POLITICAL ECONOMY OF CRUDE OIL MARKETING AND NIGERIA'S MARITIME INDUSTRY

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Abstract

The mode of marketing of Nigeria's crude oil has received scant scholarly attention in extant literature. Also, the vital linkage between it and the development of a vibrant maritime industry has been largely unexplored. This is perhaps a derivative of the general opacity surrounding the operations of the nation's oil industry and the limited appreciation of the developmental role of oil as a strategic resource. This paper therefore explores these linkages with a view to demonstrating how the marketing of Nigeria's crude on Freight on Board (FOB) basis has stunted the development of Nigeria's maritime industry. It further brings into bold relief its role in accentuating crude oil theft in Nigeria. The paper is both qualitative and empirical. It relied on content analysis of secondary data and anchored analysis on the theoretical prism of the capture theory. It found that the marketing of Nigeria's crude on FOB as against the Cost, Freight, and Insurance (CFI) mode has not only stunted the development of Nigeria's maritime industry but also conduces for massive crude oil theft. It therefore recommends the adoption of the CFI mode in the marketing of Nigeria's crude and harnessing of its numerous potentials for the development of the nation's maritime industry.

Keywords: Political economy; crude oil marketing; maritime industry; freight-on-board

Introduction

At the commencement of crude oil exports from Nigeria, the marketing and exportation of Nigeria's crude were the exclusive preserve of the pioneer International Oil and Shipping concerns. When eventually the Nigerian National Petroleum Corporation (NNPC) was created and its crude oil marketing division (COMD) assumed responsibility for the marketing of the crude, indigenous oil transportation infrastructure was virtually non-existent and knowledge of the international spot market for crude was minimal to say the least. As a result of the limited domestic capacity, the COMD relied almost exclusively on the infrastructure and information provided by the multinational oil and shipping concerns. Over the years, Nigeria's crude oil marketing architecture has remained largely unchanged. Arising from the asymmetric information that characterized this aspect of Nigeria's oil industry, Nigeria's crude has all along been marketed on Freight on Board (FOB) basis. An alternative mode of crude oil marketing would be the Cost, Freight and Insurance (CFI).

On face value, the mode of marketing of a country's crude should be of no concern insofar as the crude gets marketed and the country in question receives the due payment accruing to her from such transactions. Following from such simplistic assumptions, there is as yet a dearth of scholarly literature on the marketing of Nigeria's crude while that on the interface between the mode of marketing of Nigeria's crude and the development of the nation's maritime industry appear to be non-existent. However, beneath such superficial interpretation is a much more complex interior that is reflective of the complexity of the oil industry itself, and of reality more generally.

To bridge this gap in knowledge and enhance understanding, this paper takes as its point of departure the testing of the thesis that the marketing of Nigeria's crude on Freight on Board (FOB) basis relegates the more developmental Cost, Freight and Insurance (CFI) mode of crude oil exports in Nigeria's oil industry. It further argues that such practice has a debilitating effect on the development of Nigeria's maritime industry.

Theoretical Perspective

This study begins with the assumption that the timing of oil discovery in any country shapes to a high degree that country's future development trajectories. It therefore contends that the discovery of oil in Nigeria during colonial rule and at a time of rising strategic importance of oil in the global political economy conduced for the domination of various aspects of Nigeria's oil industry by external interests.

Flowing from this theoretical assumption, the study anchors analysis on the theory of regulatory capture, which emphasizes the role of interest groups in the formulation of public policy. Regulatory capture occurs when a state regulatory agency created to act in the public interest instead advances the commercial or special interests that dominate the industry or sector it is charged with regulating. The basic assumption of this theory is that decisions do not just emerge; that in every decision, certain vested interests must be protected.

The "capture" or "interest group" theory emphasizes the role of interest groups in the formulation of public policy. Its origin is traceable to Marx's view that big business controls institutions and to early twentieth century political scientists. Stigler's work (1971) considerably extended the paradigm by noting that the regulatory process can be captured by small business industries as well, and by using Olson's (1965) theory of 'collective action' as a building block to explain how "regulation is acquired by industry and is designed and operated primarily for its benefit" (Laffont and Tirole 1991: 1089 - 1090).

Other scholars who have contributed to the theory include Duncan Black (1948), Buchanan and Tullock (1962). Hellman, Jones and Leaufman (2000) also made great addition to the theory by not only using it to do a study for the World Bank, but by clearly explaining the concept of capture economy. Other theorists also associated with the capture theory include Bernstein (1955), Huntington (1952), Levine & Forrence (1990) (Laffont and Tirole 1991:1089-1090). More contemporaneously, Onuoha (2008) domesticated the theory by using it to assess the state and economic reforms in Nigeria.

According to this theory, regulatory capture occurs when a state regulatory agency created to act in the public interest instead advances the commercial or special interests that dominate the industry or sector it is charged with regulating (Wikipedia the Free Encyclopedia 2011). These captors are usually representatives of powerful economic, social, and political concerns who have the wherewithal to make or break political parties or political careers by way of their control of the media, and their prerogative to offer or withdraw core funding from parties and candidates and even outright subversive activities, is substantial (Onuoha 2008: 11-12).

