



IADC™

**IADC GLOBAL
SUPPLY CHAIN COMMITTEE**

Import / Export Guidance for Nigeria

Copyrighted 2016, IADC

Unlimited license is hereby granted for reproduction of this document in its entirety, or in part with appropriate attribution.

This document contains guidance by the IADC Supply Chain Committee that will be beneficial for any drilling contractor whom is bringing a Mobile Offshore Drilling Unit to operate in Nigeria. The benefit of this document to drilling contractors is that it helps the drilling contractor minimize their exposure to incorrect customs clearances, delays, and penalties as a result of importing and exporting the rig and equipment.

NOTE: The listed procedures are subject to change without notice and a drilling contractor should consult with an authorized agent or attorney before making any commitments to import or export.

IADC publications may be used by the public. Every effort has been made by IADC to assure the accuracy and reliability of the information contained in them; however, IADC makes no representation, warranty, or guarantee in connection with this publication and hereby expressly disclaims any liability or responsibility of loss, damage, or penalty resulting from its use or for the violation of any federal, state, or municipal regulation with which this publication may conflict.

IADC is not attempting to fulfill any duties or obligations of employers, manufacturers, or agencies to warn, train, or equip their employees or others who may be affected by their activities, concerning any health, safety, or environmental risks or precautions.

Suggested revisions to the guidelines are invited and will be considered along with future changes to its content. Suggestions should be submitted to the Director-Offshore Technical and Regulatory Affairs, International Association of Drilling Contractors, 10370 Richmond Avenue, Suite 760, Houston, TX 77042 (713-292-1945).

Controlled Material

The entire contents of this document are subject to change. Please verify that you have a current copy with the most recent version(s) available from the IADC website.

Document Change History Sheet

Date	Version	Reason for Change
01 NOV 2016	Baseline	Baseline Document

Table of Contents

Table of Contents	4
Purpose and Scope	5
Rig Import Requirements	6
Rig Export Requirements	11
Importation and Exportation of Goods.....	13
Acronyms.....	135
Conclusion.....	16
Acknowledgements.....	167
Appendices	18
Appendix A - Application Process Flowchart.....	19
Appendix B - (Cabotage) Act 2003.....	20

Purpose and Scope

The purpose of this document is to provide drilling contractors with guidance on the requirements of entering and exiting drilling rigs, and drilling equipment into and out of Nigeria. The document aims to reduce drilling contractors' risk of committing customs violations or delaying rig entry due to improper rig importation. This document also covers the process to exit rigs from Nigeria in a timely and compliant manner. Finally, the process to import and export materials will be explained.

This document covers the scenario where the MODU arrives from a foreign port to a Nigerian port as the Customs and Excise Management Act requires all rigs to call at a Nigerian Customs port for import as well as export.

Rig Import Requirements

The following are required for any Temporary Import (T.I. application):

- **Proforma Invoice** from the owner to the Nigerian importer, stating the cost and freight of the items to be imported.
- **Lease Agreement** between the owner of the equipment and the Nigerian importer, specifying the equipment, the lease period, the lease cost and other lease conditions.
- **Brochures** and/or technical manuals describing the items(s) to be imported.
- Photocopy of **Registration Certificate** (vessels and rigs only) which shall indicate amongst others the name, call sign, flag, and registration.
- Photocopy of **Measurement Certificate** (vessels and rigs only)
- **Permit to operate in Nigeria Waters** from the Federal Ministry of Transport (Department of Petroleum Resources permit or certification).
- Photocopy of the **complete contract(s)** between the importer and the main contractor, clearly indicating the duration of the contract and providing information about the purpose of the equipment to be temporarily imported. The contract must further show the signatories. Where there is no direct contract between the Nigerian company holding the main contract with the Government and the importer of the item, all contracts with sub-contractors must be included to establish a link.
- Photocopy of the importer's **tax clearance certificate** for the last three years in Nigeria.
- Duly signed and stamped copy of the combined **Certificate of Value** – SONCAP certificate if required.
- Photocopy of Importer's **Certificate of Incorporation** which must include the Memorandum and Articles of Association.

- **Letter from Importer** addressed to Agent, requesting Agent to apply for temporary importation stating the reasons for temporary importation.
- **Covering letter** from the Agent to Customs applying for T.I. approval on behalf of the client.

Application:

Upon receipt of the documents mentioned above, the Customs Agent issues an application to the Comptroller General Nigeria Customs Service, Abuja. A minimum bond amount is fixed by Customs Headquarters and is indicated on the formal T.I. approval letter. Following the submission of the T.I. approval to the Customs Area Comptroller at the port of entry, the cargo will be physically examined. This inspection is the final evaluation to ensure that all is in order before obtaining the green light for Customs.

The application process is as follows:

- Submission of application documents at the Comptroller General's (CG) Registry office.
- Documents are dispatched to the DCG's (Deputy Comptroller General) office for approval.
- The Comptroller sends the file to the bond value department for clarification on the value of the rig.
- After evaluation, the file is sent back to the Comptroller.
- The Temporary Import Permit (TIP) is printed.
- The printed TIP is sent back to Comptroller for final signature.
- Signed TIP is sent to dispatch for distribution to customer and the customs command where the bond will be instituted.

If there is a query for incomplete documents, the application will be rejected and sent back to the customer and the process starts again. If the query is on the value, it will be referred to the Valuation Unit of customs, and the proper value will apply and the process starts again.

Please be informed that this procedure will take approximately 4-6 weeks just for the approval alone from the Customs Headquarters Abuja. It is therefore

advisable that preliminary documentation is given to the Agent as early as possible to have enough time for the application.

Bond Security:

Normally the security amount (or otherwise called “Bond Penalty”) corresponds to the customs duty / surcharge and VAT payable upon normal importation plus approximately 25%. The penalty can however, be assessed differently at the discretion of the Customs Area Comptroller. Prior to the release of the cargo by the customs administration, security for the customs duty has to be provided through a bond issued by one of the Banks designated for the collection of customs duties. This is to ensure that the rig is not converted to a permanent import and if done, the bond will serve as duty payment for the import with the penalty. Insurance bonds are not acceptable by customs, and cash deposits are not recommended. The Bond must be put in place by the Importer.

