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Port reform in Nigeria

Upstream policy reforms kick-start one of the world's largest concession programs

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Over a two-year period, beginning in late 2004, the Nigerian federal government implemented one of the most ambitious port concessioning programs ever attempted. The success of this program resulted from the government's vision and decisiveness, as well as the need to remedy massive shortcomings in the sector, which were sharply inhibiting economic development. But the program also benefited strongly from policy reform recommendations made by PPIAF-funded consultants in 2002. The role of these "upstream" policy and planning recommendations highlights the value of best practice steps for creating an enabling environment in which sustainable arrangements for the private participation in infrastructure can be concluded.

Introduction

In September 2004, the government of Nigeria initiated one of the most ambitious infrastructure concessioning programs ever attempted. By July 2006, 20 long-term port concessions had been awarded (with six more in progress); two new legislative acts governing the port sector were under final consideration by the National Assembly; an act establishing an independent regulator for all modes of surface transport had been drafted; and an awareness-building campaign to support the port sector reforms had been successfully carried out.

This program, in what for Africa has been one of the slowest sectors to embrace private participation, illustrates a number of best-practice steps needed to plan successful reform initiatives of this kind. Unfortunately, in many developing countries these "upstream" steps to prepare an enabling environment, within which sustainable infra-

structure concessions can be concluded, are often ignored in efforts to seek short-term solutions to urgent problems in infrastructure sectors.

Impetus for port reform in Nigeria

Nigeria's willingness to take forward port reform initiatives in the late 1990s is a testament to the strategic vision of government officials as well as the size and scope of existing problems in Nigeria's port sector. By the 1990s, the Nigerian ports were demonstrating very low levels of efficiency, which resulted in long turnaround times for ships and increased container dwell time. It often took weeks to unload and reload a ship instead of the 48 hours considered standard in other regions, such as Asia. Moreover, the workforce was over-staffed and unproductive, cargo was subject to massive levels of theft, and port-related charges were excessive. Perhaps worst of all, the port infrastructure required substantial renovation and rehabilitation, and such investment was going to require substantial external financial support, which the federal government was reluctant to provide given the existing operating inefficiencies in the sector.

After the end of military rule in 1999, the newly reconstituted National Council on Privatisation (NCP) put port reform high on its agenda. After a series of internal government consultations, the NCP requested funding from the Public-Private Investment Advisory Facility (PPIAF) for a study to formulate a port sector reform strategy for the Federal Ministry of Transport. The grant was

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BOX 2

Port Reform in the Developing World

Sub-Saharan Africa has been slower than some other regions to embrace private participation, as Figure 1 demonstrates. By the late 1990s, according to some estimates, only 10 percent of SSA's ninety main ports involved private participation beyond stevedoring services.¹

By 2006, that situation had begun to change, with concessions concluded for container and general cargo terminals in Tanzania, Cameroon, Madagascar, Mozambique, and other SSA countries. But by the end of the 1990s, private participation in port operations still lacked widespread support in SSA for reasons that still slow port reform in many developing countries: (1) ports generate hard currency revenues that many governments feel they must tightly control; (2) ports often play a sensitive, strategic role in the transport networks of many SSA countries, with a single port often handling most of a country's international imports/exports—again, government officials sometimes see private participation as diminishing their control; (3) ports have enjoyed strong growth in the volume of containerized traffic (over 9 percent annually in SSA during the 1990s), regardless of whether the efficiency of their operations has improved; and (4) with strong growth in container traffic, and often relieved of the responsibility for servicing debt needed for investments, government-managed ports sometimes show positive, if misleading, profit performance.²

1. World Bank. 2006. "Sub-Saharan Africa: Review of Selected Railway Concessions." Africa Transport Sector. Report No. 36491.