Deriving from this theory, we hypothesize that the marketing of Nigeria's crude on Freight on Board (FOB) basis effectively relegated the Cost, Freight and Insurance (CFI) mode of crude oil exports in Nigeria's oil industry, and that this was made possible by the dominance of Nigeria's crude oil production and transportation infrastructure by international mining and shipping concerns, which was itself a function of the timing of oil discovery in Nigeria.

Marketing of Nigeria's Crude Oil on Freight on Board (FOB) and the Relegation of the Cost, Freight and Insurance modes

In the guidelines for the marketing of Nigeria's crude oil published by the Nigerian National Petroleum Corporation (NNPC), it is boldly stated that all NNPC contracts are on Freight on Board (FOB) basis. To clarify, **u**nder the FOB arrangement, buyers of Nigeria's crude oil pay for the products and choose the means of delivery of the products to their preferred destination. In other words, it is the buyers of Nigeria's crude oil that appoint shippers and, by extension, insurers for their consignments.

An alternative arrangement would be the marketing of Nigeria's crude on the basis of Cost, Freight, and Insurance (CFI). Under this alternative arrangement, the oil exporting country, in this case Nigeria, appoints shippers to transport her crude oil sales to the destination of choice of the buyer as well as the insurer(s) for all such shipments. Under this arrangement, the seller factors the cost of shipment and insurance into the cost of the products and in the process makes marginal profit from these and other ancillary services. A major derivative of this arrangement is that it provides an incentive for an oil exporting country like Nigeria to develop its domestic maritime industry by assigning the bulk of its crude oil export consignments to its national carrier and other indigenous shippers, thereby increasing their capacity to compete in the global maritime transport sub-sector and in the process earning substantial additional revenue for the country.

In recognition of the right of the seller to appoint shippers for her products, the United Nations Committee on Trade and Development (UNCTAD) assigned mandatorily 40 percent of the volume of a country's export and import to that country's shipping lines or to shipping lines flying such country's flag. In all probability however, such a country can only give effect to this very important requirement of international trade given the necessary domestic capacity in maritime transport.

In defence of the Freight on Board (FOB) mode, however, Nigeria's policy makers, including NNPC officials and key government functionaries have argued that the FOB modality saves Nigeria the risk involved in delivery of crude oil to refineries and marketers in distant countries. Specifically, some top officials of the NNPC argue that Nigerian firms do not yet have such capacity to be entrusted with the responsibility of wholesome transportation of products within coastal waters not to talk of when such products are meant for foreign countries. They then contended in respect of the CFI mode that the government or NNPC as the supplier of the product will have to wait until the goods are delivered and everything certified okay before being paid (Ugwoke, 2013). Speaking in this wise, the then Senior Special Adviser on maritime services to former President Goodluck Jonathan, Mr. Leke Oyewole, disclosed that moves by the government to reverse this trade imbalance had suffered a major setback following the discovery that policy reversal from FOB to CIF may cripple the economy as it will delay income from crude oil sales into the Federation Account. According to him, reversal of the trade policy will delay revenue proceed from crude oil sales into the federation account by not less than 40 days after the conclusion of relevant sales documentations; a development, which he said, that might portend great danger for the economy as it may hamper funding of economic activities . He acknowledged that the proposal had been on the President's table for a long while but that "the President was also studying other alternatives or approaches towards the same issue" (Ezem, 2013: 2).

Industry experts have however argued that introducing CIF trade terms will help boost the entire economy because of the huge multiplier effect. They argue that when such opportunity is given to them, all they require to do is to reach out to foreign partners who will provide tanker vessels that are capable of carrying 135,000 metric tonnes (MT) of wet cargoes, and that in any case apart from the local shipping industry that can take advantage of this, the insurance companies can also be in a position to provide coverage. Although, insurance cover for such goods is usually international, experts argue that NNPC can encourage the insurance companies to team up in partnership with foreign big names to qualify for such contracts.

Similarly, other stakeholders expressed the view that there are so many benefits under the CIF trade terms in crude oil trade than the risk that government or NNPC may be apprehensive of. They noted that the multiplier effect to the shipping sector and to a large extent the general economy is unquantifiable and that when introduced, both the revenue base of the sector and employment generation will grow since the freight earnings will go to Nigerians instead of foreigners. The point was further made that even though Nigerian companies do not have the type of vessels needed for such trade now, they can always charter if given the opportunity, and that this would help in the training of Nigerian seafarers (Ugwoke, 2013).

Speaking from this perspective, Mr. Hassan Bello, the Acting Executive Secretary of Nigerian Shippers' Council (NSC), noted that selling FOB was detrimental to the Nigerian economy adding that eighty per cent of oil-producing countries carry their wet cargo on CIF basis (The Engineering Network Team, 2013:1). Bello further complained that indigenous shipping companies have been swimming against the tide because of competition pointing out that that despite the country having highly experienced ship masters, capable of carrying Nigeria's crude, a level playing field may never be created until government brings to bear the political will and sagacity to empower indigenous Nigerians to own ships.

