

THE IMPACT OF PRIVATE SECTOR PARTICIPATION IN THE OPERATIONS OF NIGERIAN PORTS AUTHORITY WITHIN THE CONTEXT OF NIGERIA'S PPP LEGAL FRAMEWORK

*Written by **Faruk Sani***

LL B (UDUSOK); BL; LL M (Unilag); LL M (Southampton, UK); Ph.D. (UDUSOK, In View)

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ABSTRACT

The Nigerian Ports Authority (NPA) has always prided itself as the gateway to Nigeria's economy. Conscious of its role to the national economy, it has over the years embarked on system reforms that progressively saw to private sector investments in its terminals, equipment and services. It utilized management contracts, joint venture partnerships, concession arrangements and amortization programmes, among diverse private sector participation models, for a more effective and efficient port operations. The glaring hypothesis is that in spite of these efforts, cargo handling has remained outrageously expensive with its corresponding spiral effect on the cost of goods to ultimate consumers. The fundamental issue, which this paper seeks to identify, is the impact or otherwise of the port reforms to the immediate and remote port's stakeholders. Using the doctrinal method of research, the paper utilized primary and secondary sources that includes information from journals, conference papers, newspaper articles and internet searches to trace the evolution of port reforms, identify the different methods of private sector investment in ports infrastructure and services, and consider the impact of the reforms to the overall efficiency and effectiveness of the port system. The paper found that the impact of the port reform was a mixed bag as the cost of cargo handling is outrageously expensive to make cost of goods unaffordable to ultimate consumers. It therefore recommended that PPP risk assessments and analyses should be more comprehensive to include transport value chain and macroeconomic forecasts; the legal framework should be

amended to accommodate more innovative PPP models; the institutional framework should have the capacity to insulate transactions from political interference and official corruption; and that Federal agencies operating in the ports should be streamlined while critical ports activities should be automated to a single window so as to reduce human interventions. These recommendations, if implemented, could achieve the national aspiration of creating a preferred maritime hub in Nigeria's ports.

Keywords: Nigerian Ports Reform, Concession, Amortization, PPP Process, Legal Framework

INTRODUCTION

In its effort to be the preferred maritime hub in the West African sub-region and the desire to refurbish and modernize its terminals, the Nigerian Ports Authority (NPA) had explored many options and models of private sector collaboration to execute its statutory mandate. These include management contracts, joint ventures, concessions and amortizations, which, to a large extent, had assisted the NPA to effectively refurbish and modernize its systems, terminals and equipment so as to be the true gateway to Nigeria's economy. Examples of NPA's private sector collaborations that underpinned its service delivery include the management contract for its Floating Dock, the private towage services along its channels, its joint venture partnerships for the management of Bonny and Lagos channels, the cleaning services contract with Africa Circle Limited, the amortization arrangement with INTELS Limited and Flour Mills Plc, the greenfield terminal development by the Grimaldi Group and the concessions of its terminals to private operators. These initiatives and contractual arrangements, observably, are largely on infrastructure development, refurbishment and management.

The impact of these infrastructure development reforms on the efficiency and effectiveness of ports operations cannot be overemphasized. This is more so that the port is a multifaceted entity with many stakeholders and operators. Apart from the terminal operators, there are shipping companies, stevedores and their agents, as well as consignees, freight forwarders and clearing agents. Though the intendment of the reforms was enhanced ports' efficiency and effectiveness, which naturally should include ultimate consumers, it is arguable that the various contractual arrangements, which were majorly on ports infrastructure and administration, impacted more to terminal operators, shipping companies and their agents to the detriment of

consignees, freight forwarders and ultimate consumers. A comprehensive risk assessment that includes factors outside the port environment, like transport value chain and macro-economic policies, is critical and cannot be underestimated, as it is those factors that ensure clearance and delivery of goods to consignees at reasonable cost, time and safety.

