

Appraisal of Cabotage Act Implementation in Nigeria

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Abstract— This paper appraises the degree of Cabotage Act implementation in Nigeria. The Act was passed into law in 2003 to empower domestic shipping operators to dominate the coastal and inland shipping trade. Secondary data were employed to elicit information on the relationship existing between local and foreign cabotage operators in respect of vessel ownership, revenue earned, manning and building of cabotage vessel. The difference of means statistical method was employed for the analysis and hypotheses were tested using a paired t-Test method of analysis. H_{0A} was accepted to show that there was no significant difference in vessel ownership between foreign and local operators; H_{0B} was rejected which indicates that foreign operators were earning more than local counterparts; H_{0C} was rejected which means that local manning was more than foreign manning; H_{0D} was rejected showing that foreign built vessels outnumbered the locally made ones. The result of this analysis revealed that much improvement has not been recorded in the fortunes of indigenous shippers in the country. The paper therefore suggests that, the agency charged with the enforcement of this Act should shift focus from revenue generation such as granting waivers to foreign participants and seek for more indigenous participation.

Keywords— Cabotage, Waivers, Vessel, Shippers, Manning, Indigenous

I. INTRODUCTION

Cabotage is defined as the carriage of goods or passengers either by vessel from one place to another in Nigeria or a vessel involved in any other water transportation activity of a commercial nature in Nigerian territorial waters. The Nigerian cabotage Act provides that only watercrafts, wholly owned and manned by Nigerian citizens, built and registered in Nigeria, shall engage in the domestic or coastal carriage of passengers and cargo within Nigerian territorial waters or any point within the waters of the Exclusive Economic Zone of Nigeria which is approximately 200 nautical miles seaward from the outer limits of the coastline [1].

Vessels entirely owned by citizens of Nigeria are defined as ships/watercrafts whose entire shares are beneficially owned by Nigerian citizens free from any trust or obligation in favour of a non-Nigerian or companies registered in Nigeria whose entire shares are beneficially owned by Nigerian citizens. Vessels wholly manned by Nigerians are described as ships/watercrafts with an all-Nigerian shipboard personnel and vessels constructed and registered in Nigeria are vessels whose key components including the hull and superstructure are fabricated in Nigeria. All foreign vessels, barges and tugs with the exception of the vessels listed below, are barred from participating in the coastal carriage of materials or supply of services to and from oil rigs, platforms and installations in Nigeria. The foreign vessels exempted are:

1. Vessels engaged in salvage operations.
2. Vessels engaged in activities related to a marine pollution emergency or to any threatened risk thereof

with the approval of the Minister or any other relevant government agency.

3. Vessels engaged in any ocean research activity commissioned by the Department of Fisheries or any other government department responsible for carrying out such research; or
4. Vessels operated or sponsored by a foreign government with the consent of the Minister of Foreign Affairs to conduct marine scientific research in Nigeria.

Hence, the objective of this paper is to examine the extent by which the Cabotage Act has been implemented in Nigeria.

Hypotheses

H_{0A} : There is no significant difference between the number of Nigerian and foreign owned vessels engaged in coastal shipping in Nigeria.

H_{0B} : There is no significant difference in the hire revenue earned by local and foreign ship operators engaged in cabotage trade in Nigeria.

H_{0C} : There is no significant difference between the number local and foreign crew manning cabotage vessels in Nigeria.

H_{0D} : There is no significant difference between the number of cabotage vessels built locally and internationally.

II. RELATED WORK

The Nigerian cabotage law evolved to enhanced the efficiency of the country's maritime industry, especially in the area of indigenous fleet expansion, ship building and human capacity development. The aim was to curb foreign dominance and unequal competition by non-Nigerian

operators. Since the promulgation of the Cabotage Act, attempt at successful and beneficial implementation could not be achieved due to regulatory inadequacies [2].

Reference [3] in his book entitled “Nigerian Maritime Cabotage Policy and Law: The Case and Advocacy”, presented an overview of types of Cabotage laws operated by some maritime countries and reasons for the liberal type adopted by Nigeria. He submitted that there are two types of Cabotage laws: the *strict* and the *relaxed* or *liberalized* maritime Cabotage laws being applied by different countries today as dictated by their national, strategic and commercial shipping interests and local situations. In a “strict” Cabotage law, the three elements of restrictions are that only vessels that are (a) built in, (b) owned by, (c) crewed and operated exclusively by citizens of the country are permitted to participate in domestic shipping trade to the exclusion of foreign-built, foreign-owned, foreign crewed and manned vessels. A Cabotage law is referred to as “relaxed or liberalized” if those three elements are, or any of them is, not strictly to be met by the vessels partaking in the Cabotage trade. Or if there are some levels of foreign participation either in the ownership or building of the ships used and or in the nationality of the operators or their ships engaged in the domestic shipping of a country.

