



## INNOVATIONS FOR SUCCESSFUL SOCIETIES

### OPENING GATEWAYS TO NIGERIA: PORT GOVERNANCE REFORMS, 2003-2007

#### SYNOPSIS

In 2003, Nigeria's seaports were among the least efficient in the world due to inadequate infrastructure, corruption, and procedural entanglements caused by dozens of government agencies competing for slices of the ports' revenue. Businesses suffered, investors stayed away, and shippers diverted their loads to ports in neighboring countries. Seeking to improve efficiency, ease the financial burden of administering the ports, and reduce corruption throughout the sector, President Olusegun Obasanjo invited private companies to manage Nigeria's port terminals in exchange for commitments to invest in port infrastructure and to remit a share of profits and other fees. The ambitious reform was not easy. Opposition from Nigeria's legislature nearly derailed the changeover, and acrimonious negotiations with labor unions threatened to prevent the smooth transfer of managerial responsibilities to private operators. Irene Chigbue, head of Nigeria's privatization bureau, relied on a transparent and closely monitored concession process, political support from the presidency, and controversial legal arguments to achieve her goal. Private terminal operators brought substantial new investments and improved port operations, though complementary reforms were needed in customs and in the government's regulatory functions to enable Nigerian businesses to realize the full benefits of the new system.

*Jonathan Friedman drafted this case study based on interviews conducted in Abuja and Lagos, Nigeria, in January and February 2013. Case published May 2013.*

#### INTRODUCTION

In 2003, Nigeria's aged and inefficient seaports were struggling to keep up with the country's growing economy and foreign trade. Nigeria's trading partners had reengaged with the country beginning in 1999, the year military rule came to an end. Within four years, the volume of cargo shipped through the ports nearly doubled. However, port congestion and delays in freight handling raised costs, impeded government construction projects, and

threatened the country's fragile economic recovery.

Following two decades of policies that allowed corruption and patronage to flourish and led to underinvestment in infrastructure, Nigeria's ports faced a number of weaknesses. Larger vessels could not use the shipping channels, which needed dredging, and deteriorating quay walls required extensive repair. Inadequate cargo-handling equipment and storage capacity slowed the movement of

goods through the ports. Ships had to wait as long as three weeks to berth due to congestion, and shipping companies often bribed port officials to accelerate berth assignments.<sup>1</sup> Because of a lack of cargo-scanning equipment and the prevalence of smuggling, the Nigeria Customs Service physically inspected all cargo, adding to delays.

Shippers estimated that the costs they incurred due to corruption and inefficiency at the Apapa port complex in Lagos—Nigeria’s largest and most important facility—were three times higher than at any other West African port.<sup>2</sup> To save money, shipping companies diverted traffic to ports in neighboring countries: Cotonou, in Benin; Lomé, in Togo; Tema, in Ghana; and Abidjan, in Côte d’Ivoire.<sup>3</sup> Diverted cargo meant uncollected revenue for the Nigerian government and delays for Nigerian businesses and consumers.

Shippers, importers, port managers, and the Nigerian government agreed on the need to improve port performance. For help, President Olusegun Obasanjo turned to Irene Chigbue, who headed the infrastructure networks portfolio at the Bureau of Public Enterprises and had led the bureau as director general beginning in 2005. The bureau was the nerve center of the National Council on Privatization, a group chaired by the vice president and created to introduce private sector participation in more than 150 state-owned enterprises. Many of those enterprises produced little in terms of public services but required government subsidies, import duty waivers, and tax exemptions that contributed to Nigeria’s expanding public debt, which the president had promised to reduce.<sup>4</sup> In addition to sales of public businesses, the bureau managed public share offerings, cultivated public-private cooperation, and reorganized selected corporatized public agencies.

Following a series of stakeholder discussions and internal and external assessments, the

privatization bureau decided in 2003 to adopt what was called “the landlord model” of port governance. Under that model, the Nigerian government would retain ownership of the ports but grant concessions to private companies to operate port terminals in exchange for investing in port infrastructure and remitting fees to the government.

The plan aimed to free the government from the financial and managerial burdens of running the ports while improving port efficiency and reducing costs and waiting times for Nigerian businesses and foreign shippers.