Meanwhile, to understand the government's prevarication we need recall the root of the marketing of Nigeria's crude on Freight on Board (FOB). In the first two decades of crude oil discovery in Nigeria, International Oil Companies dominated every aspect of Nigeria's oil industry ranging from exploration, production and marketing of Nigeria's crude. As a consequence, the IOCs also appointed shippers for Nigeria's crude oil exports usually on FOB terms. Following Nigeria's membership of the OPEC in 1970 and the resource nationalism this engendered, the erstwhile National Oil Company (NOC) was transformed into the Nigerian National Petroleum Corporation (NNPC) through its merger with the Ministry of Petroleum Resources. As a consequence, Nigeria began to play a more participatory role in the nation's oil industry, particularly the downstream sector. Subsequently, the NNPC through its subsidiary, the CMD assumed the responsibility for the marketing of Nigeria's crude. From inception however, the corporation adopted the imbalance trade policy where the country's crude oil exports are carried on FOB basis as against the more profitable CFI policy practiced by over 80% of crude oil exporters worldwide.

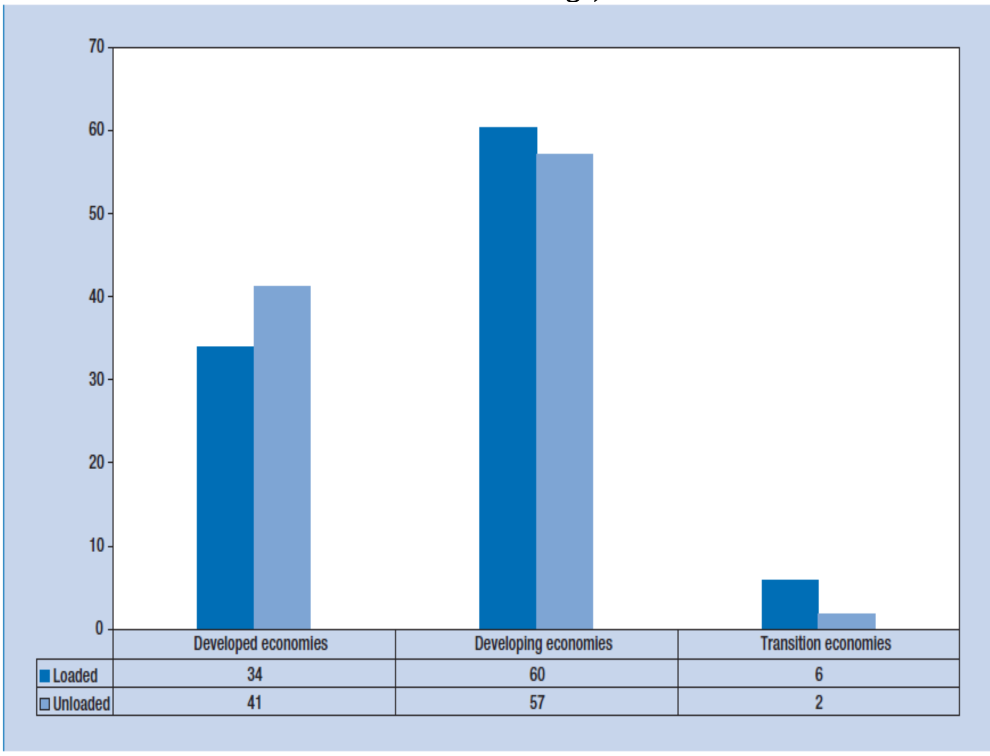
From all indications therefore, Nigeria's decision to adopt the FOB option was a choice forced on her by exigencies of the time. The first such exigency was the lack of knowledge of the global oil market, and the second is the lack of domestic shipping capacity at the time. Given these constraints, the Nigerian government through the NNPC towed the line of least resistance, which entailed the adoption of the FOB policy. It is perhaps worth emphasizing that in taking over the marketing of Nigeria's crude from the IOCs which had controlled all aspects of Nigeria's crude oil industry previously, there was no demand for, let alone insistence on, the transfer of competence from the IOCs or the international shipping concerns that had dominated Nigeria's crude oil transport. In other words, the CMD merely inherited the oil marketing and transportation infrastructure established by the International Oil Companies. And given the high level of dependence of the Nigerian state on oil revenue, it is no wonder that successive administrations in Nigeria have lacked the courage to alter the FOB arrangement for fear of even the slightest disruption of revenue flow as the Presidential aide cited above had so labouriously explained.

Marketing of Nigeria's Crude Oil on Freight on Board (FOB) Basis and the low level of indigenous participation in the global crude oil transportation

Maritime transport is the backbone of international trade and a key engine driving globalization. This is because around 80 per cent of global trade by volume and over 70 per cent by value is carried by sea and is handled by ports worldwide, and these shares are even higher in the case of most developing countries (UNCTAD, 2012: xiii). Out of this, trade in oil and gas, which is the mainstay of the Nigerian economy, accounted for approximately one third of the volume as shown in the table below. What is more, virtually all crude oil import/export is conducted through the sea.

As developing countries contribute increasingly larger shares and growth to both world GDP and merchandise trade, their contribution to world seaborne trade has also been increasing. In 2011, for instance, a total of 60 per cent of the volume of world seaborne trade originated from developing countries and 57 per cent of this trade was delivered on their territories (UNCTAD, 2012:) as shown in the figure below.