Extension:

A Temporary Importation is approved for an initial period of one year and can be extended at the Customs Headquarters Abuja twice for six months. The maximum total period of a temporary importation is two years, and extensions beyond that period are granted by customs exceptionally on a case-by-case basis only for a further period of three or six months. Extensions are granted only on the condition that the existing approval has not expired.

Documentation Requirements for Extension of T.I. Approvals:

- Photocopy of the **agreement (addendum)** jointly signed by the contractor and sub-contractor, specifying that the contract is still under execution as well as stating the duration of the contract. Please note that variation of the contract/service agreement is not acceptable.
- Photocopy of **Form Sale 33**.
- Photocopy of initial T. I. Approval or last execution (if any).
- **Covering letter** to customs applying for extension of Temporary Importation.
- **Letter from Bank** confirming validity of the bond (copy of bond attached).

Approximate Time Line:

- TIP Application in Abuja: Three weeks
- Bond registration: One week to two weeks
- Bond cancellation: Between three to four weeks after the vessel has sailed

Nigerian Ports Authority documentation requirements:

For new port calls arriving from abroad, the following documents need to be submitted to the Nigerian Ports Authority (NPA):

- Manifest (nil) – stating that there is no cargo to be discharged (Rig to be reshipped later)
- Ship's particulars
- Nil list – passenger list, arms and ammunition, mails/parcels, animals, etc.
- Port of call list – showing the last 10 port calls
- Declaration of health
- Narcotics list
- Dangerous cargo list
- Personal effects declaration list
- Bonded store list
- Last port clearance
- Crew List

With the above documents, including the TIP and Bond, the rig can be registered with the Customs Authority; thereafter Customs and Immigration clearances will be done.

Crew:

All crew on board, including Technicians, shall arrive with a landing permit and the same will be cancelled upon arrival at Immigration headquarter. A fresh Temporary Work Permit (TWP) will need to be issued for joiners who are not arriving with the Rig but coming to work on board.

Reference - 1963 immigration Act of Parliament (Cap 171, Laws of the Federation Nigeria).

NIMASA/Cabotage:

Please reference “Appendix B – Guidelines on Implementation of Coastal and Inland Shipping (Cabotage) Act 2003.” All information required for the CABOTAGE is contained therein except the charges.

Reference to the Nigeria Maritime Cabotage Act 2003- revised 2007; page 11- procedure for registration. Sections 4.1.1 - section 4.5.

NB – 100% Nigeria crew is required, however, there are exceptions and waivers as stipulated in the aforementioned Cabotage Act - see section 9.2 – section 10.

Required documents to be submitted for Cabotage are in section 4.2.2.

NAVY Hydrographic Permit:

Navy Hydrographic permit is required on board. One officer and two (2) junior Navy personnel shall be accommodated on board throughout the period of working in Nigeria. This is also charged and paid to the Navy. Most principals, due to accommodation problems on board, sometime ask officers not to remain on board the Vessel while compensation is paid for not being on board.

Reference to the Nigeria Parliament Act No 21 of 1964 and the Armed Forces Act cap A20 laws of the Federation of Nigeria.

Garbage Disposal:

Garbage disposal is done by MARPOL on behalf of NPA alongside at berth, or by NIMASA at the offshore field or anchorage. All disposal log books must be well recorded for presentation on demand by the Authorities.

Reference to the International Convention for the Prevention of Pollution from Ships, 1973 & 1978 protocol (ratification & enforcement) Act. Nigeria is a signatory.

Rig Export Requirements

Exportation:

After completion of the contract, the cargo earlier imported on a temporary basis can be exported. Your instruction to that effect should be given to the Agent, who will make the necessary arrangement, either by air or by sea. The Agent will also issue the export Bill of Entry as well as the export documentation, which later on will be required for the cancellation of the temporary importation bond. The Nigeria Customs Service may have to physically inspect the goods before the release of the export paperwork. This is the best way to provide evidence of exportation. Exportation or clearing for home use should be done within the granted T.I. period as the fines can be severe, and audits are performed on a regular basis.

The documents that will be used to process the exportation include the following:

- Form sale 33
- Outward manifest
- Re-importation and exportation inspection act
- Re-importation and exportation print out
- Copy of the TIP approval
- Copy of the bond approval

Prior to departure, the following authorities may perform a rig inspection:

- Nigerian Customs
- Port Authorities
- Nigerian Immigration

Change From T. I. To Home Consumption:

In case the cargo imported temporarily will remain in Nigeria permanently, an approval from Customs Headquarters Abuja is required. Before selling the goods to a third party in Nigeria, approval must be obtained and an entry for home use is to be processed with customs at the initial port of entry. Duty/surcharge and VAT applicable at the time of importation are payable at that point.

“The above procedure also applies to items covered under a T.I. which have been scrapped.”

Required documents:

- Cancellation of lease agreement
- Cancellation of contract agreement
- Bill of sale

Cancellation of T.I. Bond:

To cancel a temporary importation bond, the Agent has to show evidence to the Nigeria Customs Service that the cargo has been either exported or customs cleared for home consumption. If the Nigeria Customs Service is satisfied with the documentary evidence, the bond will be cancelled with a letter from customs to the bond issuing Bank with a copy to the clearing agent.

“The importer in whose name the T.I. was granted by customs will be held responsible for the full regularization or re-exportation of the equipment at all times. A T. I. is not transferable.”

Importation and Exportation of Goods

Documentation Requirements for Clearance of Goods

- Single Good Declaration Form
- Form M
- Airway Bill/Bill of Lading
- Commercial Invoice
- Packing List
- Combined Certificate of Value and Origin (CCVO)
- SONCAP Certificate (If Required)
- Insurance Certificate

Shipping Process:

1. Prior to shipping, the consignee in Nigeria completes and applies for Form M electronically (Form M is like an import license). This is done online through the Federal Inland Revenue Service (FIRS) /Nigeria Customs Service (NCS) Trade Portal and is then transmitted to his/her bank with the following attachments:
 - a. Proforma Invoice
 - b. Insurance Certificate
 - c. SON Product Certificate/SONCAP (If Required)
2. The Bank approves the Form M and generates a bank code otherwise known as a BA Number, and then sends/transmits the Form M to the Scanning Agent.
3. The Scanning Agent approves the Form M.