The Cabotage Act is planned to guarantee the participation of Nigerian citizens in its own domestic maritime trade.

The objectives of the law thus include the following:

1. To promote economic growth and national development;
2. The need for the nation to protect its coastal trade through shipping;
3. To stimulate and expose Nigeria’s indigenous shipping operators to shipping business in the coasts as a stepping stone to deep sea or international shipping;
4. Promote acquisition of shipping technology by creating and diversifying employment opportunities in the industry;
5. Improve environmental safety;
6. Enhance indigenous maritime capacity by igniting the flame of education, training and employment of seafarers, ship operators and ship managers.
7. Protection of the nation’s security interests;
8. Improve balance of payment;
9. Provide level ground for fair competition amongst the indigenous ship-owners and operators.

All vessels proposed to be used for Cabotage must be registered in the Special Register for Vessels and Ship Owning Companies engaged in Cabotage. The vessels that are qualified for registration include cargo vessels, passenger vessels, crew boats, bunkering vessels, fishing trawlers, barges, tugs, tankers and floating petroleum storage vessels. The Act further prohibits vessel from being registered unless the Minister is satisfied that such vessel is:

- Wholly and beneficially owned by Nigerian citizens or companies wholly owned by Nigerians;
- On bareboat charter to Nigerian citizens who have full control and management, or a company wholly and beneficially owned by Nigerian citizens or a joint venture company in which Nigerian citizens own a minimum of 60% of the shares in the company;
- A foreign vessel granted a license under the Act;
- In full possession of all certificates and documents in compliance with international and regional maritime conventions and meets all safety and pollution requirements imposed by Nigerian law and international conventions.

The Minister is vested with authority to grant a waiver to an appropriately registered vessel on the requirement (i.e., to be wholly owned, manned by Nigerian citizens and built in Nigeria) for a vessel intended to be used for cabotage, if the Minister verified that there is no wholly owned Nigerian vessel suitable to provide the services required, no qualified Nigerian officer or crew for the position specified or no Nigerian shipbuilding yard with the capacity to construct the particular type and size of vessel specified. In the In the occasion that the Minister resolves to grant a waiver, he is obliged to give preference to vessels owned under a joint venture arrangement between Nigerians and foreigners in a ratio of 60:40 provided the shares held by Nigerians are free from any trust or obligation in favour of non-Nigerians and afterward to any vessel registered in Nigeria and owned by a shipping company registered in Nigeria.

Constraints on Implementation of Cabotage Law

Since the inception of cabotage Law in Nigeria on the 1st day of May 2004, numerous challenges have hampered the effective implementation and enforcement of the law. Reference [4] points out the weaknesses of the cabotage regime. He noted that the conditions prescribed for obtaining a waiver by foreign firms are less challenging and as such more foreign ships will likely obtain waivers to engage in cabotage in Nigeria. This is because there is currently inadequate Nigerian fleet to cater for the cabotage. Thus, with the inclusion of waiver, the majority of the responsibilities of the indigenous vessel holders have been transferred to the foreigners making the Cabotage Act to be ineffective and at the same time defeating the purpose of the Act.

There are some challenges with regard to the implementation of this act such as, low capacity of Nigerian ship building industry to meet the demand of cabotage trade market, inability of shipowners to access fund to enhance their operations, lack of adequate attention to the condition of service and welfare of Nigerian seafarers onboard cabotage vessels [5].

Reference [6] corroborates that a successful cabotage regime in Nigeria would basically require to be conditioned on the availability of Nigerian owned, registered and crewed vessels of the appropriate market

role and description. Since the main market vectors for the Nigerian cabotage trade consists in the operational requirements for tanker vessels as well as offshore support watercrafts, Nigerian shipping interests would invariably require to develop an indigenous shipping fleet of the appropriate market role description and capacity in order to be properly positioned to take full advantage of the Cabotage law.

