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COASTAL NAVIGATION IN INDIA AND INDONESIA: DERIVABLE BENEFITS FOR NIGERIA

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ABSTRACT

Coastal navigation is a very important aspect of a country's economy. This is particularly so for a country like Nigeria, which has vast coastline and navigable waters that connect to the outside world. These make a country to better participate in international trade and open its internal market to the international community. Thus, maritime transport promotes maritime trade which involves the use of ships to transport mainlyheavy and bulky goods or merchandise over long distances by sea. Consequently, shipping plays an important role in the development of a country's international trade and thus drives the overall global economy. Coastal navigation is the principle that regulates maritime activities that take place within the waters of a country. It recognizes that a country has the right to restrict the activities of foreign vessels that operate in its waters. Restrictions may be strict in some countries, but may be waived or relaxed in others. Therefore, every country desires to be in control of its coastal shipping transportation through various interventions. For Nigeria, the issue is whether such interventions are enough or are complied with to improve this means of transportation and its economy. From available literature, it appears that the country is lagging behind in this area of the economy in comparison with some other jurisdictions. Consequently, it is recommended that Nigeria should review its extant laws and ensure effective enforcement of the same to achieve the much needed benefits in this area of the economy of the country.

Keywords: Coastal Navigation, Shipping, Maritime Trade, Merchandise and Restrictions

INTRODUCTION

According to the Black's Law Dictionary,[1] coastal navigation, that is, cabotage is the practice of trade along the coast of a country; the transport of goods and passengers from one port or place to another in the same country. It is the privilege of transporting traffic between two ports of the same country. The privilege of conducting this trade is generally restricted to ships flying the flag of that country. This term has also been adopted to describe commercial air transportation between two airports located in the same country.[2] Cabotage is a nautical term from the Spanish word, which strictly refers to moving from cape to cape along the coast without going out into the open sea. In

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[1] B. A. Garner, *Blacks' Dictionary of Law* (11th edn,Thomson Reuters, 2019) 230.

[2] R.C Lane, Cabotage, *The Encyclopedia of Public International Law* (1992) 519-520.

international law, cabotage navigation is identified with cabotage trade, meaning navigation and trade along the coast of a country between its ports.

However, cabotage or coastal shipping has come to be known as 'coastal trade,' 'coasting trade' or 'coastwise shipping' in the sense of the transport of goods and people by ship between ports along the same coast or between ports within the same country and the country's exclusive rights to operate maritime traffic or rail traffic,[3] within its domain. According to Igbokwe,[4] in international law, cabotage or coastal shipping relates to coasting, navigating, and travelling along the coast between ports or from port to port. Likewise, it has been pointed out that cabotage has a similar connection in the French '*caboteur*' which means 'to sail along a coast' or 'to sail coastwise or by the capes.'[5]

When cabotage navigation is limited to the coasts of a certain country, it is called national or local navigation. But when it is regional or sub-regional, it is called short-distance navigation; both national and regional coastal navigation are part of nautical navigation. National coastal navigation is generally regulated by law that allows navigation and commerce within a country's coasts or from port to port within a country to be reserved exclusively for the national flagships and citizens. Consequently, coastal navigation has been defined as a principle that refers to the practice of maritime nations retaining the privilege or right of navigation and commerce along the coast between two ports within the national territory, only for the ships duly registered in that country, which is usually provided for by law.[6]

The term coastal shipping or coastal commerce as used in commercial agreements now includes maritime commerce between any two ports of the same country, whether on the same coast or on different coasts, provided that the different coasts are all coasts of the same country as a unit politically and geographically, unlike the coasts of the colonial dependencies of this

[3] H.C.D Hukum, Cabotage <https://cekhukum.com-cabotage > accessed 12 October 2022.
[4] M. Igbokwe, 'International Maritime Conventions: Regional Cabotage for West Africa: A Possibility?' A seminar paper presented in partial fulfillment of the requirements for the Award of LLM of 2001.
[5] K. Magee, 'US Cabotage Laws: Protective or Damaging? A Strategy to Improve Cruise Vessel Competitiveness and Traffic to US Ports' MA projects, Monterey Institute of International Studies, 2002.
[6] E.M. Lorenzo, "The Domestic Shipping Industry of the Philippines: A Situation Report" in *MARINA Paper*, 2002.