2. Ibid.

approved in early 2001 and Dutch maritime advisory firm, Royal Haskoning BV, was engaged to prepare the assessment.¹

Recommended reforms

Now known in Nigeria simply as the "Haskoning Study,"² the report concluded that the administration of the Nigerian ports was characterized by an unusually high degree of centralization. Although the sector was supposed to be controlled by the state-owned Nigerian Ports Authority (NPA), permission from either the President or the Transport Minister was required for virtually all major decisions. As a result, key decisions affecting both policy and operations in the sector had slowed virtually to a standstill. In addition, NPA was responsible for both regulation of port operations, as well as the day-to-day operational decisions themselves. Because it had the authority to set its own tariffs, NPA was inclined to raise its prices to deal with internal budget deficits, instead of working to improve efficiency and productivity. By the end of the 1990s, repeated tariff increases, along with unchecked inefficiencies and poor governance, had made Nigerian ports among the slowest, and most expensive, in the world.

The Haskoning study classified the Nigerian port administration system as a example of the "tool port" approach. Some private companies were

involved in some port operations, often alongside public operations, normally via short- and medium-term contracts. But the resulting fragmentation and duplication of responsibilities contributed to higher than necessary costs for shipping and freight handling, and strongly inhibited the growth of the private companies. The study went on to review the most commonly used alternatives to the government's port management model, and recommended the adoption of the "landlord" approach, whereby the public sector is responsible for port planning and regulatory tasks (related to safety, security and environment), and maintains ownership of port-related land and basic infrastructure. Under this arrangement, the private sector would be responsible for marine and terminal operations, construction, purchase, and ownership of superstructure and equipment.

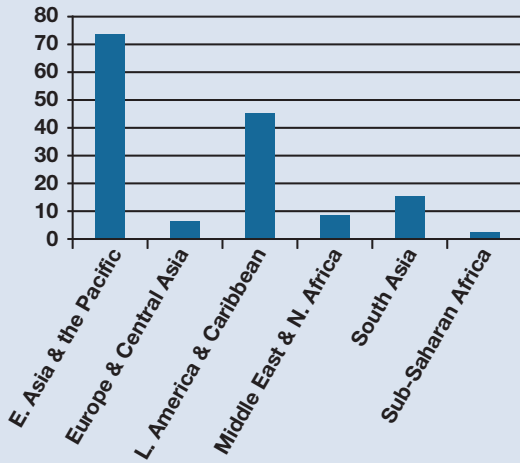
To implement this "landlord" model, the Haskoning study recommended that the government adopt a series of interrelated institutional reforms:

- *Make the federal government of Nigeria, through its Ministry of Transport, responsible for developing and improving maritime policy; the creation and maintenance of an appropriate economic, institutional, and legal environment to stimulate private sector participation in the sector; planning and development of new port facilities within the framework of an overall national*

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FIGURE 1

Regional Shares of PPI Investment in Port Facilities in the Developing World, 1990–2000
(billions of USD)



Source: PPIAF-World Bank PPI Project Data Base.

transport policy; as well as the planning and development of hinterland connections (i.e., roads, railways, waterways, and pipelines).

- *Divide the Nigerian Ports Authority into several autonomous port authorities, each responsible for a different geographical zone.* The functions would be revised to become consistent with the “landlord” model, and would include ownership and administration of the land, port planning and development of port infrastructure, leasing and concessioning of port land, developing a tariff policy, and providing nautical services, such as vessel traffic management.
- *Make private companies responsible for port operations and services, including terminal operations, cargo handling, stevedoring, warehousing, and delivering.* Companies would also be responsible for investments in the port superstructure and equipment, as well as marine-based investments and maintenance of vessels for marine services. To meet all of these responsibilities, the private companies would be expected to engage permanent personnel and provide sufficient training for them to reach minimally adequate skill levels. As a consequence of this staffing up by private partners, the huge and largely unproductive workforce at the Nigerian Ports Authority could be streamlined in consultation with labor unions.
- *Undertake concession contracts to structure the relationships between the public sector “land-*

lords” and the private sector terminal operators. The concessionaires would be selected on the basis of their willingness and ability to comply with several key contract terms:

- Concessionaires must be able to pay suitable compensation to the Port Authority for concessioning the land and the operations.
- They must manage commercial risks associated with their concession operations.
- They must maintain direct contacts (and contracts) with shippers, who would pay the operators directly without interference from the port authority.
- Concessionaires must finance and implement investments and maintenance for superstructure and equipment.

