is yet to compete favourably with foreign vessels in international shipping, it should for the time being be in a position to control and dominate carriages of cargo and passengers from point to point in Nigerian waters.

This liberal protection by the Act creates for the local shipping industry an enabling environment and gives the necessary assistance and incentives and business opportunities to indigenous shipping companies, shipbuilders and seafarers in order to empower and position indigenous carriers and operators and pave way for them to build the capacities to be able to acquire more vessels, more experience and greater capacity

for shipping and to compete fairly with foreign ship owners and among themselves in the carriage of cargo internationally or domestically without totally excluding foreign-owned, foreign-built and foreign-crewed vessels from participating in domestic shipping. This is why under the Act, only vessels that are wholly owned, wholly manned by Nigerian citizens, built in Nigeria and registered in Nigeria, are allowed to participate in cabotage trade whilst foreign-owned, foreign-crewed and foreign-built vessels are granted ministerial waivers or licensed to participate in cabotage trade where there is no wholly-owned Nigerian vessel suitable or available to provide the services or perform the activities concerned, or there is no qualified Nigerian officers or crew for the manning position or no Nigerian shipbuilding company has the capacity to build the particular type and size of vessel in respect of which waiver is applied for.[16] *This intention is quite understandable because all countries that have enacted cabotage laws intend among other things that the laws would protect their local shipping industry from foreign shipping domination."*

The writer then concluded in the paper inter alia as follows:-

> *"From the foregoing, there is no doubt in my heart that the Act has banged the local maritime industry in such so many ways that the local shipping industry will never remain the same again if the provisions of the Act are properly implemented, enforced and monitored with the necessary political will and if the stakeholders play all the necessary roles to make the Act work positively. As it is the case in the USA, stakeholders could form a Cabotage Task Force whose main function would be the monitoring of the implementation and success of the Act and making recommendations to the implementation authority and Government on how improvements could be made on same."[underlining mine for emphasis]*

The above has been set out because of its relevance to understanding the rationale for the Act and the appraisal of the Act after three years.

3.0 The Appraisal of the Cabotage Act.

The Act will now be appraised under the following major headings.

[16] See especially sections 2, 3, 5, 7, 8, 10, 11, 12 and 16 of the Act.

3.1 Cargo support to the indigenous ship operators to remain in profitable business and grow.

3.1.1 The main available cabotage cargo is in the area of petroleum, its products and oil support services whereas other general cargo and cash crops are not available for profitable cabotage carriage. Even though, NNPC/NAPIMS did not respond to the author's questionnaires, a paper titled "Cabotage Law and the Nigerian Oil Industry"[17] appears to convey vividly, the position and role of NNPC and its subsidiaries (PPMC/NAPIMS/DPR) in cabotage trade. Mr. Baba-Kusa argued that with the Act, the local maritime industry was now presented more than ever before with the opportunity to harness its enormous potentials and that it had been NNPC's key policy drive to increase the Nigerian local content in the oil and gas industry (targeted at 47% by 2007 and 50% by 2010) through greater indigenous participation. Admitting that the oil and gas sector was a market for over 90% of vessel suppliers and coastal trade support providers supported by numerous complex oil facilities and intensive activities on the Nigerian coastline and offshore, use of various offshore support vessels or platform support vessels, Mr. Baba-Kusa said that in recent times the sector had recorded a dramatic growth in tonnage movement helped by increase in offshore exploration, development and production activities which would attract indigenous investment in cabotage trade. Furthermore, Mr. Baba-Kusa stated that the offshore activities especially in major oil discoveries[18] largely depend on the support of vessels eligible for registration under the Act, [19]to carry typical operations such as deep sea diving, seismic studies and data gathering, exploration and production, subsea pipeline installation, platform construction work, catering services, subsea equipment installation, maintenance, cargo movement and handling. Moreover, he saw challenges in indigenous participation in cabotage trade in the oil and gas sector as low expertise and low capacity amidst growing market opportunities, which was why NNPC was driving increased local content in the sector and holding talks with NMA on ways and means of local participation in carriages and services in the

[17] Written by Mr. Aminu Baba-Kusa, General Manager, Oil Marketing Division, NNPC and presented by him at the Nigerian Chamber of Shipping Members' Evening on 24/6/04.

[18] Apart from the Bonga, Abo and Yoho oilfields, there are the Agbami field using a Floating Production Storage and Offloading Vessel (FPSO), Amenam field developed by TotaElfina, Exxon Mobil's Erha field and First Oil's FPSO with production capacity of 210,000 bbls per day.

[19] These vessels include crew boats, barges, fuel tankers, bunker vessels, diving vessels, fire fighting and emergency support vessels, subsea cable and pipeline vessels, anchor handling tugs and tug boats.

oil and gas sector. However, NNPC has been criticised by some stakeholders as not coming out strongly to support NMA in implementing the Act, which support would have caused other oil majors to comply with the Act, notwithstanding its local content policy.[20] The ISAN and Nigerian Shipping Companies Association (NSCA) had also blamed NNPC and its subsidiaries (PPMC/DPR) for stringent conditions given them for securing contracts and claimed that foreign-owned vessels were preferred to them thereby keeping them out of business.[21] Some of the stringent conditions are said to include evidence of registration with P& I Club.