country.[7]Suffian[8] stated that coastal shipping refers to a country's reservation of traffic to itself (coastal waters) within its territory. These authors argue that the coastal shipping policy is a trade barrier that limits foreign competition aimed at pursuing the growth of national interest in the domestic infant industry. According to Igbokwe,[9] the Maritime Cabotage Law is a law that allows navigation and trade within the coast of a country or from port to port within the country (domestic freight) to be reserved and carried exclusively by national flag vessels and citizens. It has also been said that navigation and trade extend to inland waters. Coastal navigation law may be contained in a single piece of legislation or a combination of two or more navigation pieces of a country. For Ndikom and Buhari,[10] cabotage is a legislative tool that restricts or reserves access to maritime or air trade within the territorial jurisdiction of a country on national capacities. Restrictions on coastal navigation of local and national capacity prevent foreign-flagged vessels from accessing the national maritime market, thus trapping all internal trade for vessels flying national flags and stifling foreign competition. The economic purpose of the restrictions on coastal shipping is to encourage the establishment and development of a national merchant marine. However, it has been argued that while cabotage may be aimed at facilitating the local shipping industry, the policy seems outdated as it does not really serve the purpose of making the shipping industry more competitive, but instead harms local growth and distorts competition in the national shipping industry.[11] Cabotage is a nautical term derived from Spanish that literally means to navigate from cape to cape along the coast or in high waters without going out into the open sea.[12]

COASTAL AND INLAND SHIPPING ACT 2003

[7] L. Oppenheim and others, *International Law: A Treatise,* (Vol 1, The Lawbook Exchange Ltd. 1920) 336.
[8] F. Suffian and others, 'Policy Fiasco: The Sabotage of Cabotage Policy Malaysia' (2013)(3)(6) *International Journal of Social Science and Humanity,* 514-516.
[9] M. Igbokwe, *Nigerian Maritime Cabotage Policy and Law: The Case and Advocacy*, (One United Thursday Company Ltd. 2006) 68-69.
[10] O.B.C. Ndikom and O.S. Buhari, 'A Critical Appraisal of Nigerian Cabotage Policy, Regulatory Framework, Employment Prospects and Way Forward (2014)(4)(11) *International Journal of Research in Computer Application and Management,* 74-78.
[11] (n 8) 517
[12] H. Zhang, "Maritime Negotiations in the World Trade Organization: An Analysis of the Doha Round" M.Sc Thesis in Maritime Economics and Logistics, Erasmus University Rotterdam, 2005; M. Stopford, *Maritime Economics* (Abingdon Routledge, 1997) 55-62.

In Nigeria, the Coastal and Inland Shipping Act[13]regulates shipping activities within the country. The law was established to restrict the use of foreign ships in the local coastal trade; promote the development of local tonnage; creation of a fund to finance coastal vessels; and for related matters.Section 2 of the Cabotage Act defines cabotage as follows:

> The carriage of goods by vessel, or any other mode of transport, from one place in Nigeria or above Nigeria waters to any other place in Nigeria or above Nigeria waters, either directly or via a place outside Nigeria and includes the carriage of goods in relation to the exploration, exploitation or transportation of the mineral or non-living natural resources of Nigeria whether in or under Nigerian waters;[14]
>
> The carriage of passengers by vessel from any place in Nigeria situated on lake or river to the same place, or to any other place in Nigeria, either directly or 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;[15]
>
> 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 or non-living natural resources in or under Nigerian waters;[16] and
>
> The engaging, by vessel, in any other marine transportation activity of a commercial nature in Nigerian waters and, the carriage of any goods or substances whether or not of commercial value within the waters of Nigeria;[17]

Accordingly, the Cabotage Act was instituted to reserve the commercial transportation of goods and services within Nigeria's inland coastal waters to vessels flying the Nigerian flag and owned by persons of Nigerian nationality. Once again, it was created to ensure that local shipping companies are protected from any form of disability that may arise from the dominance of foreign