Fig. 1: World seaborne trade by country group, 2011 (Percentage share in world tonnage)



Source: UNCTAD (2013).

It is to be expected that with the increasing volume of developing countries' share in global seaborne trade, their share of the global maritime transport would have increased appreciably in line with the UNCTAD 40-40-20 shipment framework requiring that 40% of cargo shipment be reserved for the exporting country, another 40% for the importing countries' shipping companies, while the remaining 20% is made available to shipping companies of other nationalities. This has clearly not happened. It may however be excused given that even the UNCTAD report acknowledged that the ownership of fleet does not necessarily imply that the ship-owning countries effectively operate or control the shipping operations. Neither would there necessarily exist a relationship between a country's own foreign trade and its fleet ownership according to the report.

This, however, is how far the excuse goes in respect of Nigeria's low participation in global oil transport. Previous analysis had indicated that oil-exporting countries are more likely to own the oil tankers used for their own national exports, while the exporters of containerized cargo are much less likely to own the container ships used for their own foreign trade. Unlike most oil exporting countries however, Nigeria has failed to take advantage of her rich oil endowment and her sizeable share of the global crude oil export and petroleum products import to participate maximally in the global crude oil transport.

Profiling Nigeria's participation in international shipping, Usoro (2004) observed that between 1959 and 1997, Nigeria had not recorded more than 40 vessels of which 29 belonged to the now defunct NNSL and that by 1989, all the NNSL vessels were already due for the scrap yard because they could no longer cope or respond to the contemporary needs of international shipping. It estimated the ship traffic into the major ports in Nigeria, excluding tankers, at approximately 3,500 vessels per annum and the overall cargo throughput (excluding crude) was 22.23 million tonnes while the total number of passengers that pass through the sea ports was estimated at 15,000 per year. He noted that even in the late 1970s and earlier 1980s widely considered the 'golden' years of Nigeria's shipping industry, when Nigeria had about 24 vessels in its national fleet, indigenous shipping companies carried a mere 11 % of the total volume of Nigerian traffic and earned less than 9% of the total freight revenue. But worse still, Nigeria currently does not carry any of its crude oil under international shipping (Usoro, 2004: 3).

An analysis of the preceding data aptly demonstrates the domination, almost exclusively, of the commercial operations of carriage of goods, services and passengers in the inland and coastal waters of Nigeria including oil rigs and installation by foreign-owned and foreign-crewed vessels to the exclusion of indigenous operators (Usoro, 2004: 3).

Similarly, statistics from the NPA on ship calls to Nigeria, between 2008 and 2011, showed that Nigeria's tonnage soared from 82 million tons to 150 million with an estimated freight payment rising from $4.1 billion to $7.5 billion, but participation of Nigerians was zero. The four years import freight payment equates to $22.53 billion all paid to foreign ships with no benefit to Nigeria. According to statistics, the NPA received about 5,327 ships in the ports, carrying Nigerian imports in 2011 with no participation of Nigerian ships.

Other shocking statistics indicate that Nigeria exports about 900 million barrels of crude oil annually, but foreign vessels earn freight of about $2.25 billion a year, carrying the country's crude with no freight earning benefit to Nigeria. This reflects a huge trade imbalance that needs to be undoubtedly reviewed and reversed, according to Chijoke Egwuaga Collins, Chairman of NIMAREX planning committee, adding that by that volume, Nigeria qualifies to be a hub for West and Central Africa.

Furthermore, among the 13 member-countries of OPEC, which have a total of 134 tankers, Nigeria has only two tankers, which are merely used for storage rather than lifting crude oil. Also, out of a total of 24 million deadweight of crude per day, Nigeria lifts less than 500 deadweight. And of the 42,276 total number of ships that entered the Nigerian port only 3,549 were Nigerian ships while 38,727 were foreign ships. Also out of the total 1,236,986,185 GRT, only 16,297,759 were shipped by Nigerian own ships while 1,220,690,426 were shipped by foreign ships, as a result of which the nation has been losing as much as $4 billion U.S dollars to foreign ship owners yearly. The figure below shows the low level of Nigeria's share of tanker fleet among OPEC member countries.

Table 2: Tanker fleet development in OPEC Members *(1,000 dwt)*

	2008 number	dwt	2009 number	dwt	2010 number	dwt	2011 number	dwt	2012 number	dwt
Algeria	1	315	1	315	1	315	1	315	1	315
Angola	na	Na	na	Na	Na	na	8	1186	30	4.775
Ecuador	8	269	8	269	8	269	10	576	14	957
IR Iran	42	9,560	42	9,560	47	10,994	47	10,994	47	10,994
Iraq	2	26	4	53	4	53	4	53	4	53
Kuwait	21	3,113	20	3,110	16	2,223	16	2,223	21	3,404
Libya	8	627	8	627	8	627	5	548	5	548
Nigeria	2	409	2	409	2	409	2	406	2	409
Qatar	6	528	6	528	6	528	6	528	6	528
Saudi Arabia	46	10,483	40	8,662	35	6,993	32	5766	20	5,051
United Arab Emirates	13	660	13	660	13	660	13	660	13	660
Venezuela	16	1,091	16	1,091	16	1,091	18	1,348	19	1,452
OPEC	165	27,081	160	25,284	156	24,162	162	24,609	182	29,146
Total World	4.825	398,196	5,713	481,185	5,147	444,815	5,406	462,549	5,188	485,470
OPEC Percentage		6.8		5.3		5.4		5.3		6.0