3.1.2 NPA stated that about 285 cabotage vessels had been serviced at its different ports since May, 2004 with a total of 0.343m tons of cargo throughput and that the throughput of coastal shipping increased slightly since 2004. ISAN had in the past blamed NMA and PPMC for not encouraging the implementation of the Act.[22] ISAN also claimed that its members' failure to secure contracts which were being given to foreign-owned vessels, had caused some of the local ship operators to quit shipping because they were operating at losses.[23] Whilst stating that there are many more foreign-owned vessels in cabotage trade now and that Nigerian shipowners now have less business than in the pre-Cabotage Act era, ISAN also stated the 14 vessels on hire to NNPC on about 10 to 15 years charter, each of which generates 2 voyages per month, are foreign-owned, and that this has reduced the space to employ or train Nigerian seafarers who are rejected by foreign ships or placed under less-qualified foreign seafarers onboard foreign ships. Lamenting that Nigerian shipowners had become "endangered species" after the Act took off, ISAN said that foreign investors avoided entering into joint venture in shipping with Nigerians like plague, and that because of national disloyalty, placing personal interest over national interest, its members got virtually nil cabotage cargo from oil majors and NNPC/NAPIMS which were supposed to facilitate and provide cargo support, thereby encouraging capital flight. In fact, Senator Musa Adede was recently reported[24] as saying that since the Federal Government of Nigeria owns 60% of the joint venture with its other

[20] See "Cabotage: NNPC should work with NMA" written by Angus Haruna and published at page 19 of the This Day Newspapers of 29/1/06.
[21] See page 37 of the Guardian Newspapers of 28/12/05.
[22] See page 22 of the Punch newspapers of 3/2/06.
[23] See The Guardian Newspapers of 26/10/05 at page 51.
[24] See This Day Newspaper of 28/10/05 at page 47.

partners in the oil sector, the Federal Government should order NNPC, DPR, PPMC to give contracts of carriage to indigenous shipowners to keep them in business and make them attractive to bank loans.

3.1.3 From the foregoing therefore, the author's verdict on the Act after three years in the area of cargo support for the indigenous shipowners and operators, is that of a dismal failure.

3.2 Capacity building in the ownership and manning of ships to promote the growth of indigenous tonnage.

3.2.1 One of the legislative intentions of the Act is that it would provide employment opportunities for Nigerian officers and crew aboard cabotage vessels, who would in turn acquire education and experience in shipping and ship manning. NMA indicated that since the commencement of the cabotage regime it had approved 3 vessels for building in Nigeria, and under the Merchant Shipping Act its Ship Registry had registered cabotage vessels mainly barges and houseboats that were built in Nigeria after their plans and specifications had been approved by NMA. NMA also revealed that only 3 cabotage vessels[25] and 57 shipping companies out of which 8 are shipowners, had been registered by it in the Special register for cabotage trade. NIWA indicated that during the period under reference, it did not approve the designs and specifications of or register any vessel built in Nigeria for use in the inland waterways.

3.2.2 In the area of ship manning, during the period under consideration, NMA sponsored 30 Nigerian cadets to Malaysia for capacity building in ship manning, management and technology. JOMALIC said it sponsored several ratings on training on the mandatory aspects of seafaring and its managerial staff on ISPS Code and Port State Control as part of building local capacities in manning and managerial operational areas of cabotage shipping during the period under reference. JOMALIC also stated that from 11/1/05, out of the 5000 seafarers registered with it since May, 2005 with different categories of

[25] The "Morlap 1" 012 a crew boat of17.08 grt wholly-owned by Nigerians; The "Natasha" 011 a crew boat of 87.49 grt and the "D.B. Set Success", a dumb barge of 139.40grt. It is not unlikely that the figure may have been higher but for the refusal of indigenous shipowners to register their vessels in the 2nd Register on the ground that it was unnecessary having registered the ships as Nigerian ships, which problem was recently resolved between members of ISAN and NMA.

qualifications[26], JOMALIC had placed about 2500 on board cabotage vessels based on the requests processed from its Pool through the registered manning/crewing agents[27]. Although it does not know how many Nigerians had been sea-trained aboard national carrier-cabotage vessels, JOMALIC had always recommended that vessels seeking waivers to employ foreign crew must provide mandatory training berths for Nigerian cadets before being granted waivers, but the extent to which the recommendations had been accepted was not being communicated to it. JOMALIC believes that the employment of foreign seafarers on cabotage vessels is a very rampant violation of the Act and showed that it recommended refusal of waivers for mostly ratings in respect of the 150 manning waivers processed in the 1st quarter of 2005 because ratings were available in its Pool, but the foreign vessels were still replete with foreign ratings down to the level of oilers, wipers, stewards and lowest deck hands.

