Chapter Four
Review of Nigeria Port Reforms
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4.0 Introduction

For many years, Nigeria's port system has suffered from poor performance and high costs, leading to long turn-around times of ships, and rising container dwell time. Furthermore, unlike the usual status of ports as "Cash-Cows", the Nigerian Ports generally required financial support from the Federal Government, especially for its capital investments. Before the reform, the Nigerian ports system was highly centralized. The Nigerian Ports Authority (NPA) required permission from either the President or the Minister of Transport for virtually all the major decisions. This led to inefficiency and lengthy decision-making process in the Nigerian Ports subsector. The Nigerian Port Authority (NPA) was responsible for both regulatory and operational functions of the ports which, was considered as another major bottleneck to attaining efficiency in the port operations.

Comprehensive reform of the port sub-sector began in 2000. The reform program was designed to remove the major impediments to efficient operation and thereby facilitate streamlining of import and export activities. The measures adopted included a shift of management from government controlled system toward the landlord port model and the extensive award of private sector concessions for port-based cargo-handling facilities. Despite significant progress since 2000, much still remains to be done to improve the productivity of Nigeria's main ports. The policies and strategies adopted in effecting this improvement are collectively described as reform.

The objective of this chapter is to examine the nature of this reform, outline its guiding principles and discuss the international best practices in port and maritime sub-sector reform programmes. The chapter also examines the concept of reform, port reform process in Nigeria with reference to its objectives, strategies and progress.

4.1 The Concept of Reform

4.1.1 Reform – Its Meaning, Spirit and Purpose

The world-view originally associated with the word reform means to 'restore the original form'. When used in this way, it implies that there must have been an observable decline in the way things were handled to the extent that a reversal to the *status quo* was necessary. From 18^{th} century, however, the word assumed another meaning and it typically implied "forming something new". Today the word reform is used to imply a change made to a system or organization to improve it or remove the unfairness in it. From international best practises on sector reform programmes, reform is used to connote a change in the method of operating, funding, maintaining, administering and managing a system. It is a change to a preferred, more effective and more efficient method of doing things in order to achieve better results. Therefore, reform entails any programme of systematic change in policies or institutions, with the objective of attaining greater efficiency and productivity.

Sector reform programmes are necessary in modern times because of the dwindling resources available to governments for providing services to the people. Government either seek ways of passing service costs to the consumer directly or seek the intervention of the private sector by creating pathways through which private funds can flow into public works and services. The contractual agreement under which this is undertaken is known as Private Public Partnership (PPP). In the PPP, government entrusts private operator with the long term implementation of a project particularly large scale and complex construction projects. "It is an approach for introducing private management into the public service through long term contractual bond between the operator and public authority." (HMSO 2000)

But PPP is not the only approach or strategy of reform. Others include Privatization which entails the outright transfer of public service or facility to the private sector to manage in line with market forces. There is also the commercialisation approach whereby government runs its project by itself, in line with market principles. In PPP or other forms of reform, the public does not lose its authority; it still supervises and ensures service quality.

In general, reform is undertaken in order to:

a) Increase efficiency in the execution of public projects.
b) Enhances project implementation capacity such that with the same resources, greater and more responsive services are delivered.
c) Reduce the risk carried by the public sector in the execution of projects and in the delivery of services.
d) Mobilize financial resources from private sector.
e) Free scarce public funds for other uses.

4.2 Reform – Its Historical Development

The PPP is not a completely new approach. Concession which is a form of PPP has existed very early in the history of infrastructure management. Concession laws governing public estate licences existed as early as 530 A.D. During this time, public facilities such as estates were concessioned out for management. Concession disappeared during the 5^{th} Century with the fall of Roman Empire and appeared again during the middle ages (12^{th} and 13^{th} Century) and applied to the construction of fortified towns and occupation of new lands. It shortly disappeared again only to come back during 16^{th} and 17^{th} Century with the Europeans and particularly France conceding public works to their "financial investors" called entrepreneurs. Such works contracted out include Canal construction, road construction, waste collection, public lighting, mail distribution, public transport, and general stores.

Britain engaged in canal construction through the concession approach in 1791. This was strengthened in the whole of Europe in the 18^{th} Century; PPP was weakened by the preparation for war. During this period concession was cancelled and state owned companies emerged. In France, the railways, electricity supply, canals, telephone and subways were nationalized. PPP bounced back in 1960s and by the 1990s it had become a major means of stimulating the European economy. Many countries are now involved in PPP to develop their infrastructure. According to the word Bank, PPP currently finances 15% of world's infrastructure investment, with the volume of investment doubling between 1993 and 1995 from 17-37 dollars. (UN 2000)

4.3 Channel of Reforms

Modern sector reform utilizes the private sector to achieve results. This is because private initiative and private enterprises are the engine of growth and progress in modern day competitive economy. Private sector driven-enterprises search for new opportunities and new methods of getting things done in a better way. This continual search for new opportunities, based on knowledge and experience of many individuals permit better utilization of the potential of a country's resources.