[13] Coastal and Inland Shipping Act 2003 (Herein Cabotage Act).
[14] Cabotage Act 2003 (n 13), s 2(a).
[15]Ibid, s 2(b).
[16]Ibid, s 2(c).
[17]Ibid, s 2(d).

ships in transporting goods within Nigerian waters.Therefore, the Cabotage Act seeks to restrict domestic coastal trade of foreign vessels in order to reserve coastal trade for Nigerian nationals only. It also provides that a vessel not wholly owned or operated by Nigerian nationals, built and registered in Nigeria, shall be engaged in the domestic coastal transportation of goods and passengers within coastal, territorial or inland waters, or at any point within the exclusive economic zone waters of the Nigerian area.[18]This does not entirely exclude the participation of foreign owned vessels in the Nigerian cabotage trade. However, to allow a foreign-owned vessel to engage in coastal trade, a person domiciled in Nigeria and acting on behalf of a foreign-owned vessel must submit a license application to the Minister of Transport. The license is issued based on the fulfillment of certain conditions specified for the applicant as stipulated in the law.[19]
Therefore, the main purpose of the Act is to promote ownership of Nigerian vessels and limit the use of foreign vessels in Nigerian maritime trade within the country. It also aims to strengthen the country's economy through indigenous ownership of ships and involve Nigerian ship owners in the business of freight transportation and other services in the field of Nigeria's inland waterways. Therefore, the Act allows Nigerians involved in maritime activities to invest heavily in local coastal trade by acquiring or owning ships and conducting coastal trade with them. However, it also allows Nigerians to manage ships in partnership with foreign partners in order to gain skills in the business. This should be on a limited scale to allow for local content via fully indigenous businessmen participating in this area of the country's economy.

Thus, it has been pointed out that the laws prohibit foreign vessels from operating in the country's territorial waters, except in compliance with the Cabotage Act. There shall be no sacred cow when clampdown on erring vessels commences. The Nigerian Maritime and Safety Agency wants to increase the number of Nigerians involved in the maritime side of the country's business and is working closely with the Nigerian Content Development and Control Board to obtain a joint

[18]Cabotage Act 2003 (n 13), s 3.
[19]Ibid, s 15.

classification of vessels operating under the Cabotage Act in order to ensure full application of the Act.[20]

Despite the Cabotage Act's commendable provisions on indigenous ownership of ships and their full responsibility for coastal trade within Nigerian territorial waters, much is still missing from the system. Since the enactment of the Coastal Shipping Act in 2003, commercial operations for the transportation of goods, services and passengers in Nigeria's inland and coastal waters continue to be dominated by foreign-owned vessels and foreign crews. Few indigenous marine vessels are involved in the coastal trade with very little cargo production. Domestic shipping companies do not own any commercial deepwater vessels and few are involved in the operation of charter vessels and most of them are foreign owned vessels. Few indigenous vessels are registered with the industry and also very few indigenous crew. Again, a close examination of the Nigerian flagged ships will show that most of these ships are actually owned by some foreigners. From the above, Nigeria's maritime sector,[21] including the coastal shipping sub-sector, is undoubtedly dominated by foreign-owned and foreign vessels.

As explained above, the above situation arose because Nigeria does not have sufficient domestic capacity in the aspects of coastal navigation property and infrastructure covered by the Act. Not only[22] in the above Nigeria lacks the capacity, but also the manpower and the ability to make the most of this sector. As a result, the law maintains a liberal coastal navigation policy through the use of an internationally recognized waiver system. The waiver is based on any of the following principles of Unavailability, Reciprocity andBilateral Agreement.

1. [20] V. Obia, 'Cabotage Act: NIMASA's Bold New Steps to Protect Indigenous Operators'<https://www.thisdaylive.com-cabotage > accessed 14 October 2022.

[21] L. Okoroji, and W.I. Ukpere, 'A Strategic Reposition of the Maritime Industry for Economic Recovery and Sustainability: The Cabotage Act' (2011)(5)(14) *African Journal ofBusiness Management,* 5658-5663.

[22] Cabotage Act 2003 (n 13), ss 3 to 6.