3.2.3 Although stating that not many vessels had been acquired by its members for cabotage since May 2004 because the cargo/contracts the vessels would carry were not available, ISAN acknowledged that NMA had addressed its grievances and provided a conducive atmosphere for its members to register their vessels for cabotage trade without paying registration fees[28]. ISAN said that its members' ships were not being fully or at all engaged on the wrongful basis that their ships were unsuitable and for fear of petroleum products diversion[29] and that waivers were granted to foreign-owned vessels without consultation with it. To ISAN, without acquiring ships, its members cannot build or develop local capacities in the technology, technicality and management of ships and in the training of Nigerian seafarers to man ships. Arguing that the Act had not recorded any success or facilitated new business for its members, ISAN suggested that the ways forward were for long-term contracts of carriage to be awarded to its members, for tax incentives and Customs duty rebates to be to be granted

[26] This is said to exclude majority of the very highly qualified seamen working in Nigerian off-shore oil and gas sector who did not respond to its request for registration. C/F a pool of only 975 officers and 1,900 ratings as at 2000.
[27] NMA had registered 1,500 seafarers which registration is a continuous exercise.
[28] See The Guardian Newspapers of 24/5/06 at page 54.
[29] It was alleged by ISAN that since the ships did not get up to one contract of carriage per month, and the contracts were not on long-term basis, it was difficult for its members to have enough money to acquire vessels or maintain them and that they were being forced to sell their ships when their ships were not able to secure contracts for 2 to 3 years.

Nigerians buying ships and its spare parts, impediments to acquisition of ships by operating the Cabotage Vessel Financing Fund (CVFF) removed, maritime labour educated, trained and re-trained in the practice of shipping by and Act fully implemented by Government.

3.2.4 MISCO believes that for Nigeria to be self-sufficient in the marine industry as intended by the Act, the Act and country should look at it from the macro level, develop capacities for manning, shipbuilding and ship ownership from the scratch giving them time to develop, (because it takes more than 20 years to become a shipbuilding nation) and not limit itself to the oil and gas sector at the expense of the development of commercial shipping and that the multibillion dollar oil and gas industry uses a small percentage of the marine industry for its logical support. Acknowledging the Government's repeated statements that it does not want foreign shipping companies to leave Nigeria but to stay and assist in achieving the country's self-sufficiency in the marine industry, MISCO also held the view that due to the nation's inadequacies, foreign-owned ships are needed to run the economy and as the nation gradually developed its capacities, the presence of foreign-owned and foreign-built ships and foreign crew would gradually reduce and eventually phase out.

3.2.5 So, from the above evidence, the writer scores the Act a little below average in developing local ship manning and low in building shipowning capabilities and increasing the local tonnage because without the increase in the number of cabotage vessels owned by Nigerians, the national tonnage would not increase.

3.3 Capacity building in the local construction of ships and reduction of capital flight.

3.3.1 The requirement for vessels participating in the cabotage trade to be built in Nigeria is meant inter alia to provide business to and develop the local shipbuilding industry, create employment and reduce if not eliminate, capital flight. But realising that the local shipbuilding industry does not presently have the capacity to satisfy the cabotage trade market, the Act merely restricted and did not exclude foreign-built vessels from participating in cabotage trade. In this regard, foreign-built vessels can obtain waiver of requirement of being built in Nigeria and a foreign-owned vessel can be licensed for one year by the Minister

(renewable for one year if inter alia it produces evidence of dry-docking and ship repairs in Nigeria where applicable), and be registered by the Registrar of Ships for cabotage trade.[30] The certificate of registration shall be renewed every five years but endorsed yearly during which JOMALIC certificate and declaration of compliance with seafarer's condition of employment, shall be submitted by the vessel.[31]

3.3.2 NMA informed the writer that it is only aware of 2 shipyards and shiprepair yards that had since May, 2004 been built or reactivated to take advantage of the benefits of the Act in shipbuilding and ship repairs[32]. Nigerdock was reported to have invested about US$40m in oil service and ship repair facilities which enabled it to take on the fabrication of the Agbami FPSO 3S and 1S module, and other module fabrications like Shell's Bonga FPSO and ExonMobil's Erha FPSO.[33] Nigerdock informed the writer that since May, 2004 when the enforcement of the Act started, it had not built any vessel in its shipyard but had repaired many Nigerian-flagged vessels, not specifically due to the Act. Although to Nigerdock, the Act had raised awareness in the maritime industry on the need to further indigenise the repair of vessels and their ownership, it has not forced vessel owners to patronise the local shipyards because the Act allows owners to circumvent its requirements. To Nigerdock, although there has been a positive change in the attitude of the maritime industry to make more use of the local shipyards, shipyards are not better off since the Act came into existence. Since the Act came into force in May, 2004, Capricorn had worked on 9 cabotage vessels on routine repairs, 3 vessels on emergency docking and repairs and built 2 vessels. Capricorn concluded that during the time under consideration, it had a slight increase in patronage which was not particularly caused by the Act and that the cabotage market is so large that to make impact, the shipyards in Nigeria must be five times its present number and lifting capacities of about 5000 displacement tons and 100 metre length vessel which capacity only two shipyards presently have[34]. Capricorn also informed