It is important to appreciate that the dominant legal framework in Nigeria's Public Private Partnership (PPP) is the Infrastructure Concession Regulatory Commission (ICRC) Act,ⁱ which was promulgated in 2005. Other relevant legal framework is the NPA Act,ⁱⁱ which played major role in solemnizing the NPA private sector collaboration projects. The Bureau of Public Enterprises (BPE) is also another institutional structure that played a significant role in concessioning NPA terminals to the private sector. In fact, the Brownfield and Greenfield terminal concessions, which were done before the promulgation of the ICRC Act in 2005, were exclusively executed within the context of the NPA Act and the mandate of the BPE Act. However, some of the infrastructure management and equipment financing arrangements in NPA, like the Flour Mills amortization programme, the management of NPA Floating Dock and the joint venture partnership for its channels were done within the exclusive context of the NPA Act. In fact, the current PPP institutional framework only came into play after 2009 when the newly inaugurated Board of the ICRC decided that it would henceforth takeover the monitoring and supervision of the NPA concessions from the BPE.ⁱⁱⁱ Hence, it is only the PPP arrangements after 2009, like the Kirikiri Lighter Terminal (KLT) and the Lagos Deep Offshore concessions, that the ICRC was actively involved in.^{iv}

This paper adopts the doctrinal, non-empirical research method to identify and analyze the underlying theme of the port reforms with a view to appreciating its impact on immediate and remote stakeholders. Hence, the sources of data for the research shall be primary and secondary that includes legislation, National policies and information from journals, conference papers, reports, newspaper articles and Internet searches. In understanding whether the port reforms have impacted to achieve Nigeria's infrastructure and administrative aspirations for the ports, the paper traces the evolution of ports in Nigeria, considers two of the different PPP models that were utilized to finance ports' infrastructure development, and reviews the impact in achieving the requisite efficiency that could make Nigerian ports as the preferred maritime hub in the West African sub region. It is in this respect that the paper is divided into five parts. The

first part is the introduction while the second part looks at the evolution of Nigerian ports and the various reforms it has embarked upon including the celebrated terminal concession programme of 2006. Parts three will look at two respective models of NPA's private sector infrastructure investment, namely, concession and amortization programmes, to appreciate their success and challenges. Part four reviews the impact of the reform while part five is conclusion, observations and recommendations.

THE PORTS REFORM INITIATIVES IN HISTORICAL PERSPECTIVES

The Nigerian Ports Authority Act^v was promulgated in 1964 to establish the Nigerian Ports Authority (NPA). Its basic functions^{vi} and powers^{vii} included the provision, maintenance, operation and regulation of ports facilities and usages. Such facilities and usages include ports terminals, piers, wharves, warehousing, pilotage, berthage, towage, lighterage, and pollution control services. These powers and functions could easily be categorized into three broad areas, namely port regulations, port operations, and port maintenance. While it has held tenaciously to its functions of port regulations, it has however, collaborated with the private sector to cede some specific functions in ports operations and maintenance.

The Act did not contain any provision on PPP. However, of particular interest to PPPs is section 9 of the Act,^{viii} which provides that NPA could perform its functions through its officers or agents or any other person authorized by it. The Federal Government had interpreted the section to enable NPA partner with private sector for the provision of ports' infrastructure and services. The section provides:

“The Authority may perform or exercise any of its functions or powers under this Act, other than the power to make regulations, through an officer or agent of the Authority or through any other person authorized by the Authority in that behalf.”

However, with the subsequent promulgation of the ICRC Act in 2005, NPA as a Federal Government agency, could conveniently enter into a concession agreement with any private entity outside its enabling statute, as section 1(1) provides:

1(1) As from the commencement of this Act, any Federal Government Ministry, Agency, Corporation or body involved in the financing, construction, operation or maintenance of infrastructure, by whatever name called, may enter into a contract with or grant concession to any duly pre-qualified project proponent in the private sector for the financing, construction, operation or maintenance of any infrastructure that is financially viable or any development facility of the Federal Government in accordance with the provisions of this Act.