Source: OPEC Annual Statistical Bulletin, 2013: 64

Meanwhile, it has been observed that the paucity of Nigeria's participation in the global crude oil transport is further compounded by the country's low participation in the cabotage trade as well. For instance, an estimated 300 vessels are required to meet Nigeria's tonnage but there are reportedly less than 20 active Nigerian registered vessels handling the country's external trade, and of the 5,000 seafarers in the country, less than 1,000 are Nigerians; and out of about 400 indigenous-owned vessels, over 70 percent of them are reportedly not engaged, allegedly because the vessels are presumed to be unsuitable and need to be put up to standard. Corroborating this fact, Nigeria's former Minister of Finance and Coordinating Minister of the Economy, Dr. Ngozi Okonjo-Iweala, estimated that Nigeria loses over N2trillion annually to foreigners operating in the country's maritime sector. The minister attributed this huge capital flight to lack of proper implementation of the Cabotage Law which is expected to allow indigenous participation in shipping.

Her position was further reinforced by the Indigenous Ship Owners Association of Nigeria which stated that Nigeria now loses over N2trillion annually in capital flight to other countries which own vessels used to lift about 150 million tons of cargoes including oil products from this country as no Nigerian flagged ship is currently plying international routes, and also by the Executive Vice Chairman, Sifax Group, Taiwo Afolabi, who stated that due to the inability of the Coastal and Inland Shipping Act 2003 (Cabotage Act) to meet the expectations of indigenous ship owners nine years after its enactment, the country has ceded about 90 percent of shipping business in Nigeria to foreigners. According to him, out of about 400 indigenous-owned vessels, over 70 percent of them are reportedly not engaged, allegedly because the vessels are presumed to be unsuitable and need to be put up to standard. Also, citing stakeholders in the maritime industry, Amadi (2013) observed that of the 5,000 seafarers in the country, less than 1,000 are Nigerians. He added that the dominance of seafaring by expatriates in Nigeria is among the challenges facing the maritime sector.

The *UNCTAD 2012 Review of International Maritime Transport* similarly acknowledged that apart from international seaborne trade, domestic shipping is an important additional source of employment for ships, and that policy makers frequently aim at supporting coastal maritime transport because of environmental benefits of reducing the cargo moved by road. According to the report, demand for intra-country (cabotage) shipping has helped to absorb some of the new tonnage that entered into service in 2011. It observed that Cabotage shipping is not governed by most of the international maritime regulations, such as the phasing out of single-hull tankers. In respect of Nigeria, the report noted that Nigerian ship owners mostly deploy single-hull tankers for the coastal transport of oil and that vessels deployed in cabotage services are also often older than the internationally deployed fleet. In the United States for instance, it added, more than half of the fleet is older than 25 years, while the dry bulk fleet owned by Chinese interests include about 50 percent more ships of 25 years and older than the world average, which is mostly due to its deployment in coastal shipping.

In spite of this leeway, Nigeria's upstream offshore operations presently employs over 500 pieces of marine equipment, comprising construction vessels, platform supply vessels, tug boats, barges, crew vessels among others, with less than five percent participation of Nigerian ship owners. According to marine vessels requirement plans by the International Oil Companies (IOCs) between 2010 and 2013, their upstream operation is a total of 912 units. This comprised of 187 units of crew supply vessels, 200 units of line handling tugs, 324 units of AHT/supply vessels, 89 units of security patrol boats and 112 units of others.

With the volume of maritime trade and required marine equipment, Nigeria qualifies by her volume of import trade to be a hub for the short sea-trade of West and Central Africa sub-region. Over the years, the federal government has seen the need to develop the maritime sector by enacting laws to that effect, but virtually all the laws have failed to yield the desired result. For example, the National Shipping Policy Decree No 10 of 1987, which later became the National Shipping Policy Act cap 279 gave birth to the National Maritime Authority (NMA). The objective of this law was to ensure that indigenous national carriers exercise fully, Nigeria's carrying rights of at least 40 percent of the freight in revenue and volume of total trade to and from Nigeria. After 20 years, however, this law could not achieve its objective as the country degenerated from owning about 23 ships to having zero although other factors, including poor business culture and bureaucratic bottlenecks, were said to have contributed to the death of Nigerian carriers.