Different nations adopt any of the exemption principles depending on their respective relationships to any country of origin or flag of a ship, and some exemptions are granted on highly unfavorable terms in an effort to protect ships flying the indigenous flag. However, the Nigerian Cabotage Act operates a waiver system based on unavailability.[23] The conditions for the granting of waivers are expressly established to prevent the waivers from being used to subvert the noble purposes of the law. For waivers to be granted and depending on the application the Minister of Transport must be satisfied that the requirement for the waiver is that the vessel is not available locally. The Act also requires the Minister to follow the prescribed order of waiver, i.e. a joint venture between Nigerians and non-Nigerians, must be given first priority in establishing the proper conditions for the waiver. When this is not available, a 100 percent foreign owned vessel is licensed to provide the required service. This is to ensure that the nation does not simply lose the benefits of any contracts because there is no national ship to do the service.

However, some pitfalls, flaws and weaknesses of the cabotage system in Nigeria have been pointed out. For example, it has been said[24] that the conditions set for an exemption or license to foreign companies are so straightforward that more foreign vessels are likely to be granted licenses and waivers to engage in coastal shipping in Nigeria. This is due to the fact that there is currently not a sufficient Nigerian fleet to meet the needs of Nigerian shipping. Thus, with the inclusion of the waiver, most of the responsibilities of the native ship owners were transferred to the foreigners, making the Cabotage Act ineffective and at the same time incompatible with the purposes of the law or the object of the law *ab initio*. The Nigerian ships that would be used to transport these cargoes must suffer at the expense of these foreign ships, which has resulted in foreign dominance of the country's maritime industry.

In any case, long-term chartered foreign-flagged vessels to Nigerians are allowed to participate in the country's cabotage trade. This is unavoidable as there are very few local ships plying the Nigerian coast, so most of the ships used for shipping are chartered, without which inshore shipping trade would not easily take place in the country. In order for this to be possible

[23]Ibid, Act 2003, Pt 111.
[24] C.A Iroegbu, 'Weaknesses of the Ongoing Reforms in the Maritime Industry,' *The Fronteria Post,* May 27, 2010.

within the jurisdiction and to attend to the privacy of the vessels that operate in the oil sector and their continuous movement, the law allows dual registration by allowing the temporary registration of these vessels in the country.[25] The practical implication of these provisions is that foreign shipping companies are guaranteed at least a minimal continuing participation in the country's coastal trade when the stipulated conditions are met. The term minimum period now seems to translate to the long term, as issues of indigenous ownership of local ships and crews are not encouraged by the government's deliberate policy of upgrading their skills and capabilities.

And the fact that the issue of chartered foreign vessels may be compromised, comprehensive and practical enforcement provisions are laid down in the law[26] to achieve its laudable objectives. The law contains provisions to limit, if not completely eliminate, disruptive practices by stakeholders, but the problem is implementation. Therefore, ownership standards are already very strict and any violation of those provisions is penalized by law.[27] Therefore, it would be very difficult to have reasonable and respectable citizens lending their names as a front to foreign ship owners. Once again, the law establishes that the operation of coastal navigation will have little or no cost to the public, since the beneficiaries will contribute to the successful operation of the coastal navigation system.[28] This is a commendable provision provided that the beneficiaries have acquired sufficient capacity to pay the bills for the proper functioning of this provision. This is possible for foreign ship owners, but for indigenous ship owners, compliance with the above provision may not be possible in view of the many problems they face in the industry.[29]

INDIAN MERCHANT SHIPPING ACT 1958

The rules of coastal navigation in India were restrictive.[30] Under the rules, it was necessary to use the connecting services provided by Indian shipping companies to pick up goods from shipping hubs in Sri Lanka and then transport them between various ports in India, even while entry to

[25] Cabotage Act 2003 (n 13), s 27.
[26]Ibid. Pt VI.
[27]Ibids 23.
[28]Ibidss 43-44.
[29] (n 20).
[30] Indian Merchant Shipping Act (MSA) 1958.

foreign flagged container ships was restricted. This was a continuation of the agreement that the Sri Lankan government signed with India and Japan to use the Eastern Container Terminal in Colombo, Sri Lanka, to transport the country's cargo. The coastal shipping rules also said that foreign ships could only operate within Indian ports when Indian ships were not available and after obtaining a license from the Indian maritime regulator. This caused long delays and congestion at ports in India.