The ICRC Act went further to provide in section 7(2)(b) that Notwithstanding Subsection (1) of this section, ‘the project proponent or contractor shall undertake the maintenance and repairs of the infrastructure or facility during the subsistence of the contract.’ The implication of this section therefore is to restrict the number and variety of PPP models, which the NPA could utilize in the execution of its statutory mandates. Notwithstanding, a community reading of sections 1(1) and 7(2)(b) of the ICRC Act as well as section 9 of the NPA Act however, seem to give NPA the leverage to pursue any PPP model in the discharge of its statutory functions.

Hence, beyond the popular concession arrangements for its terminals, the NPA pursued such private sector collaboration programmes like management contracts for both its Floating Dock and Tug boats; amortization programme for the rehabilitation of its berths; joint venture partnerships in towage, pilotage, stevedoring and channel management services; monitoring of Ship-to-Ship (STS) and Ship-to-Rig (STR) operations; marine surveillance of vessels at anchorages; and provision of waste reception facilities in its sea terminals. In the same vein, the Federal Government encouraged Corporate Social Responsibility (CSR)^{ix} and facilitated the Tax Credit Investment Scheme^x in the rehabilitation of the port’s remote infrastructure, particularly the port access roads. For our purposes however and as stated earlier, this paper discusses only concession and amortization models of private sector investment in ports infrastructure and services.

The port reform is as old as the NPA itself. Port reforms did not start with the concession programme of 2001, as similar reforms was traceable in Nigeria’s shipping industry as early as

1906 when the colonial government established the Marine department to streamline the multiplicity of interests in ports administration.^{xi} It was followed by the creation of Lagos and Port Harcourt ports in 1913^{xii} as well as in 1955 when the department was extensively restructured to give way to a new entity established under the Ports Act of 1954 to provide and operate cargo handling and quay facilities.^{xiii} It should be noted that consequent upon the security concerns during the civil war, the Federal Government nationalized all privately owned terminals in 1969 and effectively brought them under the management of the NPA. These terminals included the Warri sea terminal owned by John Holt and Calabar and Burutu sea terminals owned by UAC.^{xiv} It is interesting that the Federal Government acquired Warri Port from John Holt at a cost of ₦1.62 million Nigerian Naira.^{xv}

The NPA reform process saw to the expansion of the Apapa Wharves in Lagos with the first World Bank loan granted to Nigeria in 1962,^{xvi} the expansion from two port terminals to eight ultra modern port terminals in 1975^{xvii} and, following the initiative of the Technical Committee on Commercialization and Privatization (TCPC), the restructuring of NPA in 1992 into a four zonal structure public liability company, called Nigerian Ports Plc.^{xviii} It however reverted to Nigerian Ports Authority in 1996 and immediately, put in place a reform process to make it more efficient, which it successfully implemented between 2001 and 2006. The reform of 2001 was therefore overdue considering that the TCPC reforms of 1992 did not adequately address the challenges of port infrastructure refurbishment and management at that time. The reforms, including the two models under consideration, concessions and amortizations, were therefore meant to address the infrastructure and management challenges of the Nigerian Ports Authority.

THE NPA TERMINAL CONCESSIONS

The concession of the NPA terminals commenced in 2001 following a diagnostic study and recommendation by a consortium of port reform consultants led by Royal Haskoning DHV,^{xix} which advised the Federal Government on port management reform options for the Nation. The consortium updated the then existing port-sector knowledge, identified key issues hampering the growth of the sector and generated viable options for reform. They recommended, among other structural reforms that could see to the clear delineation of authority among maritime stakeholders, a landlord model of PPP for NPA.^{xx} The hallmark of the model was to achieve private sector investment in equipment, maintenance of port facilities

and insurance of port terminals. The Federal Government substantially accepted the recommendations of the consortium. Consequently, CPCS Transcom,^{xxi} a Canadian consultancy firm, was engaged as the Transaction Adviser to advise the Bureau of Public Enterprises (BPE) on three issues, *viz.*, the recommended reform, the restructuring of NPA and to guide the concession transaction.^{xxii} The NPA, on the other hand, engaged Maevis Nigeria Ltd, a local consultant, for advisory and capacity building services for its personnel.