[30] Clause 4.6 of the Guidelines
[31] Clause 4.5.7 ibid
[32] West African Shipyard, Ikoyi which built 1 or 2 barges for cabotage, Python Engineering Co Ltd (100% Nigerian-owned) which builds houseboats and barges whilst Steelways Nigeria Limited, Warri owned by Lebanese, was said to have folded up after building some barges for Parker Drilling Nigeria Limited.
[33] See page 24 of the Punch newspapers of 15/2/06.
[34] Capricorn mentioned some of the shipyards as West African Ventures, Onne Free Trade Zone and Port Harcourt a subsidiary of Dutch Seatruck Group that brought in 2500 displacement ton floating dock in

the appraiser that offshore support vessels operating in Nigeria are 90% owned and managed offshore and many cabotage vessels drydock outside Nigeria where schedules are more likely to be met and because most Nigerian shipyards have small-sized docking facilities. It was observed from the foregoing that the Act has not after three years succeeded in improving on the low capacity for building and repairing ships for cabotage even though under Nigerian Investment Promotion Commission Act there are incentives for shipbuilding[35].

3.3.3 Consequently, the author scores the Act low in inducing local shipbuilding capabilities for the reduction, if not an elimination, of capital flight three years after its commencement.

3.4 Financial assistance for ship acquisition through the Cabotage Vessel Financing Fund.

3.4.1. To alleviate the problems encountered by indigenous ship owners in getting soft loans on long term basis for the acquisition and repairs of vessels, the Act established the Cabotage Vessel Financing Fund to promote the development of indigenous ship acquisition capacity, beneficiaries of which would be Nigerian citizens and shipping companies wholly-owned by Nigerians. The Act sets out sources of the Fund[36] which was to be collected by NMA, deposited in a commercial bank and administered by NMA under guidelines to be proposed by the Minister and approved by the National Assembly. All the local shipowners (ISAN) and NMA are in one accord in saying that nobody had benefited from the Fund. NPA sees the failure of the indigenous shipowners to access the Fund for ship acquisition as a failure of the Act. Consequently, local shipowners and operators have either been resorting to banks' short term funds at high interest rates

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2005 (during the cabotage era), Starz, Onne with a 1000 displacement ton floating dock in operation since 2002, whilst Capricorn and Japaul are planning a 2500 displacement ton, 100 metre hydrolift facility and 2000 ton floating dock in Lagos and Port Harcourt respectively.

[35] Industries or companies for ship building repair and maintenance engaged in building ships and barges could be conferred with Pioneer Status under the Industrial Development (Income Tax Relief) Act cap. 179 LFN, 1990 to accord them relief from income (from their pioneer products) tax liability for up to five years (tax holidays) if they meet the requirements.

[36] Sections 42 to 45. The sources of the Fund include the surcharge of 2% of the contract sum performed by any cabotage vessel, tariffs, sum determined and approved by National Assembly, fines and fees for licences and waivers and interest thereon.

or foreign loans with stringent conditions[37] or folding up, when their foreign counterparts participate in the Nigerian cabotage trade with foreign ships financed long-term at favourable interest rates and backed by their home Governments' guarantees.

3.4.2. However, whilst the information obtained from NMA confirmed to the appraiser that the Fund is being deposited in a commercial bank and that it had made proposals to the Minister for the Guidelines for administering the Fund and was awaiting the Minister's further directives, the information got from the Chairmen of the Senate and House Committees on Marine Transport showed that they had been briefed that the proposed Guidelines were before the Federal Ministry of Justice for vetting. The said Chairmen promised to promptly approve the Guidelines whenever they come before the National Assembly because it is not their duty to initiate the Guidelines or their approval.

3.4.3. Therefore, in the area of providing finance for indigenous ship acquisition, the writer holds that the Act is a total failure three years. It is also held that should the guidelines for the administration of the Fund not without further delay be sent to the National Assembly for approval so that the Fund could be administered by NMA as provided under the Act, those responsible for this act or omission against the national interest should be seen as enemies of the local shipping industry who are out to stifle and destroy not just the indigenous acquisition of vessels and increment of local tonnage, but the opportunities which the vessels that would have been acquired with the Fund could have provided for the training of Nigerian seafarers, thereby paving way for multiplier effects on the nation's economy. It is a very serious matter!! God forbid that there should arise national or international emergencies concerning Nigeria that would require ships to prosecute the emergencies or protect the nation from. Our country may then realise that without locally-owned ships in its Ship Register that it may easily requisition, it would need to rely on foreign-owned ships, which may not be readily be available to it at that time!

[37] NMA secured a loan of USD300m from Afcon Group of Companies, Malaysia for five Nigerian shipping companies where Afcon was to find and negotiate the best equipment for the beneficiaries of the loan to meet the requirements of Nigeria's oil majors and the companies were to provide 15% of the cost of the ships.

3.5 Boom in economic activities due to multiplier effect of cabotage.

3.5.1 From the evidence led above, the much-needed cabotage-induced growth in the capacities of local ship ownership, ship building and ship manning are yet to be attained. Therefore, the much articulated boom in economic activities in the areas of banking, finance, insurance, maritime law practice, freight forwarding, shipping consultancy, engineering etc due to proper implementation of the Act, had not yet materialised mainly because the indigenous ship owners/operators do not have access to the CVFF or soft loans to acquire more vessels and are not securing enough long term contracts to keep them and help them grow in business so as to cause them to acquire more vessels. Moreover, the local shipbuilding and repair yards do not have enough patronage from the few locally-owned vessels. Banks want to see long term contracts to which the repayments of loans granted by them would be tied, but as revealed by the evidence before the appraiser, locally-owned vessels are not given such contracts.