4. The Consignee forwards the Form M & BA Numbers to the Shipper. These numbers are to be shown on the Airway Bill/ Bill of Lading (AWB/BL).
5. Once shipped, the shipper provides the AWB/BL to the consignee for the processing of the Pre-Arrival Assessment Report (PAAR). The Report shows the duty rate /classification of the cargo. This document guides you while computing the Duty & Taxes.
6. The consignee's customs agent prepares the Customs Entry and approaches customs for the Customs Assessment Notice.
7. The Consignee or his Customs agent pays the duty at the Bank. The Consignee or Agent pays the Local Charges such as Airlines Documentation Fee, Shipping & Terminal Company Local Charges. Other examples include:
 - a. Airfreight: NAHCO and SAHCOL Charges
 - b. Sea freight: Port & Cargo, PTML, ENL Terminal, etc.
8. Customs examination is carried out.
9. Customs release and Exit notes are obtained. For Sea freight, Terminal Delivery Order (TDO) is also obtained. For Airfreight shipment, NAHCO/SAHCOL Gate Pass is also obtained.
10. The agent then positions his van/truck to take delivery of the shipment.
11. After loading, the van/truck proceeds to the customs exit gate for security check and final exit.

Exportation:

After completion of the contract, cargo earlier imported separately (not part of the rig's T.I.) on a temporary basis can be exported. Your instruction to that effect should be given to the Agent, who will make the necessary arrangement, either by air or by sea. The Agent will also issue the export Bill of Entry as well as export documentation.

Acronyms

Acronym	Description
CAC	Customs Area Comptroller
CCVO	Combined Certificate of Value and Origin
CG	Comptroller General
DC	Deputy Comptroller
DCG	Deputy Comptroller General
DPR	Department of Petroleum Resources
FIRS	Federal Inland Revenue Service. (Department of Nigeria government that collects national taxes.)
NCS	Nigeria Customs Service
NPA	Nigerian Ports Authority
PAAR	Pre-Arrival Assessment Report. [Automated reports issued by the Nigeria Customs Service. Automation was implemented to help improving process and turnaround time for issuance of the assessment reports, and clearing of consignments at the ports. The previous reports were known as Risk Assessment Reports (RAR).]
SON	Standard Organization of Nigeria. (Government agency that ensures that shipments imported into Nigeria conforms to required standards. They work with some oversea agencies to ensure that regulated products conform and are imported with SON Product Certificate and SONCAP.)
TIP	Temporary Import Permit
TWP	Temporary Work Permit

Conclusion

The intent of this document is to provide guidance and the best practices for meeting the Nigerian customs requirements for rig entry, for disposal of garbage and food waste, import and export of goods, and for rig departure. The guidance contained in this document contains all of the items that are required at the time of the creation of this document. It is essential that the drilling contractor also checks for any new requirements added or requirements removed since the creation of this document. This check should be validated through your local customs agent.

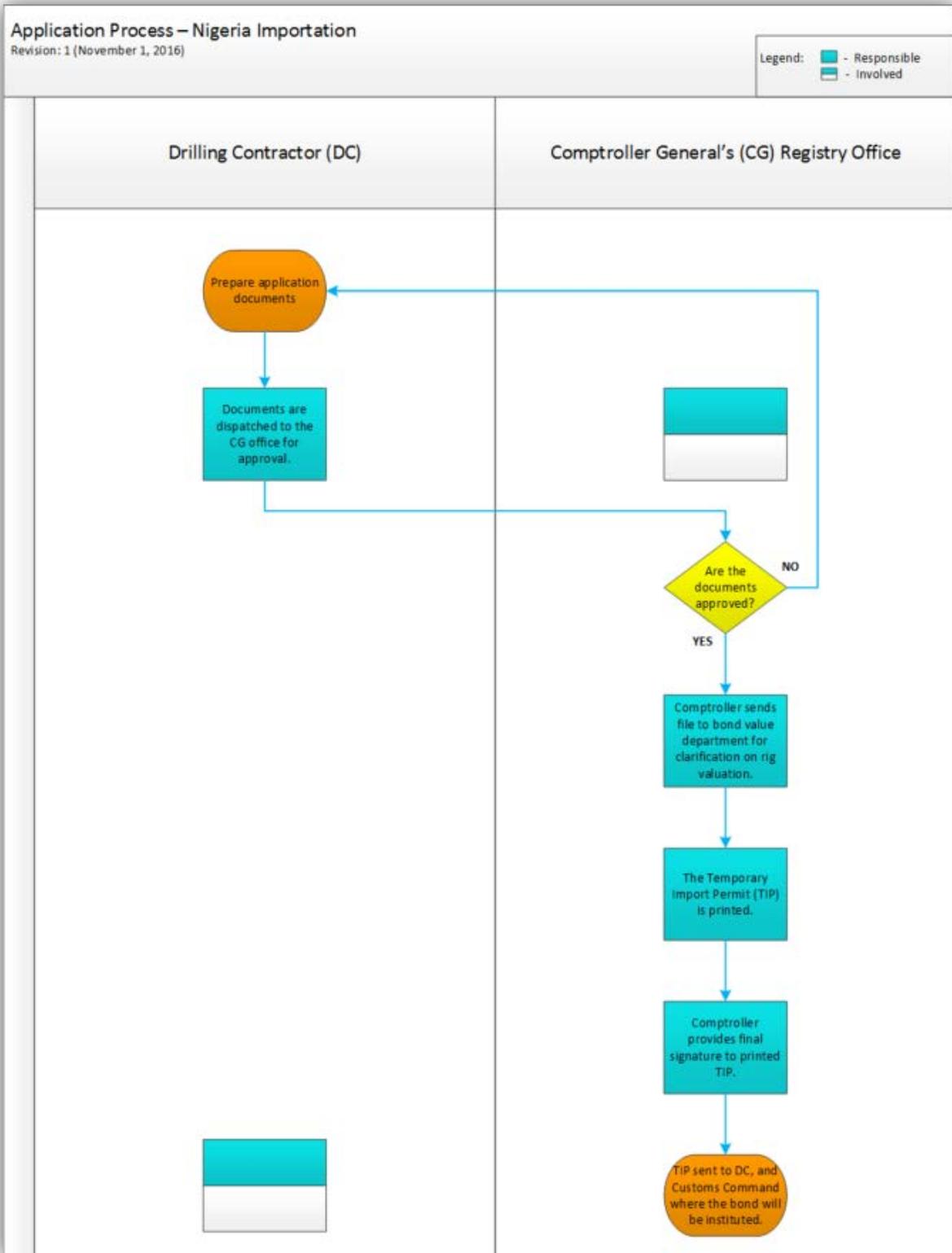
In summary, the aim of the Trade Compliance IADC Sub-Committee is to continue to create guidance documents for the industry that will help minimize exposure to delays in logistics and penalties received due to not meeting regulatory requirements, and to ensure continuity of supply for the MODUs.