The concession transaction commenced with the advertisement for Expression of Interests (EOI) on 3rd December 2003 with NPA as landowner or lessor and BPE as the transaction agent.^{xxiii} The BPE issued bid documents for the twenty-five terminals in four rounds between 2004 and 2005 with thirteen terminals to be concessioned through competitive process while the remaining twelve would be through direct negotiations.^{xxiv} Out of the total of 110 EOIs received from local and international terminal operators, ninety-four were prequalified. Specifically, fifty-nine bids were received for the thirteen terminals in a competitive bidding process.^{xxv} Subsequently, pre-bid conference, data room and physical due diligence were done, and Requests for Proposals (RfPs) sent out to bidders. Thereafter technical bids were submitted and evaluated, and financial offers were also opened to determine successful bidders. All successful bidders negotiated their concession agreements with a public sector team made up of NPA and BPE, successfully negotiated agreements were executed, transition programme was initiated and the twenty-five terminals were handed over^{xxvi} to respective concessionaires.^{xxvii}

The agreements were rigorously negotiated before their execution. The agreements contained a total of eighteen head articles with fifteen appendices. The head articles were on definitions and interpretation; effective date and term of agreement; basic lease rights and obligations of parties; permitted use of lease property and movable assets; scope of operations; conditions precedent to the effectiveness of the agreement; parties covenants; force majeure; documentation and audits; representations and warranties; event of default; termination; compensation; indemnities and liabilities; governing law and dispute resolution; and miscellaneous. The appendices of the agreement included detailed description of the leased property, list of the fixed and movable assets, the agreed development plan; the scope of operations; the lease fees and times of payments; performance requirements; operations rates;

composition of the Special Purpose Vehicle (SPV), staffing and succession plan; performance bond; insurance; wild life enhancement plan; transition plan and termination plan.^{xxviii}

The above processes and details were highlighted in view of the centrality of due process to the success or otherwise of a PPP transaction. The diligence of the BPE, the commitment of the NPA and the rigour of consultancy and transaction advisers culminated in the success of the Nigeria's port reform adjudged as the biggest successful port reform endeavor.^{xxix} Prior to the concession in 2006, the ills that bedeviled Nigerian ports included long turnaround time for ships, insecurity of cargo, unproductive labour force in NPA, multiple government agencies in the port, corrupt practices and excessive charges.^{xxx} Enyioko^{xxxi} also made similar observation thus:

Before the advent of port concession (1956-2005), the Nigerian port system suffered from numerous ills which included the following: The turnaround time for ships was too long and usually calculated in weeks, sometimes months, depending on the cargo being loaded or discharged; Cargo-handling plants and equipment owned by the NPA were few and mostly unserviceable leading to shipping companies hiring these machines from private sector sources after having paid NPA; Dwell time for goods in ports was prolonged due to poor port management and as a such overtime cargo filled the most active seaports leading to port congestion; Labour for ship work was held in the vice-grip of wharf overlords who controlled dockworker unions and supplied less than the manpower paid for. This fraud, which became accepted by the maritime community lasted for years and was usually perpetrated to extract maximum revenue from helpless ship owners and their agents without minding how this impacted on the Nigerian economy and the already dented image of the Nigerian seaports. As a result of the compounded problems, the Nigerian seaports were rated as one of the costliest seaports in the world. Consequently, it adversely affected the patronage of our seaports.