## THE CHALLENGE

The transition to the landlord model of port administration required care and planning. Though successful adoption of the model would better serve Nigeria as a whole, the reform was sure to face fierce opposition from entrenched interests that benefited from the old way of doing things.

For years, patronage pressures had impelled politicians and civil servants to seek employment for supporters or kin. The Nigerian Ports Authority directly employed 13,000 people in addition to 12,000 dockworkers, who were private sector employees hired by third-party contractors. Although a consortium of Dutch advisers calculated that 3,000 direct employees would have been optimal and in line with staffing at comparable facilities, labor unions had an interest in preventing layoffs, and they had many ways to influence negotiations.

A profusion of government agencies complicated matters and raised the likelihood of opposition to any plan to streamline port operations. At least 29 government agencies had set up offices at the country’s largest port facilities, and many leveraged their positions to exact bribes. Those agencies included some with the statutory right to be there—such as the Standards Organization of Nigeria and the National Agency for Food and Drug

Administration and Control—but many had little justification. In fact, the bureau concluded based on international norms that just six agencies should be on port premises. However, the extraneous agencies had influential supporters throughout government, and their location at the ports facilitated networks of corruption and generated illicit earnings.

Any substantial change in port operations also would work to the detriment of certain high officials in the ports authority and transport ministry. Under the proposed landlord model, the ports authority would lose control over some revenue flows that offered opportunities for graft. In theory at least, private operators would have strong incentive to reduce or eliminate illicit practices in order to increase efficiency, secure higher profits, and improve their competitive positions.

Additionally, the privatization bureau faced media and public skepticism about the integrity of wholesale government changes of this kind. Would the selection of private operators be determined fairly and honestly? Given the murky and complex networks of elites that could profit from receiving concessions to operate the ports, such concerns were credible. Adebayo Sarumi, the ports authority’s managing director from 2003 to 2007 said members of the media expressed such concerns often, but he worried that the public airing of those concerns might discourage major investors from participating in the concession process.

Chigbue was keenly aware that earlier efforts to transform the port sector had failed. Under General Ibrahim Babangida, Nigeria’s military ruler from 1985 to 1993, a policy committee had recommended the corporatization of the ports authority. The basic idea was to adopt private sector management methods to spur better performance. As a result, the ports authority had gained autonomy from many civil service rules and had acquired the authority to use revenues it collected to run its

operations, so that it could become financially self-sustaining. However, the concepts of efficiency, profitability, and competitive markets had clashed with existing organizational cultures, and the corporatization effort failed because of opposition from interests that had stakes in the status quo.

Chigbue recalled: “We realized that the people we were seeking to secure autonomy for were not excited with the prospects. Implicit in the concept of autonomy is nondependence on Treasury for funding. As a commercialized entity, they were expected to generate sufficient funds from their operations for their projects. They, like most other commercialized public enterprises, preferred to be under public funding, which was an easier option.” Ideological opposition as well, particularly from legislators who would be called on to pass enabling legislation, threatened to undermine the concession process.

### FRAMING A RESPONSE

Chigbue had to stave off attempts by opponents to undermine reforms while moving the concession process forward in a deliberate, credible manner. To cultivate support, she reached out to influential politicians such as Minister of Transport Abiye Sekibo, who chaired the Transportation Sector Reform Implementation Committee of the National Council on Privatization. Chigbue worked primarily through that committee and its five subcommittees on ports, railways, inland waterways, roads, and shipping. The bureau assigned ten staffers to support the ports subcommittee, which comprised representatives from the ports authority and the Customs Service as well as customs brokers, shippers, freight forwarders, and organized labor.

To quell skepticism and build a sense of common purpose among the group’s members as well as legislators, subcommittee leaders decided to take labor representatives and key

members of the National Assembly on a world tour of ports that included stops in Hong Kong, Singapore, and Mexico. A major goal of the trips was to clarify the extent of the problem: how poorly Nigeria's ports operated when compared with those of other countries. As a result of the trips, Chigbue said, "nearly everybody who had a role to play bought into the need for port reform."