Acknowledgements

This document was created with the guidance and knowledge provided by five (5) companies (customs agents) whom cannot be named. The IADC Supply Chain Committee is fully aware of the time spent and resources provided by these agents in order to make this document pertinent and current (at the time of the creation of this document), and the Committee is truly grateful to them. Due to their support, the Committee will continue to request guidance from them on future IADC initiatives.

Appendices

Appendix A



Appendix B

**GUIDELINES ON
IMPLEMENTATION OF
COASTAL AND INLAND SHIPPING
(CABOTAGE) ACT, 2003
(REVISED 2007)**

ISSUED BY

**THE FEDERAL MINISTRY OF
TRANSPORTATION
APRIL 2007**

GUIDELINES ON IMPLEMENTATION OF COASTAL AND INLAND SHIPPING (CABOTAGE) ACT, 2003

1. INTRODUCTION

In compliance with the provisions of the Act, the Minister of Transportation issued the Guidelines on Implementation of the Coastal and Inland Shipping (Cabotage) Act in 2004. The Guidelines have proved a useful tool for the operation and enforcement of the Cabotage Act. However, Nigerian Maritime Administration and Safety Agency ("NIMASA") has experienced several challenges in the enforcement of the Act. Such challenges thus prompted a review of the enforcement procedures. This revised Guidelines is the product of intense interaction with stakeholders and it is intended to introduce clarity and simplify the enforcement and monitoring processes.

It is important to note that Temporary Registration is no longer obtainable under the Cabotage Act. This is in accordance with the intent of the Act, which granted the temporary registration for a period not exceeding one year for vessels that had subsisting contract at the date of the commencement of the Act, which came into force in 2004. Such companies and vessels shall now be required to obtain a flag registration as a condition for continued participation in the Nation's coastal trade.

This Guidelines should be read and implemented in conjunction with two important subsidiary legislation:-

The Coastal and Inland Shipping Cabotage (Bareboat Charter) Regulations and the Coastal and Inland Shipping Cabotage (Detention of Ships) Regulations 2006, issued by the Honourable Minister of Transportation in August 2006, in accordance with the provisions of the Act.

I.1 Objectives and General Principles of the Guidelines

- The Guidelines seek to facilitate the establishment and development of national capacities to implement, manage, monitor, establish adequate information systems, develop expert human resources in Cabotage administration and enforcement and generally promote the efficient operation of the Cabotage regime. These would be achieved by the:
 - Development of guidelines, standards, codes of practice, and monitoring capabilities for the operators, enforcement agencies, and financial institutions;
 - Establishment of a comprehensive and up-to-date database, infrastructure for information exchanges upon which Cabotage administration and enforcement can be processed;
 - Promotion of regular review of administrative and policy measures on Cabotage and encouraging the enforcement of such regulations and policies;
 - Establishment and strengthening of national and Institutional Cabotage implementation mechanisms;
 - Assessment and identification of priorities in human resources development and the implementation of national capacity building programmes for domestic

maritime industry

- Promotion of the use of regular monitoring to verify the enforcement strategies and to evaluate whether the recommended measures and procedures are appropriate and effective;
- Establishment of effective collaborative mechanisms with other relevant Government Agencies;
- Promotion of public awareness on the benefits and enforcement measures of Cabotage regime through initiatives involving the community, policy makers, legislators, administrators, partner Agencies, the private sector and the shipping industry.

The Guidelines recognize and address the concern of operators in the domestic coastal trade in line with the provisions of the Act. The need for cooperation, exchange and supply of information among the relevant Government Ministries and Agencies is emphasized as the key to the successful implementation and achievement of the objectives of the Cabotage Act.

1.2 Scope and Methodology

The Guidelines shall extensively provide for the following:

Preliminary issues in the Cabotage regime

Registration of Cabotage vessels

Eligibility criteria for registration of Cabotage vessels

Waiver provisions

Enforcement procedures

Required statutory forms

2. THE CABOTAGE REGIME

The objective of the Cabotage Act is primarily to reserve the commercial transportation of goods and services within Nigerian coastal and inland waters to vessels flying the Nigerian flag, owned and crewed by Nigerian citizens and built in Nigeria.

2.1 Cabotage Trade Covers:

Carriage by sea of goods and passengers originating from one coastal or inland point which could be ports, terminals, jetties, piers, mid-stream discharge etc, to another point located within Nigeria; carriage of goods and passengers by sea in relation to the exploration, exploitation or transportation of mineral and non-natural resources whether offshore or within the inland an-, coastal waters; carriage of goods and passengers on water or underwater (sub-sea installations);

Carriage of goods and passengers originating from a point in Nigeria destined for Nigerian market but transiting through another country then back to Nigeria for discharge;

Operation by vessel of any other marine activity of a commercial nature in Nigerian waters including, towage, pilotage, dredging, salvage, bunkering etc.