Therefore, the Maritime Act was considered protectionist and was aimed at protecting Indian shipping from foreign competition. This backfired for India, as some countries began to relax their coastal shipping laws to promote free trade and become major shipping hubs, creating stiff competition for India. In other to counteract the above, in 2005 the Indian government attempted to relax coastal navigation rules and thus sought to allow feeder and cargo services to and from the port of Mumbai and other major ports in the country. To achieve these ambitions, the government has started developing the Sagarmala project to bring greater maritime connectivity in the country. While the above is happening, the Sri Lankan government has canceled its Eastern Container Terminal deal with India and Japan, and the Adani Group has also decided to participate in the development of the Western Container Terminal in Colombo port, to promote Sri Lankan shipping. These events led or agitated the Indian government which decided not to stick to the restrictive coastal shipping rules.[31]

As a result, in May 2018, the Modi government removed restrictions on coastal navigation and focused on promoting the Sagarmala project, which aims to unlock the full potential of the country's coastline and waterways. The purpose of this facility is to stop the increasing proportion of Indian container shipments carried in foreign ports. Therefore, the coastal shipping rules have been liberalized keeping in mind the fact that India needs to modernize its ports and eventually move to the concept of smart ports. However, there are concerns that with the relaxation of the law that has led to the entry of foreign carriers near the Indian coast, there could be strategic and security challenges. Apart from this, the movement to ease the restrictions did not find support

[31]N. Basu, 'What is Cabotage Law & Why India Plans to Restore the Sea Transport Rules it Scrapped in 2018?' <https://theprint.in/author/nayanima-basu> accessed 5 January 2023.

from the Indian shipping industry as it had to deal with foreign competition. Therefore, it is now said that the Indian government plans to bring back the law as it existed before i.e. the restrictive coastal navigation rules.[32]

INDONESIA MARITIME LAW 2008

In Indonesia, before 2008, the coastal navigation policy was unrestricted. It allowed foreign-flagged ships to operate freely in Indonesia's inland waterways. However, the country began to implement the principles of coastal shipping when Indonesia's domestic shipping industry nearly collapsed as a result of the involvement of foreign ships in coastal transportation. In 2008, the Indonesian government implemented restrictions on coastal shipping[33]and thus the maritime and shipping industry in Indonesia underwent significant changes with the introduction of the new coastal shipping law. This was meant to provide jobs and a larger market share for Indonesian companies. Article 8 of the Indonesian Maritime Law[34] establishes the following principles:

> That activities related to inland shipping will be carried out by an Indonesian shipping company using a vessel flying the Indonesian flag and manned by Indonesian crews;[35] and
>
> Vessels not flying the Indonesian maritime flag are prohibited from transporting passengers and/or cargo between islands or ports in Indonesian waters.[36]

The effect of enactment of this maritime law also requires Indonesian shipping companies with foreign shareholders to own at least one very high gross tonnage self-propelled vessel. Furthermore, it is imperative that all vessels operating in Indonesian waters adhere to the principles of coastal navigation, whether or not they are engaged in domestic shipping activities. Companies are required by law to be established and licensed as 'Indonesian Shipping Lines' and must be incorporated in Indonesia and must maintain a low percentage of foreign ownership. The

[32] Reinstallation of Cabotage <https://dst.news/news.aspx?news_id=4701&yr=2020&mm=6 > accessed 5 January 2023.
[33] Maritime Law No. 17 of 2008.
[34] Indonesian Maritime Law of 2008.
[35]Ibid, art 8(a).
[36]Ibid, art 8(b).

application of restrictions on coastal navigation also paved the way for the liberalization of port management and the participation of the private sector in port development.

When coastal shipping rules were first introduced, they did not apply to oil and gas companies, but only to passenger and cargo companies. However, the Indonesian government later changed the rules to bring the activities of oil and gas companies under the law. This was done to encourage the Indonesian shipbuilding industry to develop and protect member companies of the Indonesian Ship Owners Association. Coastal shipping policies are particularly important to the oil and gas industry, especially when oil and gas fields are located offshore but still within the country's territorial waters. With no Indonesian vessels capable of meeting the needs of the oil and gas sectors, exemptions were made in 2011 to prevent production losses. To this end, two regulations have been introduced allowing foreign-flagged vessels to continue operating in Indonesian waters in the oil and gas sector.[37] The said regulations had extendable terms. The first deadline for the regulations was December 2012 for two types of offshore support vessels; platform supply vessels and tractor supply vessels handling dynamic situation two and three. The next deadline was December 2013 for offshore dredging and construction vessels.