3.5.2 Therefore, the writer scores low, the performance of the Act after three years, in this respect.

3.6 Safe shipping and clean environment.

3.6.1 NPA's answers revealed that since the cabotage regime took off, marine pollution had reduced and that by spearheading the port reform process, NPA had been repositioned by partnering with world class dredging companies that would constantly dredge the coastal waters. ISAN had even acknowledged that the mandatory registration of indigenous shipowners' vessels by NMA at the Special Register would promote safety and standardised shipping.[38] Even though the effect is that marine pollution would be prevented or controlled and shipping made safe through elimination of foreign or locally-owned aged and un-seaworthy vessels which are not in class, no statistics were supplied or available to back the level of prevention and control of marine pollution and safe shipping. The appraiser scores the Act, below average in this case.

[38] See The Guardian Newspapers of 24/5/06 at page 54.

3.7 Enforcement and Monitoring.

The Enforcement and Monitoring of the Act after three years of its commencement will be considered under three sub-headings, namely Sanctions, Penalties, Fines and Detention; Ministerial Waivers and Challenges and Problems of Enforcement and Recommended Solutions.

(i) Sanctions, Penalties, Fines, Detention.

3.7.1 It is incontestable that proper and efficient implementation and monitoring of the implementation of the Act are the keys to the success of the Act and the reaping of its intended benefits by the indigenous shipping industry. Under the Act, the Minister was empowered to create an Enforcement Unit within the NMA with appropriate operational guidelines to enforce the provisions of the Act and where necessary, enlist the help of the Nigerian Customs Service, Nigerian Navy, Nigerian Police Force and any other law enforcement agency.[39] The Minister may also co-opt and request the secondment to NMA of officers of relevant enforcement agencies such as NPA, NIWA, JOMALIC, Nigerian Immigration Service, Nigeria Customs Service, and the Nigerian Navy, to work in the Cabotage Enforcement Unit.[40] Various penalties and sanctions including detentions, arrests and fines are in the Act for violations of its different provisions in order to deter violations and raise revenue for indigenous ship acquisition development. As revealed by ISAN, there is plenty evidence of violations of the Act seen through the number of foreign-owned ships that discharge cargo at Atlas Cove jetty and Marine Beach after the Naval Base. This statement is corroborated by the fact that out of 266 coastal tankers that berthed at the Apapa Port Complex in 2003, only 44 (16.5%) were Nigerian-owned vessels whilst 222 (83.5%) were foreign-owned ships which showed 96.6% to 3.4% [in favour of foreign vessels] throughput tonnage of 2,869,211mt lifted within that year.[41]

[39] See sections 30 and 31 of the Act.
[40] Clause 6.2 of the Guidelines.
[41] See a paper titled "Cabotage Act and the implications for oil and gas industry: the indigenous shipping companies perspective by Eng. F.U.C. Ugwu(KSP) DG, NMA at the 6th Oil and Gas Financing Summit held by the Chartered Institute of Bankers of Nigeria on 16/6/05.

3.7.2 NMA informed the appraiser that necessary machinery had been put in place for its collaboration with NNPC/NAPIMS/PPMC, ISAN, JOMALIC and MISCO, for the successful implementation of the Act through series of interactive meetings, workshops and seminars and that the collaboration is ongoing. In its paper[42], ChevronTexaco admitted that NMA had adopted a regulatory approach that tilted in favour of partnership with all stakeholders, objects and subjects of the cabotage regulatory regime, in which NMA emphasised dialogue, collaboration and joint assessment of the issues in question in line with international best practices in public regulation and promised to continue to work with NMA in the spirit of partnership toward the full implementation of the Act. Senator Musa Adede was reported to have expressed dismay that both the Federal Ministry of Transport and NMA were still discussing the issue of implementation 2 years after cabotage took off and called on them to move full steam in the implementation and if there were hurdles, they should go back to the National Assembly.[43]

3.7.3 JOMALIC informed the appraiser that it had constituted a joint task force to conduct inspections on board vessels operating within Nigerian waters to enforce compliance with the labour employment provisions of the Act. But JOMALIC stated that some of the challenges militating against its enforcement of the Act were a lack of feedback information on the number of manning waivers granted, a lack of sharing of information on the total vessels or shipping companies actually registered in the Special Register to ease inspections for labour compliance, illegal crewing through unregistered sources, attempts by foreign vessels to plead international safety rules as basis for non-compliance, low human capacity in specialised aspects of seafaring in the off-shore oil and gas operational sector and in its Pool. NMA was reported as having said that it would begin an aggressive enforcement of the cabotage regime during the first quarter of 2006,[44] but observers have said that that promise had not been kept because nothing has changed yet and that having interacted and collaborated enough with NNPC, its subsidiaries and oil majors, it was high time NMA and the Minister started strictly implementing and monitoring the