2.2 Cabotage Policy and Other Existing laws on Doing Business in Nigeria

The Cabotage Act is not in conflict with other existing laws of the Federal Republic of Nigeria, which regulate market access in Nigeria. The Act complements the horizontal requirement for establishing a business in Nigeria under the Companies and Allied Matters Act, LFN, 1990 by requiring Cabotage companies to be registered in the Corporate Affairs Commission, Abuja. The Cabotage Act preserves the right of foreign investors under the Nigerian Investment Promotion Act by establishing a Special Register for Cabotage (Fully Foreign Owned Vessel) for foreign owned vessels engaged in Cabotage trade. The right of companies owned by non Nigerians to repatriate their earnings is not affected by the provisions of the Cabotage Act. Compliance with the Cabotage Act's requirement on manning of Cabotage vessels also reinforces existing laws which requires that expatriate quotas and business permits for foreign workers should be restricted to cases of non-availability of Nigerians for the positions applied for.

2.3 Cabotage Cargo

Cabotage cargo includes the following: Cargo means cargo and passengers originating from one port or point in Nigeria to another within Nigeria. The emphasis is on the loading port or point and the port of discharge and destination of the cargo and passengers. It includes cargo and passengers carried on, through or under Nigerian waters to any place in Nigeria. Cargo originating from Nigeria destined for Nigerian ports/market but carried via port outside Nigeria. Cargo carried from one point in Nigeria to another

whether or not of commercial value.

2.4 Non-Cabotage Cargo

Cargo carried along the Cabotage trade areas which do not fall under the operation of the Cabotage Act includes:

Cargo originating outside Nigeria and destined for Nigerian Ports i.e. international cargo provided there is no discharge mid-stream or at a port, jetty or terminal within Nigeria. Cargo originating from Nigeria but destined for ports outside Nigeria.

2.5 Cabotage Vessels

The following types of vessels are identified under the Act as Cabotage vessels:

- 1) Passenger vessels
- 2) Crew boats
- 3) Bunkering vessels
- 4) Fishing trawlers
- 5) Barges
- 6) Off-shore service vessels
- 7) Tugs
- 8) Anchor handling tugs and supply vessels
- 9) Floating petroleum storage FPSOs & FSOs
- 10) Tankers
- 11) Carriers
- 12) Any other craft or vessel for carriage on, through or under Nigerian waters of persons, property or any substance whatsoever.

2.6 Cabotage Trade Areas

The operation of the Cabotage Act shall apply to the following areas:

- 1) Nigerian inland waters and lakes
- 2) Nigerian coastal waters;
- 3) Nigerian territorial waters
- 4) Nigeria's Exclusive Economic Zone;
- 5) Islands (natural/artificial) within Nigerian waters
platforms, rigs, floating workshops and other such
Structures and
- 6) Any carriage in, under, or on Nigerian waters

2.7 Ownership Concept under Cabotage

The citizenship requirement under the Cabotage law with respect to ownership of Cabotage companies and Cabotage vessels are as defined by the Constitution of the Federal Republic of Nigeria and excludes corporate citizenship. Ownership is determined by the identity of the individual owners who truly own and control the interests in the vessel and the ship owning company.

3. INSTITUTIONAL FRAMEWORK

3.1 Federal Ministry of Transportation

The Act gives the Minister of Transportation the overall responsibility of making regulations and policies for the implementation of the Cabotage regime. The formulation of guidelines and the criteria for determination of certain eligibility requirements are reserved for the Minister of Transport. The Minister of Transport would approve the issuance of licences for foreign owned vessels intended for use in coastal shipping and for the grant of waivers generally. Nigerian Maritime Administration and Safety Agency

('NIMASA') is the national focal point for Cabotage implementation and enforcement.

3.2 Nigerian Maritime Administration and Safety Agency

The Nigerian Maritime Administration and Safety Agency ('NIMASA') is the focal point for Cabotage implementation as enshrined in the Act.

Sections 22 and 29 of the Act require Cabotage vessels to be registered by the Registrar of Ships in the Special Cabotage Register domiciled in NIMASA. NIMASA is the Enforcement Agency for Cabotage. The Minister in compliance with Section 30 of the Act had created an enforcement unit for the regime within the Agency. Section 44 also mandates NIMASA to collect monies for and operation of the Cabotage Vessel Financing Fund. Enforcement Officers in NIMASA are required to carry photo identity cards on their persons at all times while performing their functions.

The Minister may request the secondment to NIMASA officers of relevant Government enforcement Agencies required for effective enforcement.

3.3 Other Government Agencies

Recognizing the multi-sectoral nature of coastal trade, the Act envisages the active participation of all Government Agencies who are directly or tangentially involved in various aspects of coastal trade in the enforcement of the Cabotage laws.

Implementation of the Act will be in close collaboration with the oil and gas sector specifically

NNPC (NCD), DPR, NAPIMS, LNG, PPMC, and other Agencies such as the NIPC, NIS, NCS, NPA and Nigerian Navy to ensure harmonized regulatory and operational practices.

Sections 31 (3)(d) and 33 expressly mentions Nigerian Customs, Nigerian Police, Nigerian Navy and Nigerian Ports Authority. Other critical enforcement partners are NNPC (NCD), DPR, NAPIMS, PPMC, NIPC and NIS.

4. REGISTRATION OF CABOTAGE VESSELS AND SHIP OWNING COMPANIES

Pursuant to Section 22 of the Cabotage Act, vessels intended for use in Cabotage trade are required to be registered in the applicable Special Register for Cabotage Vessels and Ship Owning Companies engaged in Cabotage. Under Section 29 of the Act, the Special Register for Cabotage Vessels is domiciled in the Office of the Registrar of Ships in NIMASA.

The following Cabotage Registers have been opened in the Nigerian Ship Registry.

SPECIAL REGISTER FOR CABOTAGE

1. Special Register for Cabotage (Nigerian Wholly Owned Vessel);
2. Special Register for Cabotage (Bareboat Chartered Vessel);
3. Special Register for Cabotage (joint Venture Owned Vessel);
4. Special Register for Cabotage (Fully Foreign Owned Vessel); and
5. Special Register for Cabotage (Exempted Vessels).