At the end of 2013, the Ministry of Transport extended the exemptions through another maritime navigation regulation for ships.[38] Exemptions for oil and gas exploration vessels, offshore construction vessels, dredging, salvage, and subsea work ended in December 2014. Exemptions for cranes, semi-submersibles, deep-water drilling vessels, bid aids, and swamp bridge decks finished in December 2015.

With the implementation of the coastal navigation rules, the Indonesian shipbuilding industry is now able to build various types of maritime vessels with its growing local expertise. The Indonesian modification of the coastal navigation principles is seen and can be interpreted as a measured strategy. This is because it is one flexible enough to allow a relaxation of the deadline if the internal supply of local ships is not sufficient, and yet strict enough to stop the exemptions when the domestic industry has improved its production capacity. It is clear that this policy has

[37] Regulation No. 22 of 2011 and Regulation No. 48 of the Ministry of Transportation of 2011.
[38] Regulation of the Ministry of Commerce No. 10/2014.

succeeded in promoting better development of the Indonesian shipbuilding industry and should be applied in this country.

Strict coastal shipping policies required ownership and registration of ships and crew and ship building and repair activities to be carried out by local citizens. The motive of coastal navigation laws mainly includes protection of the integrity of coastal waters, maintenance of locally owned maritime infrastructure for national security purposes, guarantee of safety in congested territorial waters, and protection of the local economy by restricting the rights of foreign ships. However, the Maritime Law has also generated a lot of controversy, as it is generally believed that opening up the domestic shipping market to foreign carriers will lead to greater competition and efficiency, and therefore lower freight rates for the shippers.[39] This is the new fashion in relaxing *hitherto* restricted or otherwise restricted coastal navigation systems, as we are now seeing in some countries.

COMPARATIVE ANALYSIS

In other jurisdictions such as India and Indonesia, their shipping, especially in the field of cabotage, has developed commendably as their economies have been positively affected. These developments are the result of deliberate government maritime policies and their implementation or enforcement.On India's side, the country is developing a modern shipping industry after Sri Lanka canceled its agreement with the country to use the Western Container Terminal for transshipment. As a result, the Indian government has embarked on the development of the ambitious Sagarmala Modern Port Project. This is to ensure local content and the development of the local shipping industry to implement its coastal shipping policy effectively and efficiently without relying on any external assistance. In the case of Nigeria, notwithstanding that the Federal Government has not on its own embarked on any new port development, it has not taken necessary steps to maintain the existing major ports of the country, which are heavily deteriorated. According to the then Managing Director of the Nigerian Ports Authority, on the rehabilitation of the Tin Can Island port, the situation in the port is worse despite the fact that all other ports also need some

[39] (n 9).

level of rehabilitation. The Port Boss maintained that what was resorted to have been doing is palliative work, trying to manage the situation. Accordingly, it has reached a stage where palliative work is no longer possible. What needed to be done was a need assessment at the authority level to look at that infrastructure. It was then decided that it was time to completely rebuild that infrastructure. Tin-Can Port is in the worst condition, absolutely terrible. It's time to rebuild and rehabilitate Tin-Can port. There are some docks in other ports that need to be rebuilt. Some docks in Apapa, Warri, Calabar, Onne and almost all ports need rehabilitation. Our assessment showed we need around $800 million to rehabilitate all ports.[40]

For its part, the Indonesian shipping industry seems to be more interesting. At a certain time, the country allowed foreign shipping companies to participate in its coastal shipping activities. While this arrangement was in progress, the country took the opportunity to develop its capacities and capabilities in the field of shipping and thus properly positioned the local shipping industry. After that, the foreign companies were no longer allowed in its cabotage services and since then the local shipping companies have been carrying out their coastal navigation policy efficiently and effectively. Even though the current coastal shipping situation in Nigeria is similar to the previous situation in Indonesia, it appears that the Federal Government of Nigeria is not taking advantage of this situation to develop the country's shipping capacities and capabilities to position and strengthen adequately the shipping industry to carry out local coastal navigation operations for the country in an effective and efficient manner. Instead, the federal government continues to lag behind and fail to invest enough to develop the country's maritime sector.

