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Negotiating Group on Maritime Transport Services

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COMMUNICATION FROM THE FEDERAL REPUBLIC OF NIGERIA

Response to Questionnaire on Maritime Transport Services

The following communication is circulated at the request of the Federal Republic of Nigeria to Members of the Negotiating Group on Maritime Transport Services.

I. Market structure

Vessels

1. What is the structure of the nationally-owned or operated fleet, in terms of total number of vessels, tonnage, and flags by principle types of vessels.

STRUCTURE OF NATIONALLY-OWNED OR OPERATED FLEET				
Types of vessels	Number of vessels		Deadweight tonnage	
	National flag	Foreign flag	National flag	Foreign flag
Oil tankers	-	-	-	-
Liquified gas carriers	-	-	-	-
Chemical tankers	-	-	-	-
Combination carriers	-	-	-	-
Ore/bulk carriers	1	-	16,000	-
General cargo	8	-	115,384	-
Container ships	-	-	-	-
Refrigerated carriers	-	-	-	-
Specialized cargo	-	-	-	-
Ro-ro	-	-	-	-
Ferries and passengers	-	-	-	-
Other	-	-	-	-
All vessels	9	-	131,384	-

Vessels of 1,000 gross tonnes and above.

Trade

2. Total international trade carried by sea in 1993 was 102,617,901 metric tonnes.

No data available in value.

3. Estimated share of total international trade carried by sea in 1993 is about 90 per cent.

Imports - 14,419,086 metric tonnes.

Exports - 88,198,815 metric tonnes.

Data on value not available.

4. Estimated share of total international trade carried by national flags. Partners and other vessels in 1993 are as follows:

National flag vessels - 36.24 per cent

Partner's flag vessels - 24.11 per cent

Cross trading flag vessels - 39.65 per cent

(Note: Data available only for the liner conference cargo shared by the National Maritime Authority (NMA)).

5. Date not available.

Organization of cargo

6. The total international trade carried by liner shippers in 1993 was 1,107,936,536. (Note: Data available only for the liner conference cargo shared by the NMA).

7. Data not available.

8. Data not available.

9. Data not available.

10. Data not available.

11. Data not available.

Ports and auxiliary services

12. (a) Total national port traffic for international trade (1993):

General cargo imports - 14,419,086 metric tonnes.

General cargo exports - 6,065,862 metric tonnes.

Crude oil exports - 82,132,953 metric tonnes.

- (b) International trade traffic through the major ports (1993):
- | | | | |
|-------|---------------------|---|--------------------------|
| (i) | Apapa port | - | 7,657,399 metric tonnes. |
| (ii) | Tin Can port | - | 2,574,674 metric tonnes. |
| (iii) | Warri port | - | 1,861,362 metric tonnes. |
| (iv) | Port Harcourt ports | - | 5,240,471 metric tonnes. |
| (v) | Calabar port | - | 236,936 metric tonnes. |
13. Presence of foreign suppliers in the following maritime auxiliary services:
- | | | | |
|-----|--------------------------------------|---|-----|
| (a) | Container station and depot services | - | Yes |
| (b) | Maritime agency services | - | Yes |
| (c) | Maritime freight forwarding | - | Yes |
| (d) | Maritime cargo handling | - | Yes |
| (e) | Storage and warehousing | - | Yes |
| (f) | Customs clearance services | - | No |
| (g) | Maintenance and repair of vessels | - | Yes |
14. No.

II. Regulatory structure

General

1. The institutional arrangements applicable to the international maritime transport sector are as follows:

- (a) Federal Ministry of Transport;
- (b) National Maritime Authority;
- (c) Nigerian Ports Plc.;
- (d) Nigerian Shippers' Council.

Measures taken are specific to maritime subsector and horizontally applicable to other sectors.

2. The overall regulatory approach applicable to bulk (dry and liquid) shipping is as contained in the National Shipping Policy Decree No. 10 of 1987, Section 9, Subsection (1) and (2) which state as follows:

- 9(1) "Subject to Subsection (2) of this Section, and in addition to cargo as defined under the UNCTAD, Code of Conduct for Liner Conferences, national carriers shall have the right to participate in the carriage of bulk cargo (dry and wet);"
- (2) "The participation of national carriers in the carriage of bulk cargoes to and from Nigeria shall be subject to carriage right to not less than 50 per cent of such cargoes."
3. The overall regulatory approach to liner shipping in Nigeria is as contained in the National Shipping Policy Decree No. 10 of 1987, Section 3, Subsection (a) and (h) as follows:
- Subsection 3(a) "Correct any imbalance in the Nigerian shipping trade for the purpose of implementing the provisions of the UNCTAD Code of Conduct for Liner Conferences, especially to observe the ratio of 40:40:20 in respect of carriage of goods to Nigerian ports."
- Subsection 3(h) "Increase the participation by indigenous Nigerian shipping lines in ocean shipping through the application of the provisions of the UNCTAD Code of Conduct on General Cargo and by entering into bilateral agreements, or other suitable arrangements."
4. Not applicable.
5. The Nigerian ports management and the undertaking of auxiliary services by private persons in port areas are regulated by the Ports Act CAP. 155 and its amendments.

Under the Act, a private person wishing to undertake auxiliary services activities in port areas shall apply to the Minister of Transport who is vested with the powers to grant licence to private citizens or foreigners to utilize the water front for commercial purposes.

6. "International maritime transport" is not a term defined in the Nigerian Merchant Shipping Act nor in the National Shipping Policy Decree No. 10 of 1987. But by common understanding the term refers to the carriage of cargo or passenger by sea between a Nigerian port and a foreign port. Coastal shipping (cabotage) is not covered by this definition.
7. "National shipping enterprise" is not defined in the Nigerian Merchant Shipping Laws. But anyone interested in establishing a shipping company in Nigeria must register with the Corporate Affairs Commission and the National Maritime Authority.