Reference [3] writes that the exclusion of Indigenous Ship-owners Association of Nigeria (ISAN) from ministerial consultation process is a big challenge. He observed that this is one of the flaws of the Guidelines because the Minister ought to consult ISAN to ensure that there is no wholly-owned Nigerian vessel suitable and available to perform the service(s) stated in the application.

Reference [4] further noted that another setback besetting the Cabotage Act is the unionization of the major European countries under the International Association of Classification Societies (IACS). The IACS in conjunction with other ten classification societies control ships in Europe and possess about 95% of the world's fleet. It is claimed that vessels of the members of IACS operate locally in Nigeria due to their strength, capacity and influence irrespective of the Cabotage Act.

The IACS has thus taken advantage of the problem of draft restrictions in the ports of Nigeria. The IACS refuses to class the indigenous vessels for the reason that provisions for safety, insurance and fire prevention are deficient due to poor funding. These local vessels find it unfavourable to compete with foreign vessels, thus, efforts in upholding and increasing local participation in the industry are sabotaged. Piracy is another major challenge of Cabotage. There has been a report of pirates terrorizing vessels and maiming crew members on the Nigerian territorial waters.

Reference [7] observed that there were 60 piracy attacks in 2008, down from 263 in 2007. There were 236 attacks in 2006; 276 cases in 2005; 329 incidents in 2004 and 444 occurrences in 2003. He further said that piracy attacks rised three folds in Nigeria in 2007, with the attacks mainly targeted at oil vessels by militants in the Niger Delta.

Reference [8] noted that Infrastructure and capacity building is another challenge. Nigeria does not yet possess the infrastructure. The discretionary waiver system is in recognition of the fact that we do not yet have the capacity to develop our own tonnage. The Act therefore, would grant waivers and collect a fee in lieu.

Capacity building should be all inclusive with maintenance and repairs being an essential part of it. At present, vessel operators resort to Cameroon or Ghana or South Africa, for maintenance and repairs. In this vein, capacity development should also include fabrication yards and dry-docking facilities.

He also noted that there is a danger of too much regulation. Too many Governments' Regulatory Agencies all

collecting levies and charges. As its operators shall be dealing with Immigrations, Customs, Ports Authority, FEPA, DPR, Navy, SSS, Police, FIRS, and the Special Enforcement Unit of NIMASA.

Finance is a major challenge to shipping business since it is capital intensive in nature. A quick look at the symbolic significant roles shipping plays in the economy of Nigeria, it becomes important for the government to motivate or assist by providing funds for stakeholders in the industry to acquire ships and from their earnings they will become self-sufficient and reliant. Reference [6] also identified lack of finance as one of the challenges and constraints that the local operators have to contend with. According to him, capital intensity is a generally acknowledged characteristic of shipping services, whether considered in the context of international or coastal application. On the backdrop of our current effort to maximize our Cabotage potentials, the point must be made regarding the need to provide adequate funding support for acquisition of asset if the expected results are to be achieved.

According to Reference [6], Human Resource Constraint is identified as major a problem capable of undermining the effective Cabotage law implementation. This is because a national fleet cannot become established without a related programme for the training and certification of the technical factors required to man and operate the vessels to be acquired under the Cabotage regime. As Nigeria has attained membership of the IMO's White list, an effort should be directed to restructure Maritime Academy of Nigeria (MAN) Oron's curriculum to enable it train cadets from induction through to the issuance of sea-going certificates by the Institution. The Nigeria Maritime University at Okerenkoko Delta State should be well equipped to enable it produced highly skilled personnel for the maritime industry.

III. METHODOLOGY

Only secondary data was adopted for the research analysis and was sourced from journals, dissertation, publications, newspaper, seminar paper, NIMASA, NNPC, etc. T-test was used for the analysis of the data collected to make comparison between foreign and local operators. Also, descriptive method of analysis such as bar chart and pie chart were used to analyse the data.

IV. RESULTS AND DISCUSSION

Table 1: Variable for Test of Hypothesis A

Cabotage Vessel Ownership		
Year	Local	Foreign
2011	158	168
2012	185	304
2013	206	137
2014	171	163
2015	223	164
2016	248	135
2017	225	140
2018	111	142
Total	1527	1353

Source: NIMASA, 2016

Fig.1 presents the degree of Cabotage Vessel Ownership distribution between the local and foreign operators which is slightly unevenly distributed.