The primary aim of the port terminal concessions was to eradicate the poor state of the ports, increase capacity, efficiency and effectiveness, ^[1]_{SEP} and promote economic growth and development in Nigerian ports.^{xxxii} To ensure achievement of the aim, a model of concession,

known as ‘the Landlord model’,^{xxxiii} which was, by and large, a compromise between privatization and absolute government control was recommended. The Federal Government therefore moved away from its Service model and adopted the Landlord model structure of port operations that gave exclusive rights for terminal operators to operate, maintain and carry out investments on port facilities within designated terminals while NPA retains ownership of the terminals.

The landlord model was meant to reduce the financial burden of the Federal Government, as terminal operators are responsible for both ports infrastructure development and payment of annual concession fees in the form of lease fees and throughput fees. Specifically, the terminal operators would make an infrastructure investment of about ₦50 Billion in modern port equipment such as Rubber Tyred Gantries (RTGs), mobile harbor cranes, trucks, etc.; and infrastructure such as buildings, quays, yards and inland container depots, etc.; as well as lighting of terminals; automated tracking system; RTG training simulation system; and generators, plants and machinery, etc.^{xxxiv} The terminal operators were also expected to pay an estimated total revenue of lease fees and royalty to government of about \$6.54 Billion over the entire concession period, which ranged from fifteen to twenty-five years.^{xxxv}

The terminal operators commenced operations of the port terminals in 2006. Within a period of ten years, they exceeded the ₦50 Billion investment in port infrastructure and equipment stipulated in the concession agreements executed with NPA. It was estimated that as at 2016, the terminal operators had expended over ₦200 Billion in port infrastructure and equipment, representing a multiple of over 400 percent of the planned investments.^{xxxvi} Additional investments over the remaining years of the concession agreement would expectedly continue. For instance, the West African Container Terminal (WACT) in Onne, one of the concessioned terminals, had acquired fifteen new Rubber tyred gantry cranes in 2021 as part of its \$100 Million investment.^{xxxvii} Deloitte cited a report of the World Conference on Transport Research Society (WCTRS), which revealed that the Nigerian port concession agreement conforms to over 80 percent of identified elements and risks.^{xxxviii} The only noticeable areas that have not performed well are the Foreign Exchange and Tariff Risks.

The Foreign Exchange or Currency Risk is a financial risk that exists when a financial transaction is denominated in a currency other than the domestic currency of the parties. Under

the Concession Agreement, the cost of operations, prices of replacement of machineries, salaries, and agreed government fees were designated in ^[1]foreign currency, even though the earnings of the Terminal operators were in Naira. This risk also has direct impact on the repatriation of profits by international investors. The Agreement did not provide any hedge to guard against any currency fluctuations.^{xxxix} Unfortunately, exchange rate of the Naira experienced unprecedented fluctuations from ₦144.09 per dollar in 2006, ₦289 per dollar in 2016 to ₦472 per dollar in 2021.^{xl}

The tariffs policy risk relates to the two components of tariffs under the Agreement, dollar and Naira denominated. The dollar component was benchmarked against the US Consumer Price Index (CPI). However, no such adjustment mechanism was made for Naira based tariffs.^{xli} One would have expected that an adjustment mechanism for Naira based tariffs should not only be provided but should be benchmarked against Nigeria's CPI. This is fatal considering that majority of the operators' revenue was Naira based. The risk mitigation for tariff policy was therefore partial and not comprehensive enough.

Deloitte did an analysis to show that the net effect of the tariff policy risk was that in actual value terms, terminal operators received less per Terminal Handling Charges (THC) than they did in 2006 despite the increase in operational charges. Although the Naira value of THC increased from ₦31,850 (2006) to ₦80,000 (2016), the THC Dollar value equivalent decreased from \$232 (2006) to \$180 (2016) and \$220 (2019).^{xlii} Both BPE and NPA have promised to look into these issues and many more with a view to amending the Concession Agreement.^{xliii} It is a welcome development that would strengthen the relationship between NPA and the Concessionaires. This could likely boost investor confidence in Nigeria on its commitment to upholding the sanctity of PPP transactions in spite of political vulnerabilities and macroeconomic volatilities.