One of the key problems of many countries is inadequate capital and the improper use of available ones. The successes of private enterprises in their prudent and efficient utilization of resources, resulting in high profits and savings, constitute the main sources of accumulation of their investment capital, which could be use in the country. The generation of domestic capital may be implemented by foreign investors. A responsible foreign investors also brings the "know how" and usually, a better understanding of modern technology. (TSRC 2002)

Thus the private sector is the major channel for affecting a reform programme in any country. This does not mean that the government will abdicate its responsibilities but rather a refocus of the role of government under the private-public sectors performing their functions. The government under the public-private sector partnership will play the role of an enabler, facilitator, regulator, planner and supervisor of national projects helping the private sector to grow, generate jobs and create wealth. The private sector will be the executor investor and manager of business. The specific delineation of the role of government depends on the actual situation and may change with an achieved level of development.

4.4 Instruments of Reform

A variety of options exist for involving the private sector in the provision and management of the port. Some of these include

- Outright Privatization
- Equity Participation
- Concessioning

  BOT⇨ Build, Operator and Transfer
  BOO⇨ Build, Operate and Own
  BTO⇨ Build, Transfer and Operate
  BOOT⇨ Build, Own, Operate and Transfer
  DBFO⇨ Design, Build, Finance and Operate
  DCMF⇨ Design, Construct, Maintain and Finance

- Outsourcing
- Management Contract
- Commercialization
- Etc

The type of instrument adopted depends on the infrastructure and service under reform, and the country's socio-economic and political environment.

4.5 The Need for Reform

There are two major reasons why reform in the port sub- sector is desirable. First, port is dynamic, affecting the social, economic and political environment. As economy grows, it requires improved transportation system in which port forms a critical part. Only constant reform in port can meet the changing nature of the environment. Second, government is a bad business body. It's delivery of transport services usually falls short of the efficiency with which the private sector will deliver the same services.

Similarly, the performance of the private sector in the construction and maintenance of infrastructure cannot be beaten by government. For these and other reasons a reform in the way government handles port infrastructure development and service delivery is always desired. Modern changes in international logistics and the liberalization of domestic economy with their implications make this reform extremely necessary.

4.6 Areas where reform is desirable

There are three main areas where reform in port may be anticipated or found desirable. These include; infrastructure, service provision and administration. Conventionally, government has been providing the three over the years. In the early stages of national development, the government, of necessity played a major role as a promoter, developer, investor and manager of many activities. In most countries during the early stages of railways development, the government was building and operating ports without following commercial principles.

Under this transport reform, issues relating to the planning and administration of the transport system are the main functions of government. For example government regulates the types of vessels, port operational standards. Under this transport reform process, it is increasingly the task of the private sector to invest, own and manage different elements of the transport system, while the government provides proper environment to attract the best and honest entrepreneurs and protect the users and the society against dishonest and undesirable practices.

4.7 Port Reform in Nigeria.

4.7.1 Background to Nigerian Port Reforms

As earlier observed, in order to overcome the inefficiency and improve the productivity in the ports, the Federal Government of Nigeria embarked on a ports reform program including concession of its terminal operations following the recommendations of a diagnostic study in 2001. To facilitate the reform program, the Bureau of Public Enterprises, with financial assistance from the World Bank, engaged the services of CPCS Transcom International Ltd in December 2003 as the transaction advisors for the port reform. Initially, the consultants from CPCS reviewed previous studies, and carried out the necessary legal, regulatory and financial due diligence. CPCS also proposed a restructuring framework, including a bid tender strategy, a new legal and regulatory framework for the entire port subsector in Nigeria, In addition, the consultant examined the regulatory changes, human resources plan, a financial plan, as well as business plans for the proposed port authorities and proposed the basis for reform policy and programmes for implementation.

4.7.2 Legal and Regulatory Framework

Based on the proposed new legal and regulatory framework, a Ports Authority Bill and a Ports Commission Bill were drafted. Following stakeholder consultation, the Ports Authority Bill was amended to form two Port Authorities, namely, Lagos Ports and Harbour Authority and the Nigeria-Delta Ports and Harbour Authority. The Ports Commission Bill was also amended to be included in the National Transport Commission Bill (NTC bill), which would form a National Transport

Commission to act as the economic regulator and overseer of other regulations for Ports, Inland Water Transport, Roads and Rail sub-sectors. Later, the "aviation" sector was also included in the draft NTC bill to be supervised by the NTC. As of April 2008, the Ports and Harbour Authority bills are with the National Assembly for enactment.

Although the new acts are expected to govern the reforms in the Nigerian Ports sector in an optimal manner, the present Ports Act (1999), provided an adequate legal basis to go ahead with the concession program. Thus, following the necessary approval from the National Council on Privatisation (NCP) and the President of the Federal Republic Nigeria, the Bureau of Public Enterprise (BPE) initiated the concession process in October 2004.