It is mandatory for every vessel and shipping company engaged in coastal shipping must be registered in the relevant Register. Vessels already registered in the Nigerian Ship Registry, which intends to participate in the coastal trade, must also be registered in the relevant Cabotage Register.

Sections below specify the documentation for registration in the Cabotage Register.

Applicants should refer to the Article 6 on General Requirements, which apply to all categories of registration.

4.1 SPECIAL REGISTER FOR CABOTAGE (WHOLLY NIGERIAN OWNED VESSEL)

4.1.1 Vessels and Companies Eligible for Registration

- a. Vessel already registered in the Nigerian Ship Registry and shipping company registered in Nigeria;
- b. Vessel and company 100% beneficially owned by Nigerian citizens;
- c. Vessel crewed by Nigerian seafarers and officers;
- d. Vessel built in Nigeria;
- e. Vessel and company granted Ministerial Waiver on (c) and or (d) as the case may be.
- f. Company registered with NIMASA.

4.1.2 PROCEDURE FOR REGISTRATION

The applicant shall fulfil the following requirements;

1. Obtain and complete the Form for Registration in Special Register for Cabotage (Wholly Nigerian Owned Vessel). Application Form must be accompanied with:

- i. Certificate of Nigerian Ship Registry
- ii. Cabotage Affidavit Form;
- iii. Crew List Declaration;
- iv. Applicable Waiver Certificate;
- v. Evidence of Payment of Fees;
- vi. Certificate of Incorporation;
- vii. Memorandum and Articles of Association;
- viii. Certified True Copy (CTC) of Form CAC7 and CAC2;
- ix. Current Tax Clearance Certificate;
- x. Evidence of registration of shipping company with NIMASA.

2. Application shall be processed only where vessel documentation in the Flag Register is current and valid.

3. Applicants shall be asked to supply additional documentation where such are not contained in the vessel's file in the Flag Register.

4.2. SPECIAL REGISTER FOR CABOTAGE (BARE BOAT CHARTERED VESSEL)

4.2.1 Vessels and Companies Eligible for Registration

a. Vessel already registered in the Bareboat Register of

the Nigerian Ship Registry and shipping company registered in Nigeria; and

- b. Shipping Company registered with NIMASA.
- c. Where full control and management of vessel and company is vested in Nigerian citizens and the shipping company is 100% beneficially owned by Nigerian citizens; and
- d. Vessel is crewed by Nigerian seafarers and officers; and
- e. Vessel is built in Nigeria;
- f. Vessel and company granted Ministerial Waiver on (d) and or (e) as the case may be.

4.2.2 PROCEDURE FOR REGISTRATION

The applicant shall fulfil the following requirements;

- i. Obtain and complete the Form for Registration in Special Register for Cabotage (Bareboat Chartered Vessel). Application Form must be accompanied with:
 - i. Certificate of Nigerian Ship Registry;
 - ii. Cabotage Affidavit Form;
 - iii. Crew List Declaration;
 - iv. Applicable Waiver Certificate;
 - v. Evidence of Payment of Fees;
 - vi. Certificate of Incorporation;

- vii. Memorandum and Articles of Association;
 - viii. Certified True Copy (CTC) of Form CAC7 And CAC2;
 - ix. Current Tax Clearance Certificate;
 - x. Evidence of registration of shipping company with NI NASA
 - xi. Evidence of suspension from original registry.
 - xii. Evidence of consent of the owner and the original registry to the transfer of the vessel.
 - xiii. Charterparty.
 - xiv. Undertaking by the Charterer affirming the authenticity of the various information supplied.
2. Application shall be processed only where vessel documentation in the Flag Register is current and valid.
3. Applicants shall be asked to supply additional documentation where such are not contained in the vessel's file in the Flag Register.

4.3 SPECIAL REGISTER FOR CABOTAGE (JOINT VENTURE OWNED VESSEL)

4.3.1 Vessels and Companies Eligible for Registration

- a. Vessel already registered in the Nigerian Ship Registry and shipping company registered in Nigeria;
- b. Where not less than 60% of the equity shares in the Vessel and 60% of the equity shares in the Shipping Company are owned by Nigerian nationals;
- c. The controlling interest in the vessel and the shipping company is truly held by Nigerian nationals free from

- any trust or obligations in favour of foreign nationals;
- d. Vessel is crewed by Nigerian seafarers and officers;
- e. Vessel is built in Nigeria;
- f. Vessel and company are granted Ministerial Waiver on (d) and or (e) as the case may be.
- g. Vessel with a Bill of Sale or Builder's Certificate.

4.3.2 PROCEDURE FOR REGISTRATION

The applicant shall fulfil the following requirements;

- I. Obtain and complete the Form for Registration in Special Register for Cabotage (joint Venture Owned Vessel). Application Form must be accompanied with:
 - i. Certificate of Nigerian Ship Registry;
 - ii. Cabotage Affidavit Form;
 - iii. Crew List Declaration;
 - iv. Applicable Waiver Certificate;
 - v. Evidence of Payment of Fees;
 - vi. Certificate of Incorporation;
 - vii. Memorandum and Articles of Association;
 - viii. Certified True Copy (CTC) of Form CAC3 and CAC2;
 - ix. Current Tax Clearance Certificate;
 - x. Evidence of registration of shipping company with NI MASA.

2. Application shall be processed only where vessel documentation in the Flag Register are current and valid.
3. Applicants shall be asked to supply additional documentation where such are not contained in the vessel's file in the Flag Register.

4.4 SPECIAL REGISTER FOR CABOTAGE (FOREIGN OWNED VESSEL)

4.4.1 Vessels and Companies Eligible for Registration

- a. Vessel already licensed in the Nigerian Ship Registry and shipping company/agent registered in Nigeria;
- b. Shipping company/agent must be registered with NI MASA.
- c. Vessel and Shipping Company wholly owned by nationals of other country;
- d. Vessel and Shipping Company jointly owned by nationals of other country and Nigerian nationals where equity ownership by Nigerian nationals is less than 60%;
- e. Vessel crewed by Nigerian seafarers and officers;
- f. Vessel built in Nigeria; and
- g. Vessel and company are granted Ministerial Waiver on (e) and (f) as the case may be.