Following from the failure of extant laws, the Nigerian government, in 2003, enacted the Coastal and Inland Shipping (Cabotage) Act. This law was essentially aimed at restricting the use of foreign vessels in Nigeria's domestic coastal trade and operations. It was designed to promote the development of indigenous tonnage by empowering Nigerians to participate. The Cabotage Vessel Financing Fund (CVFF) was also established to provide financial assistance to indigenous operators in ship acquisition and others. But 10 years down the line, the Cabotage law could not be effectively implemented as participation of Nigerian shipping companies in marine transportation is yet to improve. Foreigners still dominate Nigeria's domestic coastal trade and operations by 80 percent, NIMASA stated. Apparently irked by the failure of NMA to achieve its objective within 20 years, the federal government again enacted the Nigerian Maritime Administration and Safety Agency Act No 17 of 2007, also known as NIMASA Act, which merged the NMA and the Joint Maritime Labour Industrial Council (JOMALIC) to form today's NIMASA.

Although yet another well intended legislation, the NIMASA Act, with adequate provisions to liberate and elevate Nigerians and indigenous companies from being mere spectators to becoming key players in marine transportation with huge benefits for the Nigerian economy, has suffered poor implementation. President Goodluck Jonathan in 2010, as acting President then, signed into law, the Nigeria Content Development Act 2010 (also known as the local content policy), a law aimed at empowering Nigerians to exercise 70 percent participation right in the country's oil and gas resources. Enactment of this law has been widely acclaimed as governments' display of unflinching commitment to support the maritime industry, especially the oil and gas sub-sector of the industry. Statistics from the NPA on ship calls to Nigeria, between 2008 and 2011, Nigeria's tonnage soared from 82 million tons to 150 million with an estimated freight payment rising from $4.1 billion to $7.5 billion, but participation of Nigerians was zero. The four years import freight payment equates to $22.53 billion all paid to foreign ships with no benefit to Nigeria. According to statistics, the NPA received about 5,327 ships in the ports, carrying Nigerian imports in 2011 with no participation of Nigerian ships (Amadi, 2013).

Chairman, Indigenous Ship owners Association of Nigeria (ISAN), Isaac Jolapamo, said the extant laws are sufficient to make the difference in the sector, if there is the political will. According to him,

> The Cabotage Act 2003 and the Nigerian Content Act 2010 provide expressly for Nigerians to the exclusion of other nationals for Cabotage trade and maritime transportation within the oil and gas industry. There is need to enforce these laws so that Nigeria and Nigerians can derive the envisaged benefits (Amadi, 2013: 3).

He further observed that if the potential of the industry is truly harnessed, the maritime industry can rank second only to oil and gas in terms of earnings in the short-run and supersede oil and gas in terms of earnings and employment generation in the long-run. He projected that “The maritime industry is capable of generating N1.6 trillion yearly as revenue and could provide employment to over five million youths in the country (Amadi, 2013).

Adding his voice to the conversation on the underdevelopment of Nigeria’s maritime industry, a former Minister of Interior and shipping expert, Capt. Emmanuel Iheanacho, expressed concern over the federal government policy that excludes Nigerian firms from the carriage of crude oil and limiting the contract only to foreign firms. Iheanacho said that the sale of the nation’s crude oil on FOB basis and also leaving the transportation to foreign firms was of a big disadvantage to the country. The former Minister who is also Chairman and Chief Executive of Genesis World Wide Shipping Limited said that selling crude oil on FOB basis was absolutely the least profitable way for the country. He observed that the present arrangement has denied Nigerians the huge economic benefits involved in the wet cargo trade adding that the policy amounts to exporting not just the oil and the refining, but also the jobs to those who run the ships that bring the products. He argued further that the best was to develop a policy that can allow Nigerian flagged vessels that can lift crude products by selling crude oil on Cost and Freight basis (Ugwoke, 2012).

Also, assessing the performance of the Nigerian maritime industry in the last 50 years, Orji (2011) pointed out that towards the end of the Nigerian civil war in 1969 the Federal Military Government empowered the NPA to acquire the ports of Warri, Burutu and Calabar which were then under private control and that by the end of the war, the government commenced the reconstruction of ports in accordance with the Second National Development Plan of 1970-1974. He noted that to some extent, these initiatives did not tremendously enhance the performance of the maritime industry and that apart from the Lagos port, other Nigerian ports did not significantly participate in maritime activities after the end of the civil war. Consequently, the problem of port congestion became unprecedented at the Lagos port in the period after the civil war following the massive importation of reconstruction equipments and materials.

Orji observed that this had negative effects on the performance of the maritime industry and the Nigerian economy and that to reverse this state of affairs, the federal government embarked on remarkable projects to enhance the performance of the industry between 1975 and 1980. These projects were particularly aimed at building new ports and increasing the capacity of existing ports. This led to the establishment of new ports in Tin Can Island, Warri and Calabar; plans were also made to establish a new port at Onne. Another remarkable initiative that followed was the improvement of local content in terms of fleet development. As a result of this programme, Nigeria had over 24 vessels in her national fleet by the early 1980's under the management of the Nigerian National Shipping Line (NNSL). There were also attempts to enhance national capacity with regards to ship building and repairs. Although the above developments considerably enhanced the performance of the maritime industry, it however failed to achieve the desired objectives. For example, during that period, indigenous shipping companies carried only about 11 % of the total volume of Nigerian maritime traffic and earned less than 9% of the total freight revenue.