Market access

8. (a) No limitation.
- (b) Yes, the National Shipping Policy Decree No. 10 of 1987 for the implementation of the 40:40:20 cargo sharing formula of the UNCTAD Code of Conduct for Liner Conferences.
- (c) The National Maritime Authority shares cargo among the shipping companies operating in Nigeria every week through the cargo control and cargo sharing/Allocation Committee meeting with shipping lines/agents. The Authority identifies and allocates cargo through the form "C" series, which importers and exporters are mandatorily expected to fill and return to the Authority.

- (d) (i) There is limitation to the total number of foreign natural persons that may be employed in the maritime transport service sector in Nigeria. Section 7, Subsection (g) of the National Shipping Policy Decree No. 10 of 1987 states: "100 per cent of the crew at least 75 per cent of the shipboard officers and whenever possible Chief Engineers, are Nigerians."
- (ii) Not applicable.

9. There are measures which restrict or require specific types of legal entity or joint venture through which a maritime transport service suppliers may supply a service in terms of:

- (a) Commercial presence: Section 7, Subsections 1(a), (c), (e) and (g) of the National Shipping Policy Decree No. 10 of 1987 which state as follows:

Subsection 1: "The Authority may grant national carrier status to a shipping company if:

- (a) "Nigerian individuals or enterprises fully owned by Nigerian individuals have at least 60 per cent of its equity shares and the company is registered in Nigeria;"
- (b) "The head office of the company is located in Nigeria and its management and control is directed from its Nigerian head office;"
- (c) The terms and conditions of the employment of seafarers engaged by the company are in conformity with Nigerian laws and accepted international rules and standards;
- (d) 100 per cent of the crew and at least 75 per cent of the shipboard officers including Captain and Chief Officers and wherever possible Chief Engineers, are Nigerians.

10. There are measures which limit the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or the total value of individual or aggregate foreign investment. For example, Section 7, Subsection 1(a) of the National Shipping Policy Decree No. 10 of 1987 limits the foreign capital investment in a shipping company to 40 per cent. (See full text of the subsection in answer to question 9 above.) However, the 1995 budget has abolished all the limiting laws on investments by foreigners in Nigeria.

11. The conditions for granting the right to fly the national flag are in accordance with the provisions of the Nigerian Merchant Shipping Act of 1962, Sections 306, 307 and 314 as amended and the National Shipping Policy Decree No. 10 of 1987 Section 7, Subsections (a-g) already quoted in answer to question 9.

- (a) No.
- (b) No.
- (c) Yes.

National treatment

12. (a) There are no direct preferential treatment granted exclusively to national maritime services or services suppliers with respect to international shipping, auxiliary services and treatment including operating subsidies granted to national shipping enterprises, discriminatory port or auxiliary services fees, taxes on freight or shipping services.
- (b) There are some indirect preferential treatment granted exclusively to national shipping enterprises in the form of soft loans for ship acquisition and ship building granted by the National Maritime Authority from the Ship Acquisition and Ship Building Fund established under the National Shipping Policy Decree No. 10 of 1987, Section 13.

Access to and use of port facilities

13. All of the services listed are available to the user at all Nigerian sea ports.
14. Pilotage, garbage collecting and ballast waste disposal, navigation aids are mandatory.
15. All the services listed are available on non-discriminatory basis.
16. No.
17. No.
18. No.
19. No.

Most-favoured-nation treatment

20. Yes, liner conference cargo.
21. Plurilateral and bilateral basis.
22. Yes.
23. No.
24. No.
25. No.
26. No.

Government procurement

27. There is a measure relating to access to non-commercial cargo. Although the term "non-commercial cargo", is not defined in the National Shipping Policy Decree No. 10 of 1987. However, Section 9, Subsection 5 states that "ships owned or hired by Nigerian national carriers shall carry at least 50 per cent of the cargoes generated through technical assistance or international aids".

28. No.

Competition law

29. These are contained in the Nigerian Merchant Shipping Act, 1962, No. 30 as amended and the National Shipping Policy Decree No. 10 of 1987.

Shipping conferences

30. There are measures in UNCTAD Code of Conduct for Liner Conferences which render the admission of new members to a particular conference subject to the approval of existing members. However, in recent times, some of the conference lines in the West African route have collapsed e.g., United Kingdom West African Line (UKWAL) and Far East West African Conference (FEWAC).

31. Conference agreements are required to be filled or notified to the National Maritime Authority and the Nigerian Shippers' Council. The above-named authorities could oppose such agreements if they fall short of the legal requirements as provided for in the National Shipping Policy Decree as well as the Nigerian Shippers' Council Decree especially in areas of quantity, quality and capacity of carriage and the financial strength of the parties concerned.

32. Freight rates tariffs applied to conference, are required to be filed with the Nigerian Shippers' Council and also the National Maritime Authority. The two bodies have the power to ensure compliance with tariffs filed or notified to them.

33. Conferences are not required to allow independent rate action.

34. (a) Loyalty arrangements between conferences and shippers are expected to be filed with the Nigerian Shippers' Council.
- (b) Agreements entered into between conferences and outsiders are expected to be notified to the Nigerian Shippers' Council.
- (c) Services contracts between conferences and shippers are expected to be notified to the Nigerian Shippers' Council.

Shipper/carrier relations

35. No special arrangement exists.

36. The Nigerian Shippers' Council Decree empowers the NSC to carry out freight rate negotiations and consultations on matters of common interest especially as provided for in the United Nations Convention on a Code of Conduct for Liner Conferences.