Where vessel is not a Nigerian flagged vessel the following apply:

- h. Vessel and company must obtain Ministerial Cabotage licence prior to registration;

Foreign owned vessel registered in the Nigerian Ship Register are not required to obtain the Ministerial Cabotage Licence

4.4.2 PROCEDURE FOR REGISTRATION

The applicant shall fulfil the following requirements;

1. Obtain and complete the Form for Registration in Special Register for Cabotage (Foreign Owned Vessel). Application Form must be accompanied with:
 - i. Certificate of Nigerian Ship Registry;
 - ii. Crew List Declaration;
 - iii. Applicable Waiver Certificate;
 - iv. Evidence of Payment of Fees;
 - v. Certificate of Incorporation;
 - vi. Memorandum and Articles of Association;
 - vii. Certified True Copy (CTC) of Forms CAC3 and CAC2;
 - viii. Current Tax Clearance Certificate;
 - ix. Evidence of registration of shipping company with NIMASA.
2. Application shall be processed only where vessel documentation in the Flag Register are current and valid.
3. Applicants shall be asked to supply additional documentation where such are not contained in the vessel's file in the Flag Register.

4.5 REQUIREMENT FOR LICENCE OF FOREIGN OWNED VESSELS

This category applies only to vessels owned by nationals of other countries and flying a foreign flag. A valid licence under the Act, is a precondition for eligibility to be registered in any of the Cabotage Registers.

45.1 Vessels and Companies Eligible for Registration

- a. Foreign flagged vessel;
- b. Vessel and shipping company wholly owned by nationals of other country;
- c. Vessel and Shipping Company jointly owned by nationals of other countries and Nigerian nationals where equity ownership by Nigerian nationals is less than 60%;
- d. Vessel crewed by Nigerian seafarers and officers; and
- e. Vessel built in Nigeria;
- f. Vessel and company have a subsisting contract in Nigeria;
- g. Vessel and company are granted Ministerial Waiver on (d) and (e) as the case may be.

4.5.2 PROCEDURE FOR GRANT OF LICENCE

The applicant shall obtain and complete the following Forms from the Cabotage Unit:

- i. Obtain and complete the Application Form for Licence of Foreign Owned Cabotage Vessel. Application Form must be accompanied with:
 - i. Copy of Certificate of Registry;
 - ii. Declaration of Ownership Certificate;

- iii. Completed Crew Declaration Form;
- iv. Applicable waiver certificates;
- v. Cabotage licence;
- vi. Certificate of Tonnage Measurement;
- vii. Passenger Ship Safety Certificate;
- viii. Cargo Ship Safety Certificate;
- ix. Ship Safety equipment Certificate;
- x. Certificate of Minimum Safe Manning;
- xii. International Safety management Certificate;
- xii. Load line Certificate;
- xiii. Survey Certificate;
- xiv. Safety Radio Certificate;
- xv. Classification Certificate;
- xvi. Copy of current certificate of vessel insurance;
- xvii. Certificate of Incorporation;
- xviii. Memorandum and Articles of Association;
- xix. Certified True Copy (CTC) of Forms CAC7 and CAC2;
- xx. Current Tax Clearance Certificate;
- xxi. Evidence of registration of shipping company with NIMASA;
- xxii. Proof of payment of registration fees.
- xxiii. Undertaking to train a prescribed number of Nigerian Cadets.

2. Application shall be processed only where vessel

documentation in the Flag Register are current and valid.

3. Applicants shall be asked to supply additional documentation where such are not contained in the vessel's file in the Flag Register.

5. MINISTERIAL WAIVERS

- 5.1 Vessels wholly owned, crewed or manned by Nigerians do not require ministerial waiver.

5.2 **The Minister of Transport is empowered to grant the following waivers:**

1. Waiver on the requirement for vessel to be wholly Nigerian owned.
2. Waiver on the requirement for vessel to be wholly manned by Nigerian citizens.
3. Waiver on the requirement for the vessel to be built in Nigeria.

5.3 **Procedure for the Grant Of Waiver**

The applicant shall collect the relevant Waiver Application Form from the Cabotage Unit of NIMASA. The completed application Forms are to be returned to the Cabotage Unit of NIMASA.

2. The following documents are required to be submitted for the processing of waiver;
 - i. Certification from the Ship registry of NIMASA that there is no wholly owned Nigerian vessel that is suitable and available to perform the activity(ies) specified in the application;
 - ii. Certification from the Maritime Labour Department

of NIMASA that there is no qualified and available Nigerian officer and crew for the position(s) specified in the application.

- iii. Certification from the Maritime Safety and Seafarers' Standard Department of NIMASA that there is no Nigerian ship building company that has the capacity to construct the particular vessel or there is no available Nigerian built vessel of the specification in the application.
 - iv. A satisfactory condition survey report from NIMASA.
 - v. A signed undertaking to pay the 2% cabotage Surcharge.
3. The order of priority for granting Ministerial Waivers shall be as follows:-
- i) Wholly Nigerian owned Vessels,
 - ii) Bareboat chartered vessel,
 - iii) Joint Venture Owned Vessel,
 - iv) Foreign vessel that has complied with the provisions of the Act.
4. NIMASA shall process the application and upon satisfaction that the applicant has met all the necessary requirements for the grant of waivers, NIMASA shall make recommendations to the Honourable Minister for the grant of same upon payment of prescribed fees.
5. The successful applicant shall thereafter be issued with the appropriate Waiver Certificate.
6. The Waiver certificate must be carried on board the vessel at all times.
7. All applicants wishing to renew their waivers on

vessels for Cabotage trade, must produce evidence of their improved level of compliance with requirements of the Cabotage Act on manning, ownership and shipbuilding requirements as follows:

- i. Evidence of contribution to training of Nigerian cadets on board the vessel during year of waiver;
- ii. Evidence of sponsorship of training for Nigerian Seafarers/cadets,
- iii. Evidence of dry-docking and ship-repairs in Nigeria.