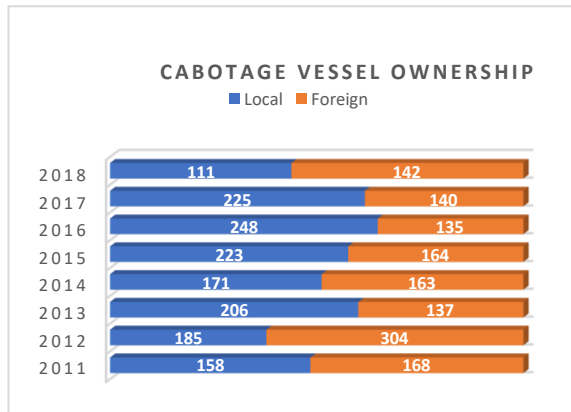


Figure 1: ownership of cabotage vessels used by each class of operator

Test of Hypothesis A

In order to test hypothesis A, the data in Table 1 were analysed using t-test statistics and the result is as shown in Table 2. The t-test showed a t-stat of 0.82 and a t-table of $t = 0.025(4) = 2.132$ at 0.05 significance level and 4.0 degree of freedom. Since the calculated value $t_c = 0.82$ is less than table value $t = 2.132$ and falls within the acceptable region, thus we accept H_{0A} and conclude that there is no significant difference between local and foreign owned vessels providing cabotage services.

Table 2 Paired Samples Test

Ownership	Paired Differences					T	Df	Sig. (2-tailed)
	Mean	Std. Deviation	Std. Error Mean	95% Confidence Interval of the Difference				
				Lower	Upper			
Pair 1 Country - Foreign	2.17500E1	75.34445	26.63828	-41.23953	84.73953	.816	7	.441

Table 3 shows that the total revenue earned from contracts of ship chartering for coastal shipping by local and foreign operators over the period eleven (11) years which amounts to Two hundred and ninety-four million, five hundred and sixty-seven thousand, two hundred and six US Dollars (294,567,206 USD) and six hundred and sixty-eight million, one hundred and sixty-six thousand, three hundred and sixty-three US dollars (668,166,363 USD) respectively.

Table 3 Variables for Test of Hypothesis B

Revenue Generated		
Year	Local (\$)	Foreign (\$)
2004	7,981,291.32	26,936,858.32
2005	5,366,772.32	22,808,783.11
2006	5,639,657.13	14,501,975.48
2007	16,949,266.71	39,548,288.99
2008	22,849,408.7	45,281,771.91
2009	19,876,408.7	41,281,771.91
2010	31,451,990.69	90,162,373.31
2011	37,031,989.32	94,431,572.78
2012	45,043,089.8	95,283,459.2

2013	47,776,088.3	95,552,176.6
2014	54,601,243.8	102,377,332
Total	294,567,206.79	668,166,363.61

Source: Department of Petroleum Resources and PPMC

Fig. 2 presents the percentage distribution of revenue generated by local and foreign cabotage vessels operators, and it shows that foreign operators earned 69% while local operators earned 31% of the total earnings.

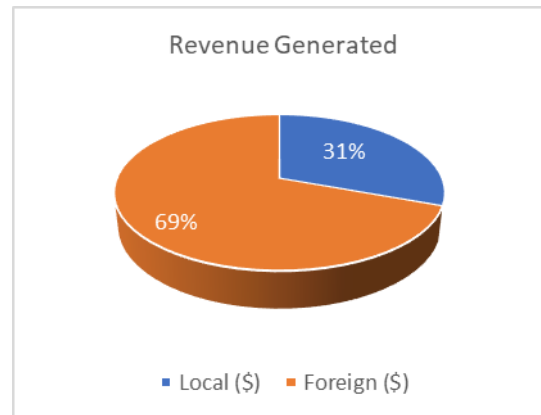


Fig. 2: percentage revenue earned by local to foreign operators

Test of Hypothesis B

To test hypothesis B, the t-Test statistics was employed to analyse the data presented in Table 3 and the result is as shown in Table 4. The t-test showed a t-stat of -6.149 and a t-table of $t = 0.025(10) = 2.228$ at 0.05 significance level and a degree of freedom of 10. Since the calculated $t_c = 6.149$ is greater than 2.228 and falls within the acceptable region, we therefore, reject H_{0B} and accept H_{1B} to draw a conclusion that there is a significant difference between revenue generated by local and foreign operators. In this case, it is in the favour of foreign operators and it negates the objective of the cabotage Act.