By the end of the 1990’s Nigerian ports were among the slowest and most expensive in the world.

Implementation of the reform program: the landlord port model

Following the submission of Haskoning’s final report, the National Council on Privatisation endorsed the landlord port model and the Ministry of Transport drafted a new national transport policy. The Bureau of Public Enterprise (BPE), responsible for implementing NCP’s (national) privatization program, engaged consultants to draft a new ports act. BPE also hired transaction adviser CPCS Transcom of Canada, as advisors to flesh out the legal and regulatory framework, prepare restructuring and concession plans, as well as assist in the procurement processes needed to engage concessionaires to operate the ports.

Because the existing ports act had provisions allowing the government to proceed with port concessioning, BPE was authorized by NCP to begin the concessioning process while new legislation was being prepared (as recommended by Haskoning). BPE and its transaction adviser identified 25 concessions from the 11 ports under the authority of NPA. The roles of the terminal operators and the landlord, as well as the regulator, were defined in draft concession agreements, which were used in the subsequent process of procuring the services of operators.

Transparency critical for success

NCP and BPE recognized early on that in order to establish and maintain the integrity of the procurement process, it needed to demonstrate compliance with international standards of trans-

parency and competition. BPE and its transaction advisors worked to ensure the following:

- Deadlines for bid submissions were strictly followed.
- Bid openings involved all the relevant officials, including members from the ports team, monitoring and compliance departments, and the transaction advisors.
- Technical evaluations were conducted exclusively by BPE's transaction advisors.
- Evaluation reports were approved by the National Council on Privatisation and the President's Office prior to the opening of financial bids.
- Negotiations with the preferred bidders involved all major stakeholders, i.e., BPE, Nigerian Ports Authority, as well as the Federal Ministry of Transport.

Outcomes

By the end of 2006, BPE and NPA had successfully executed 20 concession agreements, and the operators for those terminals had taken over port operations. For the remaining terminals, the preferred bidders had been selected and negotiations nearly finalized. Negotiations with labor unions had also been successfully concluded regarding retrenchments and severance packages. Major legislative reforms recommended by Haskoning have not all been passed into law, although they have made considerable progress through the legislative process. But the concepts behind these reforms seem clearly to be having operational impacts in the sector.

The first and so far the biggest of these concession contracts, for the Apapa container terminal in Lagos, was signed in September 2005 with APM Terminals (owned by the Danish shipping company, A.P. Møller-Maersk Group). APMT competed with 26 other bidders for the 25-year contract to manage the terminal, improve the port facilities by investing in new cargo handling equipment, and boost overall port capacity. The net present value of the bid was reported to be US\$1.06 billion, of which about US\$300 million is expected to be capital investment.

Other benefits from the reforms already clearly visible include increased private sector competition to provide port services (e.g., three of the five concessions granted in the Lagos area compete directly for similar cargo types). Shipping lines have also begun to remove their "congestion surcharges" (normally US\$300 per container) as operations and ship turnaround times have improved.

Conclusions

Although some key economic reforms in Nigeria have been delayed, the national government has shown vision and determination in implementing far-reaching reforms in the port sector. Improving the capacity and efficiency of port operations is a critical element of larger government plans to improve the country's transport network, often cited as a key factor in limiting business activity and overall economic development.

The PPIAF-funded recommendations helped launch what has become one of the biggest infrastructure concessioning programs undertaken anywhere in the world. The "upstream" policy and planning recommendations highlight the value of best-practice steps for creating an enabling environment in which sustainable arrangements for the private participation in infrastructure can be concluded. These steps, now explained in a newly updated version of a PPIAF-supported port reform "toolkit,"³ include the clear identification of reform objectives, the delineation of key institutional design and reform decisions (including methods of private participation and public interest oversight), financial implications and risk allocation, necessary legal changes, and the assignment of roles in implementing reforms.

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