Chigbue and Sarumi, who led the ports authority, organized forums to answer questions about the planned reforms. Doubts persisted about the right role for the private sector. Representatives of customs brokers wanted to maintain government provision of ports services alongside private companies. Prince Shittu, national president of the Association of Nigerian Licensed Customs Brokers Association, said he favored corporatizing the ports authority and allowing it to compete with private operators as a check against private companies' pursuing of unfair practices. Lucky Amiwero, president of the National Council of Managing Directors of Licensed Customs Agents, another customs brokers association, argued that the ports authority should continue as a public entity—with a very limited role for the private sector—or should pursue a joint-venture arrangement with a private company, as nearby Ghana had done.

Sarumi and Chigbue did their best to assuage concerns about how the ports would function under a concession operation. Industry representatives pressed Sarumi over whether reforms would in fact improve efficiency. Customs brokers questioned whether private operators would raise user fees. Shipping lines feared they might lose fair and equal access to ports. "We had to talk to them openly and didn't make any promises we couldn't fulfill," Sarumi recalled.

Sarumi said reform leaders had some success in securing buy-in from the large number of individuals and organizations that

had vested interests in how the ports operated. Many remained skeptical and offered only tentative support as they waited to see how the reforms unfolded. "You had a National Assembly that was beginning to understand; you had a union that was admittedly open to how it's done in other lands," Sarumi said. "It wasn't too long before we had some measure of acquiescence as to 'OK, let [the process] go . . . but we want to see how the process goes.'"

### GETTING DOWN TO WORK

Once the National Council on Privatization and the Bureau of Public Enterprises had agreed to adopt the landlord model, Chigbue, Sarumi, and others on the transportation committee began to tackle their challenging, to-do list. They had to manage a credible and transparent concession process, reach accommodation with labor, restructure the ports authority to carry out its new mandate, and validate the privatization council's legal authority to do it all.

#### *Managing the concession process*

Chigbue had clear goals for the concession process, including identification of a suitable private company to run the port facilities. "The major concern was to access world-class ports operators, operators with proven managerial and technical ability as well as possessing financial muscle to invest and further modernize and transform the ports with equipment and technology," she said. However, to attract those investors, the privatization bureau had to establish a credible and transparent bidding system.

The concession process would progress through several stages. First, the bureau had to identify commercially viable functions within the country's six port complexes. Chigbue said the goal was to divide larger ports into multiple concessions in order to bring in private operators

that could compete with each other. “We tried to involve as many private sector participants as possible to promote competition,” she said. “The idea to break up the ports was to ultimately benefit from concessionaires’ competing with each other in the provision of services and in their tariffs.”

With assistance from Canadian consultancy CPCS Transcom, the bureau divided the six port complexes into 26 concessions. Some sites already had lease agreements, and in those instances, the bureau opted to renegotiate the leases as concessions, requiring that lessees submit port development proposals, as would be required of other investors. Two were build-operate-transfer arrangements, in which private companies agreed to build new terminals and operate them for a defined period of time before transferring managerial responsibilities to government, and they were negotiated separately.

In late 2003, more than a hundred companies responded when the bureau solicited calls for expressions of interest. The bureau’s port staff, along with CPCS, reviewed the preliminary proposals by applying general qualifications benchmarks. “Then we made the short list, removing the wheat from the chaff,” Chigbue said. The bureau jettisoned spurious applicants and advanced qualified firms to the due diligence stage.

Roughly nine months later, beginning in September 2004, the bureau invited about 90 of the companies to inspect the ports and conduct their own evaluations in order to prepare technical and financial bids. Some of the 90 dropped out; certain others got together to submit joint bids. Companies could submit multiple bids for different terminals.

Because of the large number of proposals expected and the level of detail involved in each, the bureau divided the 26 concessions into four rounds of bidding, extending the process into 2005. At that stage, companies had to indicate

which terminals they were interested in, pay bidding fees, and sign confidentiality agreements. The bureau set evaluation criteria, which it shared with bidders.

Companies submitted technical and financial bids as well at that stage, and they had to describe their experience and expertise and demonstrate how they intended to run their terminals. They provided detailed plans describing how they would develop terminal premises, what new structures they would build, what equipment and technology they would bring, and what marketing and manpower strategies they would use. In financial bids, companies described their financial health and included proposals detailing how much they would pay as up-front entry fees and annual lease fees, how much they would pay as the share of royalties based on the amount of cargo handled, and how much they would pay to purchase government-owned equipment that was at the ports.