[42] "Cabotage Law within the Oil industry in Nigeria: operational issues and considerations for deep offshore operations" delivered at the 2-day Seminar on Cabotage Law and the Oil and Gas Industry, Golden Gate Restaurant, Ikoyi, 2nd to 3rd December, 2004.
[43] See This Day Newspaper of 28/10/05 at page 47.
[44] See page 27 of the This Day Newspapers of 27/2/06.

implementation of the Act. NMA informed the appraiser that some ships had been searched by the Cabotage Enforcement Unit since May, 2004 on suspicions of violating the Act thereby leading to the shipowners processing their registration with NMA, it has not indicated the number of such ships or whether the Enforcement Unit had also arrested or fined or detained any ship for contravening the Act.

3.7.4 So, from the above evidence, in the area of imposing sanctions and enforcing the Act through penalties, detentions, arrests and fines to deter violations at pains of paying penalties which would accrue to the CVFF, three years after its commencement, the writer scores the Act low.

(ii) Ministerial Waivers.

3.7.5 Another critical area of enforcement that was observed by the writer from the submissions of the stakeholders, is in the granting of ministerial waivers. Ministerial waivers were allowed by the Act to ensure that before Nigerians had fully acquired capacity to supplement or replace foreign capacity in some key areas of domestic shipping (especially ship manning, ownership and building), foreign vessels and foreign shipping companies operating in Nigeria would not be excluded from, but merely restricted in participating in cabotage trade, so as not to damage activities in the oil and gas sector and adversely affect the economy in the face of low or inadequate capacity for cabotage trade. The figures supplied by NMA showed that out of about 807 processed applications for waivers, 300 applications were approved but details of the waivers granted in respect of manning, ownership and shipbuilding were not given. It seems to the writer that MISCO believes that waivers are compensations which foreign shipowners are being made to pay but are unnecessary for the growth and development of local shipping and that if the country has enough unutilized resources, a system of waivers could be adopted where foreign ships and crew could gradually be replaced with local capacity. To the indigenous shipowners and operators, granting waivers to foreign-owned ships without first consulting with ISAN to know whether any of its members has any vessel that is suitable and available to provide the services or perform the activity concerned, deprives them the opportunity of having contracts and promotes foreign domination of cabotage trade at the expense of local ship owners and operators. 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 absent 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.

3.7.6 From the foregoing, the writer holds that considering the low, inadequate or absent local capacities to own and build vessels for cabotage trade and the need to bridge the gap, the granting of waivers by the Minister on the ownership and building of ships under the Act is above average, but below average in the area of manning ships since the Pool of JOMALIC has not been exhausted.

(iii) Challenges and Problems of Enforcement & Recommended Solutions.

3.7.7 The following challenges and problems have been identified in the enforcement of the Act from the materials made available to the appraiser, and in respect of which some recommendations are being made hereunder.

(i) Exclusion of ISAN from ministerial consultation process in granting waivers.

From the evidence led before the appraiser, one of the flaws of the Act and the Guidelines is that an umbrella of Nigerian shipowners/operators like ISAN which the Minister ought to consult to satisfy himself that there is no wholly-owned Nigerian vessel suitable and available to perform the activity or service stated in the application for ministerial waiver, is excluded from them. It is recommended that the Minister consults with ISAN as is the case in Malaysia where its Domestic Shipping Licensing Board consults with the Malaysian Shipowners Association before granting licences/waivers to foreign-owned vessels in its cabotage trade, because ISAN is in the best position to know whether a suitable ship owned by its members is available for any cabotage activity or service. Alternatively, the particulars of the ships owned by Nigerians

and their capabilities should be collected by the Minister from ISAN (and NMA) and be used by the Minister in consultation with ISAN, to satisfy him whether or not ship ownership waivers should be granted to a foreign-owned ship. This method could be used in addition to the Minister's publication of applications for waivers in the newspapers as recently reported in the newspapers, for the purpose of transparency and given ISAN and other stakeholders the opportunity to file objections if there are good basis for same, although the cost implications and who bears it would need to be ironed out. The Honourable Minister could also cause the processing and granting of waivers to be sped up or could decentralize it by delegating the Minister's powers to do so to NMA since many of the Minister's powers had been delegated to the Government Inspector of Shipping (now NMA) under the Merchant Shipping Act and such delegation is permitted under the Act.[45]

(ii) Inadequate implementation & monitoring and inter-ministerial and inter-agency/inter-unit wrangling and uncooperative attitudes.

From the evidence led before the appraiser, there has been inadequate implementation and monitoring of the implementation of the Act after three years of its commencement as well as inter-ministerial and inter-agency/inter-unit wrangling and uncooperative attitudes. The above problems slowed down the process of implementation and monitoring of the Act and the attainment of the benefits of the Act. As situation still stands, there are overlapping functions between NMA and JOMALIC concerning the issuance of certificates of competency and qualifications, examinations, the registration of seafarers serving in Nigerian ships and enforcement of the Act, which are bound to bring about struggles for recognition, supremacy, control and friction in the implementation of those overlapping functions by the two Government Agencies.[46] So stakeholders still anxiously await the Federal Government's promise to conclude the drafting and enactment of the legal framework for the merger of JOMALIC with NMA in order to create before the end of this month, a new maritime safety administration as has been widely publicised and which will end any inter-agency wrangling and conflicts between them on the enforcement of the Act.