Table 4 Paired Samples Test

REVENUE	Paired Differences					T	df	Sig. (2-tailed)
	Mean	Std. Deviation	Std. Error Mean	95% Confidence Interval of the Difference				
				Lower	Upper			
Pair 1 Local Operators - Foreign Operators	-3.39634E7	1.83200E7	5.52368E6	-4.62710E7	-2.16559E7	-6.149	10	.000

Table 5 shows the manning strength of local and foreign operators of cabotage vessels in Nigeria. It shows that the total of local manning was twenty-two thousand, six hundred and eighty-five (22685) while foreign manning was six thousand and fifty-eight for the period of the study.

Table 5 Variables for Test of Hypothesis C

Manning		
Year	Local	Foreign
2011	3784	1456
2012	4762	1778
2013	4905	1282
2014	4084	711

2015	5150	831
2016	4808	840
2017	4717	854
2018	2574	957
Total	34784	8709

Source: NIMASA, 2019

Figure 3 is a pictorial presentation of the degree of manning of Cabotage Vessel distribution between local and foreign operators. It reveals that foreigners held 20% and indigenes held 80% of the total manning positions.

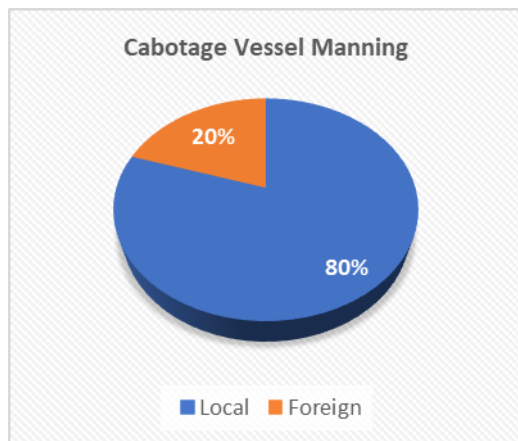


Figure 3: Percentage of local to foreign crew manning Cabotage Vessels

Test of Hypothesis C

To test Hypothesis C, the data as provided in Table 5 were analysed using t-test statistic and the result is presented in Table 6. The t-test result showed a t-stat (t_c) of 10.150 and a t-table value of $t = 0.025(4) = 2.132$. Since the calculated value $t_c = 10.150$ is greater than the table value $t = 2.132$ and falls within the acceptable region, thus, we reject H_{0C} and accept H_{1C} to conclude that there is a significant difference between local and foreign manning of cabotage vessels. This difference favours the local operators more than the foreign competitors thereby promoting the objective of the Act.

Table 6 Paired Samples Test

MANNING	Paired Differences					T	df	Sig. (2-tailed)
	Mean	Std. Deviation	Std. Error Mean	95% Confidence Interval of the Difference				
				Lower	Upper			
Pair 1 Local - Foreign	3.25938E3	908.30595	321.13465	2500.01222	4018.73778	10.150	7	.000

Table 7 shows the number of locally and foreign built vessels used for Cabotage services. It shows that a total of five hundred and seven (557) vessels were built locally whereas two thousand six hundred and thirty-one (2631) vessels were built in foreign countries.

Table 7 Variables for Test of Hypothesis D

Cabotage Vessel Building		
Year	Local	Foreign
2011	131	548
2012	69	602

2013	168	615
2014	61	419
2015	128	447
2016	71	545
2017	44	495
2018	12	207
TOTAL	684	3878

Source: NIMASA, 2019

Figure 4 shows the degree of Cabotage vessel building distribution between local and foreign operators. It revealed that 85% of Cabotage vessels were built in foreign countries while 15% were built locally.