The key features of the new institutional restructuring for the port sector in Nigeria include:

- Creation of the two Autonomous Ports and Harbours Authorities
- Creation of the National Transport Regulatory Commission (NTC) which is expected to regulate all transport sector including seaports in Nigeria.
- Limiting the role of the Government (i.e Ministry of Transport)
- Private Operators to perform the Port Operations

The functions of the new port authorities include day-to-day technical and safety regulatory functions, primary rights to the basic and operational infrastructure within their respective jurisdictions, power to coordinate marine activities, general responsibility for overall port planning and development, power to issue licenses (as authorised by and subject to guidelines set by NTC), authority to lease and concession port infrastructure, authority to collect port authority tariffs, etc. Although, in the present arrangement, the Port Authorities have been performing operation relating to marine services (i.e. pilotage, mooring, vessel traffic management etc.), the draft bill has provisions to "outsource" such services from the private sector.

The role of the Federal Ministry of Transport in the new structure would be limited to the development of port policies, creation of a suitable legal environment, master plans and overall conducive environment for effective service delivery by the private sector.

In this regard, the major responsibilities and functions of the government as rightly outlined by the Nigeria's Draft National Transport Policy include:

- Monitor the performance of the transport system and its adequacy to meet the requirement of socio-economic development. This implies the identification of existing or new problems, bottlenecks and inadequacies and making sure that appropriate action is taken by the private sector, or if not, through taking steps to resolve the problems and eliminate inadequacies.
- Providing the necessary infrastructure, where private sector is unable to do so, or where direct working of a price mechanism is not feasible.
- Assuring the continuation of essential services and provision of services required on social basis, either through grants or subsidies or by direct operation.
- Establishing and administering necessary regulations and prescribing appropriate norms regarding safety of transport, protection of the environment, protection of users, employee and the society at large. Such regulation is not viewed as a replacement of market mechanism, but as the necessary conditions for its efficient an honest operation and for diminishing social and environmental costs.
- Promoting research and development relevant to the solution of the transport problems, improvement of productivity, absorption and development of relevant technology.

- In the international sphere, negotiating, signing and monitoring international, regional, and bilateral conventions and agreements, making sure that legitimate interests of Nigerian transport operators and shippers are protected and that the commitments arising out of such conventions and agreements are observed.
- Negotiating, signing or guaranteeing foreign loans and investments and creating proper atmosphere to attract responsible foreign investors.

4.8 Impact of Port Reforms

Despite significant progress since 2000, much sill remains to be done to improve the productivity of Nigeria's main ports. As of 2006, the performance parameters for Nigeria's major ports were poor by global and even by African standards. A report by Foster and Pushak (2011) indicates that in 2006 general-cargo crane productivity was 8-9 tons per hour compared to 30 tons per hour internationally.[1] For container crane productivity, the figure for Apapa port was 12 moves per hour compared to 25-30 moves per hour internationally. The global benchmark for container dwell time was about seven days in 2006, compared with 30 to 40 days in major Nigerian ports. And for truck cycle time, global best practice is on the order of one hour, compared with about one day in the major Nigerian ports.

Table 4.1: Key Indicators for Seaports of Comparator Countries

Country	Total merchandise exports & imports net of petroleum products (US$ bil) 2010	Container port traffic ('000 TEU: 20 foot equivalent units) 2010	Quality of port infrastructure index[1] 2011	Liner shipping connectivity index (Maximum value in 2004=100) 2012
United States	2,780.6	42,337.5	5.5	91.7
Japan	1,247.2	18,098.8	5.2	63.1
Indonesia	169.1	8,482.6	3.6	26.3
Brazil	327.4	8,138.6	2.7	38.5
South Africa	128.4	3,806.4	4.7	26.8
Mexico	533.9	3,693.9	4.0	38.8
Russia	387.8	3,200.0	3.7	37.0
Pakistan	46.4	2,149.0	4.1	28.1
Bangladesh	28.6	1,356.1	3.4	8.0
Nigeria	55.1	904.8	3.3	21.8

Source: World Bank, Development Indicators database, UN Comtrade database and UNCTAD.

Table 4.1 sets out some key indicators related to port operations for Nigeria and comparator countries. The value of merchandise exports and imports (excluding petroleum and products) for Nigeria was reported by the UN Comtrade database to be about US$55 billion – substantially small than all comparator countries other than Bangladesh and Pakistan. The World Bank reports that the amount of container traffic through Nigerian ports in 2010 was 904,800 TEU 20 foot equivalent units. This is lower than all the other comparator countries, including Bangladesh and Pakistan. The World Economic Forum Executive Opinion Summary indicates that Nigeria's rating for their Quality of Port Infrastructure Index was 3.3 in 2010. The only comparator with a lower rating was Brazil. In the case the Liner Shipping Connectivity Index of UNCTAD, which is based on the number of ships, their container carrying capacity, maximum vessel size, and number of companies that deploy container ships in a country's ports, Nigeria's rating was 22 out of a maximum value of 100 – lower than all comparators except Bangladesh.

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