[45] See section 49 of the Act.

[46] See a paper titled : "Proposed Merger of JOMALIC with NMA for a new maritime safety administration: Advantages to the Nigerian Maritime Industry" written and published in 2005 by Mr. Mike Igbokwe,SAN.

In the same vein, the failure or neglect or delay by NNPC/PPMC/NAPIMS and NMA/JOMALIC to work together for the full implementation of the Act in order to actualize the enormous benefits in the Act for the development of indigenous shipping capacity and the economy, leaves a sour taste in the mouth. It has to change immediately if we do not want to continue to be a laughing stock among the comity of nations and disturb the growth of the local shipping industry. Cabotage works well in Malaysia, USA and Brazil according to the laws of those lands, and the case of Nigeria should not be different. Selah! The different relevant Government Agencies in the implementation of the Act especially NMA, JOMALIC, NIWA, NNPC/PPMC/Navy should freely have access to each other's information/materials or data base and share and exchange information and documents on their activities and on vessels' ownership, seamen's nationality, qualification, employment and shipyards capability etc. It is recommended that Government agencies, their sisters and internal units should unite and collaborate and work together for the common objective of proper implementation of the Act and achieving the intentions of the Legislature and avoid unhealthy rivalry among themselves. Aggrieved parties or intended beneficiaries of the Act should do more in providing evidence of violations to the implementing Government agencies and assisting them in investigating and sanctioning the violators. It was suggested by JOMALIC that there is a need to put together a vibrant joint enforcement team within the existing structure of Cabotage Enforcement Unit which is more of an administrative unit, with competent and experienced officers conversant with local and international shipping rules to make the Unit more effective and efficient. It is a welcome idea. The implementing Government agencies cannot do the work alone. It is recommended once again that a Nigerian Cabotage Task Force be established by the indigenous shipping industry with members drawn from those who have businesses to do with the local shipping industry and its rapid development, to serve as a pressure group to interface with and monitor the enforcement of the Act by the Minister and the Government implementation agencies, keep them on their toes through constructive criticisms and suggestions, mobilize and continuously sensitize the public on and defend the retention of and essence of the Act. It is noteworthy that the US Cabotage Task Force

is instrumental to the retention and protection of the "strict" US cabotage regime.

Moreover, NMA/FMT should immediately cause to be prepared and put in use, all outstanding Guidelines for the implementation of different aspects of the Act to ensure certainty and compliance and penalties for non-compliance. NMA/FMT should immediately cause the Guidelines for the administration by NMA of the CVFF to be sent to the National Assembly (NASS) for approval so as to ease the problems of having access to cheap funds for the acquisition of cabotage vessels (new buildings or fairly used) being faced by the local operators/owners and increase their tonnage. It is unexpected that three years after the Act commenced, those Guidelines for the Act's full implementation would still not be out thereby making the implementation Agencies unable to implement certain aspects of the Act. The Senate & House Committees on Marine Transport had indicated their readiness to help quicken the approval of the CVFF Guidelines by the NASS as required by the Act upon the submission of the Guidelines to the NASS. This is the best they can do since they expect NMA/FMT to initiate the Guidelines.

(iii) <u>High Cost of enforcement and monitoring.</u>

Facilities and equipment for implementation and monitoring the enforcement of the Act including amphibious aircraft, patrol boats especially for the offshore traffic areas, have been said to be expensive, but NMA is working on acquiring them. Due to a lack of funds for boats to ferry labour inspectors to cabotage vessels (especially the foreign vessels which fly their foreign crew straight to the vessels offshore), JOMALIC is also hampered in enforcing the Act. JOMALIC is also hindered in enforcing and monitoring the enforcement of the Act by a lack of training facilities and funds to train or employ staff with specialised knowledge in the oil and gas sector. It is recommended that the implementing Government agencies should be well funded and equipped to enforce the Act and should involve and collaborate with the Nigerian Navy in the enforcement matters whenever necessary.

(iv) Lack of political will and determination.

Some stakeholders have argued that the Federal Government, the minister and NMA have been showing a lack of the political will and determination needed to implement the Act and cause NNPC/NAPIMS/DPR to implement the Act and that NNPC/NAPIMS/DPR are reluctant to support the acquisition of cargo by Nigerian ship owners and operators because of vested interests therein that want the status quo to remain. They also argued that none of the many foreign violators of the Act had been fined or sanctioned to deter others thereby causing the Act to be taken for granted at the expense of the indigenous shipping industry.This "cabotage sabotage" by unscrupulous Nigerians and those who want to circumvent the Act because it does not favour their business and economic interests is done either by way of non-compliance or circumvention by unscrupulous persons or non-implementation or poor or selective implementation of the Act because of the absence of the required political will or courage. It is submitted that unless this attitude changes and violators are sanctioned to send signals of serious enforcement to the shipping industry, the sad and ugly situations would remain and render worthless the beneficial provisions of the Act.