The bureau received more than 200 bids in the four rounds of proposals; the ports subcommittee then faced the task of evaluating them. Mohammed Uba, an economist at the bureau, described the key elements: “Experience was a big factor: what size terminals had they been handling, what types of equipment they had, and the statement of account, which showed how much they were making—the financial health of the company. In the development plan, we can tell the companies that know what they are doing from the ones that do not. It’s clear.” The Canadian consultants involved earlier in the process joined the bureau to evaluate the bids. The bureau then submitted recommendations to the National Council on Privatization regarding which bids should be advanced to the next round.

Uba said the committee did not expressly favor local bidders but did encourage joint bids by firms with local knowledge and international

firms with greater financial resources and technical expertise. He said the enterprises bureau informed Nigerian companies that they would have a hard time competing effectively with international companies for the choicest concessions and suggested they partner with foreign firms.

Although joint bidding had the ancillary effect of giving a boost to local firms, Chigbue said the critical issue was quality. “Knowledge transfer was naturally part of the outcome, but not by design,” she said. “What guided the bidding process was getting the best. . . . In pricing and quality, we did not care where they came from.” Ultimately, almost all of the concessions went to joint bids that paired foreign and local firms.

To gain bidders’ trust as well as to build support among Nigeria’s public and media, Chigbue took pains to ensure the evaluation process was credible. First, the committee adopted the World Bank’s best-practices guidelines for managing the concession process. The World Bank had funded multiple consultancy projects, and its tacit endorsement sent an important signal to potential investors. Yehuda Kotik, managing director of Tin Can Island Container Terminal Ltd., one of the winning bidders, said assurances from the World Bank assuaged his company’s doubts. “We have decided to invest in this terminal based on the knowledge of the business environment, and from the legal point of view, we had the assurance of some international organizations, including the World Bank,” he said.

Second, Chigbue took extra steps to ensure transparency in the evaluation process. Her predecessor as director general had come under fire for accepting a bid submitted after the deadline, which led to the suspension of that privatization process and of several bureau staff. Chigbue was determined to keep the selection process free of such doubts. At the most sensitive stage of proposal evaluation, she

allowed only the CPCS advisers and a few people at the bureau to have access to the documents. “Too many people wanted to get involved—people from the ministries—and of course we had to curtail that because of the potential for leakages,” she said. “Whereas you can control the BPE [Bureau of Public Enterprises] staff substantially, third parties you can’t.” She kept the bid documents under lock and key at the bureau’s offices in Abuja, the capital, and closely guarded access to them.

As the process moved forward, both international and domestic bidders tried to get special consideration. Some went to the National Assembly to solicit support, and some to the presidential villa, Chigbue said. “The president and vice president were fair enough to send them back to us, to follow the guidelines laid down and to compete on level ground. Nonetheless, the ports concession was clearly a sensitive transaction,” she said.

In the first of four rounds of bidding, APM Terminals, a leading global terminal operator based in the Netherlands, submitted a US\$1.06-billion bid to manage the Apapa Container Terminal in Lagos, the largest prize of the concession process. The bid included up-front payments, pledged investments, and projected fees that would be remitted to the Nigerian government over a 25-year term.

Uba, the bureau economist, said APM’s decision to enter the bidding was fortuitous. Demonstration of serious interest on the part of a reputable international firm in the first round of bidding signaled to potential bidders in later rounds that the process was credible and that Nigeria was an attractive place to invest. Other concessions ranged from 10- to 25-year terms, with total projected entry fees, investments, and cargo throughput fees of US\$5 billion.

Drawing again on help from the Canadian consulting team, the bureau reviewed the technical bids and indicated which ones presented suitable development plans for the

ports. In hearings that were public and televised, with politicians and journalists present, the bureau opened financial bids that had been submitted in sealed envelopes. The enterprises bureau, transport ministry, and ports authority then began detailed negotiations with the highest bidders over outstanding issues, such as level of investment, performance measures, and disposal of unwanted equipment. Negotiations lasted six months in some cases, with both sides poring over lease documents that numbered more than a hundred pages. The privatization council, led by the vice president, reviewed and approved the bureau's activities at each stage.