Meanwhile, in their evaluation of the Cabotage Act enacted by the Nigerian government in 2004 as a strategic policy option for the repositioning of Nigeria's maritime industry, Okoroji and Ukpere (2011) explained that if it is properly implemented, Nigeria will be able to maintain jobs and skills in an industry that is vital to its future, and that Nigeria can only neglect the development of its maritime potentials at its own peril, especially taking into consideration her expensive maritime resource. According to them, the nation has been losing as much as $4 billion U.S dollar to foreign ship owners yearly owing to lack of indigenous capacity in the local maritime transportation (Okoroji and Ukpere, 2011). Similarly, Aluko (2013) stated that Nigeria primarily exports crude oil and imports refined petroleum products and the movement of these is dominated by some of the major global oil and shipping companies. According to him, the economic implications are that, Nigeria loses an additional 10 per cent of the country's revenue to freighting which amounts to the daily sum of $6.57bn annually.

Also evaluating the cabotage regime in Nigeria, Obi (2012) was of the view that many years after becoming law Nigerians are still wondering if the Cabotage regime has really taken off. This, according to him, follows the difficulty or near inability of indigenous shipping companies to carry Nigerian-generated cargo that pass through its coastal waters. The Nigerian water has become a feasting ground for foreign ship owners, who reap stupendously from the inability of the locals to carry Nigerian cargo.

On why the ship owners are not taking advantage of the law, he summarized the frustrations thus:

> in the past you will not find ships not working no matter how bad those ships were, you will not find them not working for three, four, five, six months or one year. Today we have such a situation, and these are not vessels that are not classed, that don't have insurance, don't have P and I and all the rest. But the singular something is that oh! This ship is a Nigerian flagged vessel, it is being managed by a Nigerian, and we don't want it (Amadi, 2013: 3).

He surmised that despite the Cabotage Act 2003 aimed at promoting indigenous shipping in the Nigerian maritime industry, the continued domination of the country's thriving maritime sector by foreigners is generating concern among local operators. These shipping companies and terminal operators have created unregulated means of defrauding Nigerian shippers through imposition of illegal charges. With the rising number of foreign investors in the nation's maritime sector and the high charges in their services to local firms, the maritime sector has become a treasure island to foreign investors. While most countries have laws restricting foreign access to domestic maritime transportation, Nigeria's seaports seem to be relatively porous. There is no adequate legal provision reserving marine transport services to Nigerians or to Nigerian-owned/registered vessels in spite of the Cabotage Act. Worse still, foreign shipping companies have dominated the Nigerian coastal and inland water transportation. They own the bulk of the fleet operating in the nation's waters, and significantly provide professionals including pilots, crewmen, engineers, freight forwarders, among others (Amadi, 2013).

FOB Marketing of Nigeria's Crude and Crude Oil Theft: the Nexus

Another negative impact of the marketing of Nigeria's crude oil on Freight on Board (FOB) which has received scant attention is its interconnectedness with the much talked about crude oil theft in Nigeria. As is common knowledge, illegal oil bunkering commonly referred to as crude oil theft has become a huge sub-industry within the Nigerian oil industry. So worrisome has this illicit trade become that Nigeria's Federal House of Representatives has in its wisdom created an ad-hoc committee dedicated to combating the phenomenon. By some estimates, Nigeria loses about $5 billion (N780 billion) annually to the nefarious activities of oil thieves and the country has cumulatively lost an estimated $400 billion to oil theft in the past 53 years, according to Bashir Adamu, the then Chairman of the House of Representatives Ad-hoc Committee on Crude Oil Theft.

This was reaffirmed by the then Finance Minister, Ngozi Okonjo-Iweala, in an interview in 2103 when she stated that stolen crude oil stood at about 400,000 barrels a day in April 2012, which equals 17 per cent of national production and amounts to a loss of $1.4 billion, according to a report by Chima Nelson (2013). Also, in an interview with *Sweet Crude*, an industrial relations practitioner, former President of Petroleum and Natural Gas Senior Staff Association of Nigeria (PENGASSAN), and former Deputy President-General of Trade Union Congress of Nigeria (TUC), Dr. Brown Ogbeifun, stated in respect of the alarming rate of crude oil theft and pipeline vandalism that figures ranging from 200,000 to 350,000 have been touted as daily crude oil stolen from the lines between 2010 and 2013. He observed that the negative impacts of vandalism and crude oil theft include the destruction of aquatic and farmlands, economic sabotage which, he said, explains the shortfall of Nigeria's 2014 budget from $29.3 billion in 2013 to $23.3 billion in 2014 and divestments by some International Oil Companies, IOCs, with attendant job losses thereby compounding the unemployment situation in Nigeria. Compounding the situation also is the security challenges facing us as a people and under these circumstances, apart from corrupt investors no transparent investor will be ready to make any meaningful investments in this critical sector (*SweetCrude*, 2014).

Similarly, a report on Nigeria's Criminal Crude prepared by Christina Katsouris and Aaron Sayne for Chatham House and published in September 2013 reported that Nigerian crude oil is being stolen on an industrial scale. The report noted that some of what is stolen is exported and that proceeds are laundered through world financial centres and used to buy assets in and outside Nigeria. Within Nigeria, politicians, military officers, militants, oil industry personnel, oil traders and communities profit, as do organized criminal groups while the trade also supports other transnational organized crime in the Gulf of Guinea (Katsouris and Sayne, 2013: ix).