(v) Lack of Confidence.

There appears to be a general hopelessness on the part of Nigerian seafarers, ship owners/operators and shipyards on the ability and readiness of the implementing Government agencies to deliver the dividends of the Act through adequate implementation of the Act. The renewal, re-building and regaining of the confidence of the indigenous shipping industry by these agencies by showing they are willing, able and ready to properly and efficiently perform their statutory roles and enforce the Act are therefore necessary. The Government agencies should reach out to and dialogue constantly with key players and groups in the maritime industry to share experiences, exchange ideas and feel the pulse of the industry. The new collaboration between NMA and ISAN and the promise made by DG NMA on receiving the report of the joint committee of NMA and ISAN, that NMA would

explore other means to make the Act effective[47], is a good thing and would be rewarding of it is fulfilled immediately.

(vi) Local/Foreign Operators' Dichotomy.

There is the need for collaboration between the local and foreign operators and investors in shipping (by way of complementing and supplementing each other) for the overall development of the local shipping industry in which they both participate and benefit from. In this regard, they should see each other as partners in the progress of the shipping industry, enter into joint-venture and sub-contracts and compete healthily and not see each other as antagonists or enemies. The Act has made room for joint ventures between Nigerian and foreign shipping interests and as an incentive to the development of the joint ventures, the Act grants priority to such joint ventures in the area of waivers.[48] Both sides and the implementing Government agencies should bear in mind that the Act does not exclude from, but merely restricts foreign ships, foreign shipping companies and foreign seafarers in participating in the cabotage trade and as long as any of them has complied with the preconditions for participating cabotage trade and had been properly cleared by the requisite agency, it would be free to participate in the cabotage trade.

(vii) Resolution of cabotage disputes/differences by the Court.

Every person or authority has a constitutional right of access to the law court for the resolution of any differences/disputes or a grievance he/it may have with or against another person or authority and the Act recognises this[49]. Some of the stakeholders especially ISAN had catalogued many instances of violations of the Act or grey areas, but enquiries made by the author from the Federal High Court have revealed that no action has been filed in the Court on any aspect of the Act three years after its commencement. ISAN has said it was reluctant to go to Court against the violators until it had exhausted all peaceful probabilities, which it is equally entitled to. However, it is submitted that any person including the Government agencies that believes that any provisions of the Act and/or Guidelines has been or

[47] See The Guardian newspapers of 24/5/06 at page 54.
[48] See section 12(a) of the Act.
[49] See section 41 of the Act.

is about to be infringed or that is having difficulty in enforcing any of its provisions, or disputes the interpretation and/or implementation of any of the ("grey') provisions by any other person, is entitled to approach the Federal High Court for redress or enforcement or interpretation of the provisions or for adjudication on the disputes. This way, ambiguity would be replaced with certainty in the Act, the failing persons would sit up and the Nigerian cabotage case law would grow.

4 CONCLUSION

4.1 In conclusion, notwithstanding my having put the totality of the evidence given by the stakeholders on an imaginary scale and weighing it, before deciding on the preponderance of evidence the weight of the evidence before giving the verdicts above on different aspects of the Act three years after its commencement; the appraiser or judge hereby quickly states and holds that 3 years of existence and 2 years of enforcement of the Act, are too short or too early to pronounce a final judgment on the Act. In the circumstance, (and with due apologies to my Lords and lawyers here present), the appraiser would want the above verdicts to be seen as merely "interlocutory" pending a longer time (say five years) of operation of the Act and working on the problems and challenges of its implementation and during which the problems/challenges of implementation would have been resolved or overcome by the implementing Government agencies. This is not of course an excuse for the implementing Government agencies to rest on their oars because if at the end of such longer period the local shipping industry had not received the intended legislative benefits of the Act, the agencies and their chief executives would be rightly regarded as failed agencies and chief executives. **The appraiser also hereby declares that the cabotage regime or Act has not totally failed, cannot fail, must be "salvaged" from total failure and must succeed if the above and other relevant recommendations are implemented**. The journey to the full attainment of the benefits of the Act has already started and even though the journey is slow and could be faster, it is steady and very soon we shall get to the intended destination. If and since the National Shipping Policy Act, 1987 could not develop the local maritime industry (because it concentrated on the development of the deep sea shipping), the Act (which has been enacted to inter alia enable the indigenous maritime industry to control and dominate the domestic waterborne

trade) can, and its implementation and monitoring must be given all they desire for the Act to get us there. The benefits to be derived by Nigeria from an adequate enforcement of the Act far outweigh the problems and challenges faced by its implementation and monitoring. Although, it is not yet "UHURU" and there is still a lot of work to be done to achieve adequate, efficient and proper implementation of the Act in order to realise the benefits of the Act, all stakeholders must work together for the success of the Act and its implementation so that like the USA, Malaysia, Brazil etc with cabotage regimes, we can get to the destination sooner than later.

I thank you all for listening.

Mr. M.I. Igbokwe, ACIArb, SAN.

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