In addition to not making funds available to build the capabilities and capacities of the shipping industry in the country, the federal government is also not working to strengthen shipping regulatory agencies so that they can carry out their functions effectively. The government can do this by amending or repealing existing laws and enacting new laws that will give these agencies greater powers or strengthen them to carry out their functions effectively and efficiently. The lack of strengthening of these agencies has resulted in their weakening to demand compliance in their

[40] Y. Babalola, 'Port Charges: No Tariff Increase' <https://leadership.ng/port-charges-no-tariff-increase-in-30-years-npa/ of March 2023.

jurisdictions and, therefore, not obtaining sufficient benefits from this sector of the country's economy. By not doing so, the government has shown its weakness in the management and regulation of the maritime transport sector.

Despite displaying such incompetence, the Nigeria's federal government does not plan to relinquish its control over the management of this sector of the economy as is now practiced. The transfer by the federal government of the management of the maritime sector to other levels of government or to the private sector would ease the burden on the federal government in this area. The federal government will then focus on formulating policies and enforcing existing laws that affect them. Instead, what the federal government has done is cede some aspects of the operations of some ports to private companies. Although this concessioning has recorded some minor successes, it is not comprehensive enough to generate much-needed profits for the industry, and most of the concession agreements have expired and have yet to be renewed. This is slowing down investment and development in the ports by existing concessionaires as they are unsure about renewing their agreements. In addition, the concessionaires are mostly foreign companies and, therefore, the concessioning agreements lack local content, since many local transport and/or logistics companies have been excluded from the concession agreements. This is another way the federal government is stifling local companies interested in the country's shipping industry, hurting the growth of capacity and the abilities of local shipping companies to do domestic shipping.

By not encouraging or involving local shipping companies to develop their skills and capabilities as they should as in other jurisdictions, local shipping companies lack the necessary competence that is required in modern shipping. This has negatively affected the growth of the maritime industry in the country and in bringing in the much-needed benefits from this sector of the country's economy.

DERIVABLE BENEFITS FOR NIGERIA

From the above, many benefits can be derived from the shipping activities and operations of India and Indonesia. These benefits include:

1. The need for government's concerted efforts to see that the local shipping transportation industry thrives through huge investment for the development of the ports.

2. There is shift in policy direction and changes in extant laws and regulations to realize efficient and effective local shipping transportation system.
3. Adoption of various methods to allow foreign vessels to operate local cabotage within a limited time frame for the local shipping industry to develop its capacities and capabilities and then shutting out the foreign vessels participation.
4. A relaxed coastal shipping policy could jeopardize the employment opportunities of the citizens, thesecurity and the nature of the maritime activities of a country. It may threaten the interests of the local shipping industry. It can lead to the collapse of the local shipping industry as a result of the involvement of foreign vessels in coastal shipping in a country.
5. On the other hand, relaxed coastal navigation has the advantage of relieving congestion, backlog or delays in a port in a country that does not have sufficient vessel capacity. In addition, it is supposed to help increase port productivity and benefit foreign container liner companies. It leads to competition and modernization of ports and eventually moves to the concept of smart ports.
6. Restrictions create business opportunities and increased market share for local companies within the country. Lead the local shipbuilding industry in developing and protecting member companies of the State Ship Owners Association. The restrictions can be used in certain shipping areas such as oil and gas like in Indonesia and are limited in terms or renewable in short periods. It leads to the growth of national or local expertise in shipbuilding.
7. A combination of both systems can be adopted as in Indonesia, where the coastal navigation system is flexible enough to allow relaxation with a deadline if the capacity of local vessels cannot meet coastal navigation needs, but sufficiently stringent enough to stop exemptions when the industry has improved domestic production ability. It is clear that this policy has succeeded in fostering the development of the Indonesian shipbuilding industry and should be applied in this country.
8. The ownership of the ports is now being changed from the government to the private sector or privatization. Port authorities are also moving towards more independent private management. Nigeria is also trying this by allowing the development of the Lekki Sea Port by a private commercial entity.