According to the report:

> The Nigerian oil industry has a reputation for illegality. Corruption and fraud are present throughout the value chain. The state-run Nigerian National Petroleum Corporation (NNPC) is widely seen as one of the most politicized and compromised institutions of any oil-producing nation. A dynamic, crowded political economy drives competition for looted resources. Given that Nigeria is the world's 13th largest oil producer – regularly exporting around two million barrels per day (b/d) in 2012 – considerable rents are up for grabs. The country's former anti-corruption police chief, Nuhu Ribadu, claimed in 2006 that elites 'stole or wasted' \$380 billion over four decades (Katsouris and Sayne, 2013: 2).

Katsouris and Sayne (2013) reported that buyer-seller relationships in the stolen oil trade can vary a lot. According to them, some apparently are quite insular, with operatives in Nigeria shipping oil to a single refinery on pre-agreed terms. In other cases the stolen oil trades in the same markets as legal tanker-loads of crude. Thieves use various means to launder stolen oil into the licit market, all of which can blur the lines between legal and illegal supply. As such, pursuing stolen parcels requires an understanding of how legitimate Nigerian oil sales work. Each year, most often in the spring or summer, NNPC's Crude Oil Marketing Department (COMD) awards one-year term contracts to lift the government's share of oil production – typically 22 to 27 tanker-loads per month in recent months. These contracts go a variety of customers, mostly private oil-trading firms.

Explaining the workings of Nigeria's FOB crude oil market, Katsouris and Sayne stated that each year, most often in the spring or summer, NNPC's Crude Oil Marketing Department (COMD) awards one-year term contracts to lift the government's share of oil production – typically 22 to 27 tanker-loads per month in recent months. These contracts go a variety of customers, mostly private oil-trading firms. NNPC also allocates around 400,000 b/d of the government's oil to its four refineries but because the refineries generally run at only around 20 per cent capacity, much of this oil is sold for export. Some of it is stolen from the pipelines that run from onshore export terminals en route to the refineries. In addition to NNPC's regular export cargoes, the international oil companies (IOCs) ship and sell up to 30 more cargoes each month. Under the NNPC term contract system, most legitimate cargoes change hands at least twice: first from NNPC to a trader, and then from the trader to another buyer, most often a refinery. Moreover, of the fifty term customers for 2012, perhaps only a dozen to twenty have the capacity or will to finance, ship, and sell their own cargoes directly to refiners with all the market and price risks involved. Most of the remaining ones are so-called 'briefcase companies' – small entities which sell their allocations of crude to the main traders for a margin, most often at the higher end of $0.25–0.40 per barrel in 2013.

This, according to Katsouris and Sayne, adds a third layer of sales transactions which attracts many shadowy middlemen and 'politically exposed persons' and creates a crowded, confusing, high-risk marketplace that conduces for the laundering of stolen crude. A typical briefcase company is owned by one or more private individuals acting as a 'front' for top political office-holders and power-brokers. The report observed that Nigeria's oil sector is one of the world's least transparent when it comes to sales, associated revenues and physical oil flows. They observed that the resulting shadows and disorder could easily be exploited by organized criminal interests.

Also added to the general bustle and opacity, the traders who hold NNPC term contracts sell their cargoes in the physical spot market – a vast, mostly unregulated space. Organized criminal pursuits such as export oil theft generally thrive in open markets. In Nigeria and other countries, relatively recent moves towards economic liberalization, integration with global trade and privatization of state resources, whatever their benefits, also help criminal elements access capital, technical expertise and global crime networks. In such an environment – where many parcels of oil change hands many times to travel in different directions under often opaque conditions – stolen crude can mix in the legitimate market with relative ease (Katsouris and Sayne, 2013).

Conclusion

In this paper, we examined how the Freight on Board (FOB) marketing of Nigeria's crude has effectively relegated the more self-reliant Cost, Freight and Insurance (CFI) mode of crude oil marketing which is the norm in over 80% of oil exporting countries. We identified the direct consequences of the relegation of the CFI mode to include: Nigeria's low participation in global crude oil transport with the attendant loss in revenue; the low level of indigenous participation in Nigeria's cabotage trade; and the accentuation of crude oil theft in Nigeria. We showed that the choice of the FOB for the marketing of her crude by the Nigerian state was forced on her by the structure of crude oil marketing it inherited from the International Oil Companies that exercised absolute control over all aspects of Nigeria's oil industry for the first two decades of its operation. The further demonstrated that owing to the lack of indigenous capacity in crude oil transportation at inception and the lack of political will to demand for the transfer of competence to indigenous entrepreneurs *ab initio*, the Nigerian state towed the line of least resistance by adopting the FOB, and that with the eventual excessive reliance on oil rents for government revenue, the Nigerian state clung unto the FOB even when it fully came to terms with the revenue loss incurred as a result of its adoption. In the light of the available evidence therefore, we that the choice of FOB in the marketing and transportation of Nigeria's crude is part of the dialectics of the regulatory capture argument.

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