8. The Waiver certificate shall be renewed every year.

5.4 On application for renewal, the following additional documents shall be submitted:-

- a. Proof of payment of 2% Cabotage surcharge;
- b. NI NASA Certificate of Manning Compliance;
- c. Proof of provision of sea training for Nigerian Cadets on board the vessel for the previous year;
- d. Proof of contribution to training for Nigerian seafarers;
- e. Proof of dry-docking and ship repairs in Nigeria where applicable.
- f. Valid certificate of Cabotage Registration.

6. GENERAL REQUIREMENTS

- i. All categories of Cabotage Ship Registration Certificate shall be endorsed annually.

2. A condition for the grant of licence shall be subject to an undertaking to train a prescribed number of cadets.
3. Cabotage certificates and licences must be carried on board the vessel at all times.
4. Any applicant found to have made false declarations in respect of applications and documentations submitted for registration shall be sanctioned and in addition be liable to penalties prescribed under the Act.
5. All Cabotage vessels shall carry the following documents on board;
 - i. Minimum safe manning certificate;
 - ii. Cabotage registration certificate;
 - iii. Crew list;
 - iv. Waiver certificate; and
 - v. Vessel registration certificate etc

7. ENFORCEMENT OF THE CABOTAGE LAW

7.1 ENFORCEMENT OFFICERS

1. Officers in the Cabotage Enforcement Unit shall be designated as Enforcement Officers. Each Enforcement Officer shall be issued with an identity card specifying the Officers' name and designation, and on which will appear a passport photograph of the Enforcement Officer.
2. The identity card shall be produced by the Enforcement Officer upon request by the Ship's Master or any other Officer in charge of the vessel.
3. On boarding a vessel, the Enforcement Officers must

Produce the Enforcement Officer's Boarding Form to the Master or any other Officer in charge of the vessel for completion of the relevant sections.

4. If the Enforcement Officer has reasonable grounds to believe that a vessel has contravened any of the provisions of the Cabotage Act, he may search and detain the vessel in accordance with the provisions of the Act.
5. Enforcement Officers in carrying out their duties under the Cabotage Act shall not cause undue delay to vessels on Cabotage trade.
6. Enforcement Officers shall not exercise their powers under the Cabotage Act in an unreasonable and arbitrary manner.
7. Enforcement Officers shall, in the performance of their duties on board a vessel be guided by the checklist for Boarding Officers as contained in the Cabotage Enforcement Form.

7.2 ENFORCEMENT OF CABOTAGE BY OTHER AGENCIES

The Nigerian Immigration Service and the Nigerian Investment Promotion Council in contributing towards the success of Cabotage particularly as it relates to crewing of vessels should make it mandatory for applicants for work permits or expatriate quota for companies engaged in Cabotage trade to produce the applicable Waiver Certificate issued by the Federal Ministry of Transport prior to processing such applications.

The Nigerian National Petroleum Corporation is

expected to adhere and enforce strictly its requirement for strict compliance with the Cabotage Act by companies interested in domestic shipping for the oil and gas industry.

7.3 DETENTION OF VESSEL

1. Detention and release of vessels shall be in accordance with the provisions of the Coastal and Inland Shipping Cabotage (Detention of Ships) Regulations 2006.
2. Upon compliance by the detained vessel with the relevant provisions of the Cabotage Act and the Coastal and Inland Shipping Cabotage (Detention of Ships) Regulations 2006, the Enforcement Unit shall issue a Release Notice to the vessel in the prescribed form after payment of the prescribed fees. Copies of the Release Notice shall simultaneously be sent to all relevant Government Agencies.
3. Detained vessels shall not be granted port/jetty clearance by Ports Authority, Nigerian Customs Services, Nigerian Immigration Services and other relevant Government Agencies unless a Release Notice signed and issued by NIMASA has been produced by the Ship owner or his Agent.

7.4 FISHING TRAWLERS

Companies and vessels engaged in fishing shall continue to obtain their licences for fishing activities from the appropriate Government Agency but shall be required to register fishing trawlers in the Cabotage Registry, where the trawler is involved in the movement of cargo and passengers from one

Point to another within the Cabotage trade area.

7.5 PRE-QUALIFICATION FOR TENDER

All advertisement for Pre-qualification and Tender for engagement of vessels for Cabotage trade by employers including oil and gas companies shall expressly state that compliance with the Cabotage act is a pre-requisite for pre qualification.

8. VESSEL EXEMPTION UNDER THE CABOTAGE ACT

The Act confers statutory exemptions to vessels engaged in certain specified activities. The exemptions apply to both foreign and Nigerian owned vessels provided they fall under the specified categories.

8.1 Exempted Vessels

1. Vessels engaged in salvage operations for the purpose of rendering assistance to persons or aircraft in danger or distress. This does not require any prior approval from the Minister of Transportation;
2. Vessels engaged in commercial salvage operations provided the Minister is satisfied that the operation is beyond the capability of wholly Nigerian owned salvage vessels. This is intended to cover salvage contracts that have no emergency considerations or immediate danger to life and property;
3. Vessels owned and operated by Nigerian Armed Forces and Government paramilitary Agencies;
4. Vessels owned and operated by Nigerian Customs Service;

5. Vessels owned and operated by the Nigerian Police Force;
6. Vessels owned and operated by the Federal or State Ministries and or their Agencies provided the vessels do not engage in commercial activities;
7. Vessels engaged with the approval of the Minister of Transportation or any other Government agency in marine pollution emergency;
8. Vessels engaged in oceanographic research with the approval of the department of Fisheries or the Minister of Foreign Affairs.

8.2 Procedure for Exemption

1. Vessel operators wishing to participate in the operations under Section 8(1) (a-d) shall apply for exemption from the Minister of Transportation.
2. Applicants for vessel exemption shall submit the following documents in support of their application.
 - i. Evidence of the approval of the Minister of the applicable supervisory Ministry or Agency with respect to the activities for which the vessel is to be engaged.
 - ii. Evidence of approval by the Department of Fisheries or any other relevant Government Agency or Department.
 - iii. Evidence of the consent of the Minister of Foreign Affairs.
3. Upon satisfaction that the applicant(s) referred to in (1) above, has satisfied the necessary requirements for the grant of exemption, the Minister may grant the exemption upon payment of the prescribed fee.