THE NPA AMORTIZATION PROGRAMME

Prior to the inception of the ports concession programme in 2006 and due to the economic recession of the 1980s, many berths and terminals of the Nigerian Ports Authority, as highlighted above, were in dilapidated condition. The berths close to the operational areas of Flour Mills of Nigeria Plc in Apapa port, berths 1a, 2 and 3, were in derelict condition. The

New Warri and Calabar ports, which were commissioned in 1979, were almost comatose.^{xliv} Although there was much oil logistic activity in Nigeria's Niger Delta, the capacity of the terminals in Onne became inadequate, and the construction of the deep sea port, which was planned under the Third National Development plan (1975-1980) to alleviate the inadequacy, was suspended in 1983.^{xlv} This state of affairs was obviously due to the financial challenges of NPA at the relevant time.

Consequently, Nicotes Limited, now Integrated Logistics Services Nigeria Limited (INTELS), which was enjoying a lease of Federal Lighter Terminal B in Onne and whose terminal operations had significantly increased, approached NPA with a proposal to finance the expansion and rehabilitation of the 200meter-terminal on condition that it would offset the agreed project cost from revenues it would both pay to NPA and those it would collect on behalf of NPA. Following the execution of the agreement, INTELS, through its Special Purpose Company (SPC), Prodeco International Limited, engaged Royal Boskalis NV for the expansion project while Westminster Dredging & Marine Nigeria Limited was responsible for reclamation activities.^{xlvi} The project was completed in 2003 and operations started, hence cash flow, on the agreed commercial operation date. This marked the birth of amortization programme in NPA, which is a funding arrangement for the development or refurbishment of a terminal infrastructure to be upset from future port charges.

The success of the arrangement made NPA to consummate same arrangement with the company in respect of Federal Ocean Terminal A, and forced the lessee of Federal Lighter Terminal A, Brawal Shipping Company Limited, to execute similar arrangement. The arrangements were so successful that by 2007, Onne Port had the best multipurpose terminals with an excellent draft depths and highest cargo throughput in Nigerian ports.^{xlvii} As at today, it accounts for 65 percent of the nation's total export cargo through the seaports. Using the same model of amortization, NPA also successfully partnered with Flour Mills to rehabilitate berths 1b, 4 and 5. It also partnered with INTELS to refurbish the Warri New Ports B as well as to complete the Federal Ocean Terminal 4B (FOT) project^{xlviii} in 2017 at a project cost of \$2.7 Billion. It were these commitments that made NPA to give the rights of first refusal to INTELS, Flour Mills and Brawal on those respective terminals in its concession programme of 2006.

All the amortization arrangements of NPA did not record any major dispute except when the NPA attempted to cancel the 10-year contract on pilotage services awarded to INTELS. The contract was awarded as part of the arrangement to effectively amortize the cost of the \$2.7 Billion FOT project, which was financed by INTELS' sister company, Deep Offshore Limited. NPA alleged that the company refused to abide by the directives of the Federal Government that all revenues should be remitted into the newly instituted Treasury Single Account (TSA).^{xlix} Though the company initially refused, but it later agreed to remit collected revenues into the TSA. Notwithstanding, NPA on the directive of the Attorney General of the Federation terminated the contract,¹ and without addressing the repayment of the outstanding FOT project cost, advertised for expression of interest in respect of same pilotage services. The company filed arbitration proceedings against NPA and thereafter got an injunction to restrain NPA from terminating the pilotage services contract.^{li}

Many experts did allege that the interest of NPA to cancel the pilotage contract was not on non-remittance of revenues into the Treasury Single Account, but was largely as a result of political differences with Alhaji Atiku Abubakar, a political opposition leader that was said to have controlling shares of the company. In fact, the company publicly announced the exit of Atiku's membership of the company when it became obvious that amicable resolution of the issues were stalled due to political considerations.^{lii} Beyond politics, there were insinuations of contract inflation and corruption. The comment of NPA's Managing Director at a press conference at the material time was a good pointer. She said:

I want you to research and see if, indeed, there was value for money for a \$2.7 Billion to build berth 12 to 19 and certain works in 2013. I'll like you to research yourselves and make comparison with the Singaporean Ports and other ports that were built at the same time. Look at the facilities at the cost they spent building that port, you will see the huge differentials. \$2.7 Billion is a huge amount of money that the Nigerian government decided to invest in building ... just 200 meters of berths ...^{liii}

Although the amortization arrangements in NPA have been largely successful, the revelations in the dispute between NPA and INTELS brought to fore the critical PPP contractual issues

that include political risks and government interference; corruption and impunity of the private sector; as well as public sector's capacity and efficacy for project supervision and operational monitoring.

THE IMPACT OF THE REFORMS TO ULTIMATE CONSUMERS

As a direct impact of these investment arrangements, the ports had witnessed increased ship traffic and throughput, which had led to a 400 percent rise in container throughput from 400,000 Twenty-foot Equivalent Unit (TEUs) of containers in 2006 to 1.6 Million TEUs in 2014. The investments had also led to the eradication of ship waiting time at the container terminals, as ships now berth on arrival. Vessel turnaround time had been reduced from 5 days to 41 hours while average dwell time for cargo clearance went from over 30 days to just 14 days. In addition, due to improved security and lighting of the terminals, the ports now run a 24-hour and 7-day a week operations. NPA made major investments to increase ship traffic at the ports. Most laudable are the dredging of its channels from 9m to as much as 13.5m water depths and the acquisition of larger tugboats to service shipping companies, which had led to larger ships calling to Nigeria seaports.^{liv}

In fact, the concessions, amortizations and other private sector collaboration arrangements have, to a large extent, revolutionized Nigeria's ports system. There is now more healthy competition among operators such that, in comparison with what obtained previously, the ports are now more efficient and more effective on account of the reforms. The TEU throughput had increased significantly. The port could now accommodate larger vessels, ensures quicker turnaround as well as records a more efficient clearance of goods. The safety and security of cargo is more enhanced and both the administrative bottlenecks and prohibitive institutional costs of the port system are now reduced.^{lv} Though the direct port infrastructure and administrative systems of the reforms have succeeded, the fundamental question is whether the reforms have made any impact on the overall costs to the ultimate consumer. In other words, is this efficiency and effectiveness impactful beyond the direct port system?

It is generally agreed that in spite of the success of the reforms, but in comparison with other jurisdictions, the port overall system has remained outrageously expensive^{lvi} with corresponding effect to the larger populace. All the maritime indices are far from achieving the desired aspiration of making Nigeria a preferred maritime hub. As at now, Nigeria is placed

fourteen in Africa's logistic performance while its closeness to global market (Connectivity rating) is number eight in Africa and seventy-five globally. The dwell time of cargo in Apapa port is 20 – 22 days in comparison to Durban and Lome ports' four days.^{lvii} The question still remains germane, why are port costs still expensive to consumers? This brings us to the fundamental issue that a PPP project does not exist in isolation. The objectives of a PPP project may not be fully achieved if the risk of the sector in which it operates is not comprehensively analyzed and adequately managed. Such risks include those risks that are outside the terminal or port environment, and on this note it was posited that infrastructure beyond the port is significant and could add to overland travel cost and time.^{lviii} For example, the traffic gridlock in Apapa became worsened because the remote onshore infrastructure of Apapa port, i.e. the ports' access and exit roads, were not properly captured in the conceptualization of the NPA Terminals' concession. It appears that only sea depths, ship berthing and cargo handling equipment were properly captured in the negotiation and consummation of the NPA terminals concession. Another issue is the multiple agencies operating at the ports in spite of the efforts of the government to streamline them to only eight agencies^{lix} and to ensure that their operations is harmonized into a single interface station in one location.^{lx}