CONCLUSION

Shipping is an essential part of a country's economy. This is more so where such country has a vast coast line and navigable waters like Nigeria, which connects to other countries. This enables the country to participate better in international trade and open up its internal market to the outside world.

However, in order to realize or achieve the above benefits, a country's maritime transport must be properly manned and managed by the government or the competent authority responsible for it. This is done through the relevant legislation and regulatory bodies necessary for the sector to function optimally; otherwise, the much-needed benefits would not be realized from the sector. This seems to be the position of Nigeria which had a long history of neglecting the shipping sector after a brief period of colonial rule.This was due to several factors whichinclude the ignorance of the leaders about the benefits of this sector for the economy, the lack of knowledge of the operations of this sector for the economy of the nation, the discovery of oil and the oil boom of the 1970s and political naivety and tribal sentiments against the people in the vast coastal region of the country, which happened to be the same region where oil was discovered and exploited.Others are the lack of political considerations and willingness to develop shipping, and the lack of knowledgeable professionals relevant in this field to advise the governments of the time accordingly and so on. The above being the case, the shipping sector of the country's economy has been neglected and not been developed to reap the required benefits of this sector for the nation. Not only was maritime transport sector not developed, but the governments did not establish the adequate legal framework and regulatory bodies necessary to manage this sector of the economy. This situation lasted for a long time until oil revenues began to decline and the government had to find other sources of income for the country.

Consequently, since the return of the political administration in the country, there have been some developments by the introduction of some legislation such as the Cabotage Act[41] and the establishment of some regulatory bodies such as Nigerian Maritime Administration and Safety

[41] Cabotage Act 2003 (n 13).

Agency, making the Nigeria Shippers Council, the economic regulator of the ports and incorporating the private sector into port management through the concession. A maritime university has also been established to help train and provide manpower for this sector of the country's economy. While these improvements have some benefits, the shipping industry still faces many challenges. Some of the challenges include inconsistent government policies, outdated legislation, weak regulators, too many regulators, high costs of doing business in ports through illegal charges, and high level of corruption, and so on. Therefore, the country's shipping industry and activities are still lagging so far and thus do not bring appropriate and sufficient benefits to the country's economy as compared to those of the above countries.

RECOMMENDATIONS

1. The federal government of Nigeriashould endeavour to cause proper and adequate development of the ports, particularly the major ports of the country, to increase their respective capacities for better and more revenue generation for the country.
2. The federal government should take necessary steps to amend the extant laws and regulations to bring them in *tandem* with the international standardsand align its maritime industry with global best practices, as is the case in the above stated countries.
3. The federal government should take necessary steps to ensure compliance with the extant laws and regulations of the shipping industry to prohibit unauthorized agencies from imposing levies and charges in the industryso as to make for easy of doing business in the maritime sector of the economy.
4. The federal government should take proactive steps to encourage the shipbuilding industry to build enough ships locally to meet the requirements of the country's coastal shipping activities instead of relying on foreign ships. This can be done through giving them generous substantial support from the Coastal Vessels Finance Fund. This is more so as the foreign vessels have now decreased significantly due to the fact that many of them have recently left the country as a result of many businesses abroad due to the war between Russia and Ukraine.
5. The federal government should apply the Indonesian model of cabotage regimes of both restrictive and relax styles. This is because the model is one flexible enough to allow a relaxation

of the cabotage regime within a deadline if the internal supply of local ships is not sufficient, and yet strict enough to stop the exemptions when the domestic industry has improved its production capacity. With the implementation of this coastal navigation rules, the Indonesian shipbuilding industry is now able to build various types of maritime vessels with its growing local expertise. The Indonesian modification of the coastal navigation principles is seen and can be interpreted as a measured strategy. It is clear that this policy has succeeded in promoting better development of the Indonesian shipbuilding industry and should be applied in this country.

Consequently, should the above recommendations be adopted and applied in Nigeria, the local shipping transportation would be better positioned to garner in the enormous benefits for the country.