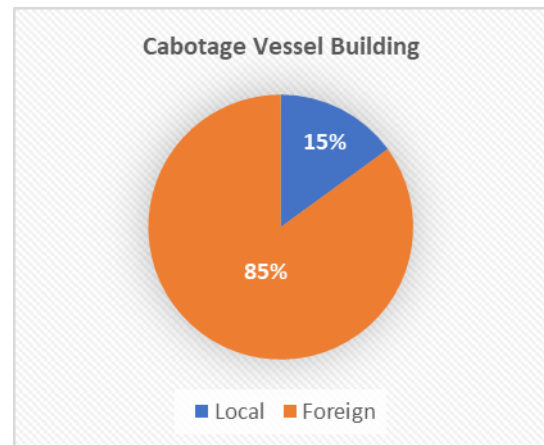


Figure 4: Percentage local to foreign Cabotage Vessels Building

Test of Hypothesis D

To test hypothesis D, the t-test statistics was also adopted and use to analysed the data in Table 7 and the result is as shown in Table 8. The t-test showed a t-stat (t_c) of -10.656 and a t-table value of $t = 0.025(4) = 2.132$. Since the calculated value $t_c = |10.656|$ is greater than table value $t = 2,132$ and falls within the acceptable region, thus, we reject H_{0D} and accept H_{1D} , then conclude that there is a significant difference in the number of locally and foreign built vessels operating the cabotage trade in Nigeria. This difference in favours of the foreign built vessels negates the objective of the Cabotage Act.

Table 8 Paired Samples Test

BUILDING	Paired Differences					T	Df	Sig. (2-tailed)
	Mean	Std. Deviation	Std. Error Mean	95% Confidence Interval of the Difference				
				Lower	Upper			
Pair 1 LOCAL - FOREIGN	-3.99250E2	105.97136	37.46653	-487.84427	-310.65573	-10.656	7	.000

V. CONCLUSION AND FUTURE SCOPE

The result of analysis of cabotage vessel building shows that there is a significant difference between locally and foreign built vessels. This indicates that there is room for improvement in the numbers of locally built vessels. Due to lack of funds and necessary technicians the Nigerian shipyards have not been able to construct sophisticated vessels like tankers used in lifting petroleum products and fishing trawlers. The shipyards in Nigeria are not capable

to perform adequate repairs and maintenance. When vessels in Nigeria need repairs or in-depth maintenance, they are taken to the shores of other countries to effect this repairs and the local shipyards can only perform turnaround maintenance which are done periodically say every five years.

The analysis further reveals that there is a significant difference between revenue generated by local and foreign operators. This is an indication that local operators earn less than their foreign counterparts. This could be attributed to the sophistication of these foreign built vessels which earn them more lucrative coastal shipping jobs. Also, this difference in revenue generation can be attributed to the preference given to foreign shipping operators by NNPC and DPR in the contract of lifting petroleum products.

The analysis on the ownership of cabotage vessels showed that there is no significant difference between the foreign owned and locally owned vessels. This statistic has been constant and the number of indigenous owned vessels is yet to outnumber the foreign owned vessels. Maintaining this *status quo* means a large percentage of the revenue generated from cabotage are repatriated to home countries of these foreign operators contrariwise when these profits are earned by local operators, they will reinvest the income into other sectors of the economy thereby strengthening the economy.

Nevertheless, despite the unimpressive impact of the cabotage policy on the indigenous shipping operators, the policy still has prospects of raising the level of development of indigenous shipping in the country. More so, the situation of the indigenous shipping operators is expected to improve in the long run, given all the government efforts aimed at ameliorating the unfavourable conditions of Nigerian shipping companies, shipbuilding and ship repair yards and seafarers. Also, with this, the attainment of the set objectives of the cabotage Act is certain. It is believed that with sustained commitment and interest shown by NIMASA, cooperation from other relevant government agencies and with government's support, those laudable objectives will be achieved.

Recommendations

It is hereby recommended that NNPC and DPR should cede some oil lifting contracts to competent local shipping operators thereby enhancing their participation and chances of taking over this aspect of cabotage business which has been dominated by foreigners.

On the Cabotage Vessel Financing Fund (CVFF), government should swiftly ensure that all the bottlenecks in accessing the Fund by indigenous operators are removed and commence disbursement of the Fund. This will ensure the acquisition of relevant and needed technology for building of vessels by the indigenous shipbuilders, thereby giving indigenous shippers and shipyards the necessary impetus to actually participate in the cabotage trade to the

benefit of Nigerians and the achievement of the objectives of the Cabotage Act.

As regards manpower development, NIMASA should intensify efforts to ensure training of more seafarers especially for high-ranking officers as their number compared to foreigners is quite low. This training is necessary so that indigenous seafarers could be employed to man vessels to be procured by indigenous ship-owners, so that the intended benefits of the cabotage will not elude Nigerians.

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