The failure of these policies obviously fueled corruption and bureaucratic bottlenecks, which in turn makes port costs expensive to consignees. For instance, it costs more than \$4,000 to truck a 20ft container from Apapa port to a distance of 20km in the mainland in contrast to \$3,000 freight rate of a similar container from Shanghai to Lagos, a distance of 12,000 nautical miles.^{lxi} Other external factors that contribute to the overall cost of port operations to importers and consignees include high import duty, corruption and bureaucratic bottlenecks.^{lxii} It is clear that the narrative could change had the reforms analyzed the project risks comprehensively, considered the direct and indirect or remote port infrastructure, and adequately addressed the soft issues of the port administrative and operational system, e.g. port automation, single interface in clearance of goods, the transport value chain, the macro-economic system, etc.

CONCLUSIONS, OBSERVATIONS AND RECOMMENDATIONS

The port system in Nigeria has undergone series of reforms over the years right from the inception of Nigeria's Marine Department in 1906 onto the culmination of the landlord model of sea terminal operations in 2006. Within the gamut of the reforms, the Nigerian Ports Authority utilized the concession arrangement and the amortization programme in addition to other management structures involving the private sector in the development, refurbishment, modernization and expansion of ports infrastructure, equipment and services for a more efficient and effective port system. To a large extent, these reforms have impacted positively on port operations such that most indices of sea terminal operations are positive.

However, such positive assessment could not easily be said of importers and ultimate consumers. The transportation value chain, the ports remote infrastructure and even the macro-economic policy of government have conspired to create a mix bag of the reforms. In the same vein, the PPP legal and institutional frameworks have shown visible weaknesses. The ICRC, for instance, has not been forthcoming in accommodating new and innovative models of private sector participation in public infrastructure management and delivery. The reference to amortization as repayment option by the Act^{lxiii} is not sufficient to create a distinct PPP model. The politicization of PPP transactions could destroy the confidence of investors to participate in public infrastructure delivery. The National Assembly Resolution in October 2017 to probe the dispute between INTELS and NPA on the termination of Bonny Pilotage contract and its effect on the amortization arrangement of the Deep Offshore terminal^{lxiv} is another example that points to PPP institutional weakness in Nigeria. The oversight function, though could review the conduct of public officials, should not affect the sanctity and preservation of contractual obligations.

It is in the light of these observations that the paper recommends the following:

- i. The Nigerian Ports Authority should be more expansive in its risk considerations and analyses to include external factors that could, in one way or the other, affect the outcome of its reforms. The transportation value chain and macroeconomic policies of government are critical enough to influence the success of any port reform;
- ii. The Infrastructure Concession Regulatory Commission Act should be amended to accommodate new and innovative models of Public Private Partnerships as the NPA

reform process has proven that such innovative models could deliver public infrastructure more successfully than conventional PPP models;

- iii. The institutional framework should be robust and resilient enough to insulate executed contractual transactions from political interference and official corruption;
- iv. In view of the importance of the ports to the National economy, the government should muster sufficient courage and resources, including the initiative under Executive Order 007, to fix, rehabilitate and expand the ports access roads for easy trucking of goods;
- v. While Ports' administration has measured up to the infrastructure goals and objectives of the port reforms, the public agencies that operate, superintend, supervise, monitor and regulate activities in the ports need to be streamlined to reduce administrative bottlenecks in port operations; and
- vi. Alongside the streamlining of public agencies operating in the ports is the need to automate port's processes and procedures with the establishment of a single window so that there is little human interventions and exercise of discretions.

It is hoped that if the above recommendations are implemented, the aspirations of the NPA for a more effective and efficient system that impacts to all nature and categories of stakeholders and also to be the preferred maritime hub in the West African Sub Region could be achieved sooner than expected.

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