

Time to Re-Focus NIMASA

Day in, day out the newspapers and tv stations alike are awash with reports of visits by permanent secretaries to President Muhammadu Buhari to make presentations on the state of their respective ministries (an interesting side bar: a good number of these permanent secretaries are women so perhaps truly, hope springs eternal for Nigeria!). As the President's spotlight zeroes in on these ministries, departments and agencies (MDAs), one parastatal that stands out as being deserving of highlighting because it is in dire need of unbundling and re-organisation, is the Nigerian Maritime Administration and Safety Agency (NIMASA). Only recently NIMASA's Director General, Ziakede Akpobolokemi was sacked and replaced by Callistus Obi, the Executive Director, Maritime Labour and Cabotage Services, as the acting DG and within 72 hours the Federal Government did a turnaround and replaced him with Haruna Jauro, the Executive Director, Finance and Administration. As expected the rumour mill went into overdrive with insinuations as to what might have triggered the sudden manoeuvrings in NIMASA.

NIMASA is the foremost maritime regulatory agency in Nigeria. It was established in 2006, arising from the merger of the National Maritime Authority (NMA) and the Joint Maritime Labour Industrial Council (JOMALIC). The agency derives its powers from a combination of the following laws, the Nigerian Maritime Administration and Safety Agency Act 2007, the Merchant Shipping Act 2007 and the Coastal and Inland Shipping (Cabotage) Act 2003. It is charged with a vast array of functions which are contained in S. 22 of the NIMASA Act and include amongst so many others the responsibility to pursue the development of shipping and regulate matters relating to merchant shipping and seafarers; administer the registration and licensing of ships; establish maritime training and safety standards; regulate the safety of shipping as regards the construction of ships and navigation; carry out air and coastal surveillance; administer the provisions of the Cabotage Act 2003; provide maritime security; and establish the procedure for the implementation of international conventions on maritime safety and security, maritime labour and commercial shipping to which Nigeria is a party.

In furtherance of a part of its functions under the NIMASA Act the agency appears to have developed a comprehensive training programme for seafarers called the Nigerian Seafarers Development Programme (NSDP) which was designed to develop the capacity

of workers in the maritime sector. Under this programme from 2011 till date NIMASA was reported to have spent N20 billion in training some 2,500 seafarers. The NSDP, a scholarship scheme was supposed to have been jointly funded by NIMASA and State governments in the ratio of 40:60 but due to the huge capital requirement and the seeming poverty of so many States NIMASA ended up funding the scheme exclusively. Locally, NIMASA has built a specialised maritime university and a maritime science and technical college in Delta state as well as maritime institutes in six universities across the country. The Nigerian Maritime University is now ready to begin academic activities at its temporary campus at Kurutie, Delta state. The agency also commenced the construction of a shipyard/dockyard in 2014 and set up a steering committee with the aim of establishing a national carrier shipping line through a public-private partnership arrangement. Other notable achievements for the agency have been the recognition of NIMASA Seafarer Certification by the United Kingdom, Australia, Egypt, the Bahamas, Vietnam and the Dominican Republic.

Notwithstanding these achievements, experts in the maritime sector have observed that the regulatory requirements in the NIMASA Act are so far and wide reaching that NIMASA currently lacks the capacity to ensure compliance with the provisions of the Act. An example is the requirement in S. 27 that NIMASA record, train, safeguard and investigate disputes relating to employment of dockworkers and seafarers. Yet another major function of the agency is to ensure the successful implementation of the Cabotage Act. The Act was passed in order to delimit the participation of foreign vessels in inland and coastal shipping and to promote the development of indigenous shipowners in the maritime sector. Specifically, the Act makes provision for a Cabotage Vessel Financing Fund (CVFF) which is meant to offer financial assistance for the purchase of shipping vessels by Nigerians.

The Act remains only partially implemented because the Maritime sector is still dominated by foreign - owned vessels and a major reason for this is the waiver clause in the Act which allows foreign vessels to operate under waivers from the Minister of Transport where there is a 'proven' lack of indigenous capacity. Going forward it has been recommended that Nigerians be given a right of first refusal to ascertain whether they have the capacity to render the services required under the Act. NIMASA's disbursement of the Cabotage Vessel Financing Fund (CVFF) has also been criticised as several indigenous shipowners have complained that

they have not benefited from it, despite fulfilling all required conditions.

In looking at the way NIMASA has been run in the past and at the present government's pressing need to diversify public sector revenue, the maritime industry appears to be one of the few real opportunities to do so, being a sector that still remains genuinely profitable for market participants. It is well reported that between 2009 and June 2015 NIMASA's total generated revenue reached an astonishing \$1.49 billion. At today's official (though hardly ever seen) Central Bank exchange rate (\$1/N197) that is N293.53billion. Each year since 2009 there has been a steady increase in revenue collection by an average of nearly 11%, so NIMASA has become quite profitable for the Government. In the country's current harsh economic climate caused, among other factors, by the underperforming Naira and the pressures that the US Dollar exerts on it because of the single commodity based revenue stream the Government operates, the recently recorded revenue generated by NIMASA stands in stark contrast to the trend of ailing government ministries and poor state internally generated revenue programmes.

Another significant commitment of the new government is to effectively remove the occurrence of corruption in public life and it has become apparent that President Buhari intends to do this partly by requiring proper accountability within government MDA's. Relatedly the issue of remittance of all public revenue to the government's coffers has been a major bone of contention in the past. In 2013 NIMASA was on a list with the NNPC, the Nigerian Ports Authority (NPA), the Asset Management Corporation of Nigeria and the National Pensions Commission, of major offending agencies who had failed to remit generated revenue to the Government Treasury. NIMASA alone for instance collected USD \$242.3million on behalf of the FGN in 2013 and increased that by \$45.7million in 2014.

However, an indigenous shipping company, Elschon Nigeria Ltd has filed a suit in the Federal High Court (FHC), challenging the authority of the government to require NIMASA and two other agencies (the NPA and the National Inland Waterways Authority) to pay the sums generated by those agencies into the Consolidated Revenue Fund (CRF) of the Federation. Elschon in their suit asserted that a directive issued by the Minister of Finance requiring Government agencies to pay all revenues into the CRF and to close all other deposit money accounts held should have excluded these three agencies and that any requirement to so remit was unconstitutional.



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They argued that because the moneys had been designated for specific purposes including the statutory revenue accruing to the Cabotage Vessel Financing Fund (CVFF), the statutory financial allocations to the Maritime Fund and to the Maritime Academy of Nigeria collected, kept and administered by NIMASA, these revenues were exempt from payment into the CRF. The suit is pending in the FHC, Ikoyi Division before Honourable Justice Buba.

More recently, in June 2015 the National Economic Council again referenced NIMASA as one of the government agencies that serially failed to remit its revenues into the CRF as required by sections 80 and 162 of the Constitution. NIMASA, being a federal agency established to operate within the long-term policy plans of the Federal Government and for the benefit of the Federal Republic of Nigeria must operate with that as an overriding objective. What is clear is that the efficient and transparent management of the agency and its revenue stream is imperative to the delivery of a public sector without corruption.

In order to achieve its mandate under the Act, NIMASA must be re-focused, repositioned and restructured for the greater good of the regulation of our maritime sector, a sector with enormous potential to generate much needed income for the government and boost employment, though the challenges such as poor credit financing, infrastructural deficit, ineffective implementation of the laws and in the past, a lack of political will, cannot be underestimated.