Chigbue said she received complaints from bidders who had lost out; she even received threats of blackmail. "They all went to the [presidential] villa," she said, "and in some situations I was invited, and I explained the process, and the matters were settled."

#### *Striking a deal with labor*

Whereas government and private companies prepared for the transfer of management responsibilities, organized labor represented a significant hurdle. Plans called for about 70% of the ports authority's 13,000 direct employees to lose their jobs; and most of the 12,000 dockworkers employed through third-party contractors would lose theirs as well.

In December 2004, President Obasanjo had set up a Presidential Task Force on Ports Reform, chaired by Minister of Finance Ngozi Okonjo-Iweala, who led the president's economic reform team and was a forceful representative for the president. The task force comprised four subcommittees dealing with labor, customs and other agencies, financial matters, and legal and regulatory issues. The task force was intended to provide additional political will that would resolve differences between stakeholders in support of Chigbue's technical unit.

The labor subcommittee included representatives from the Ministries of Finance and Transport, the privatization bureau, the ports authority, and the Economic and Financial Crimes Commission to help develop the packages and ensure that payment systems were credible. The Maritime Workers Union of Nigeria—representing dockworkers and low-level and midlevel ports authority staff—and the Senior Staff Association represented labor's interests on the committee.

The unions were determined to limit layoffs and to negotiate liberal severance packages for those who would lose their jobs in the changeover. The bargaining continued through the summer of 2005, but the labor subcommittee and the unions remained hundreds of millions of dollars apart in terms of the total compensation package that would be offered to ports authority employees whose jobs would be eliminated. The unions initially proposed a total of 85 billion nairas (US\$664 million).<sup>5</sup> The two sides' inability to settle on a plan began to delay the transition of managerial responsibilities to private operators.

Aham Ubani, secretary-general of the Maritime Workers Union, said his side was frustrated because the labor subcommittee of the presidential task force, under the leadership of the finance ministry, took a tougher stand than ports authority leaders had outlined in earlier informal discussions with union officials. "We started negotiations with [the ports authority] for severance packages, but when it went to the president, it was jettisoned. They said they don't have the money," he said.

The unions decided to take action amid growing frustration with the government's position in negotiations and the unions' dissatisfaction with the labor cutbacks that had already occurred.<sup>6</sup> In early October, workers called a half-hour strike at all of Nigeria's ports—the first labor action led by the maritime union rather than its parent, the Nigerian Labor

Congress. On 28 October, the head of the union's dockworkers branch, Anthony Nted, warned potential concessionaires that the union would block the planned reforms if its demands were not satisfied. "We emphasize that no concessionaire will be allowed to take over the ports. They dare not until all the labor issues are thrashed out," he said.<sup>7</sup>

The unions sought to build a coalition that could limit labor cutbacks and secure more-generous compensation packages. Ubani said union members met with representatives in the National Assembly and with traditional leaders—people who had influence but no formal political authority and who in turn pledged support. The unions also drew public attention by demonstrating at the gates of Nigeria's largest ports, at ports authority headquarters, and outside the National Assembly in Abuja. Ubani said his constituents spent an entire week demonstrating at the gate of the Apapa terminal in Lagos, passing out leaflets while drumming and dancing. "The only thing we didn't do was fight," he said. "It was very important to us not to use violence."

In February 2006, the labor subcommittee finally reached a deal with the unions over severance packages. Ports authority employees would receive three months' pay and the option of a monthly pension or an up-front buy-out worth five years of pension payments. The total package came to 30.5 billion nairas (US\$238 million).

Negotiations with the privately contracted dockworkers continued through 2006, with the two sides ultimately agreeing on lump-sum payments totaling 2 billion nairas (US\$15 million). Because dockworkers were not employed directly by the ports authority but would be adversely affected by reforms, the two sides agreed to comparatively smaller severance packages. Sarumi said the task force committee followed deal models as set in Argentina and Mexico.

To make the pension buy-out commitments credible, the ports authority took out loans against the future sale of off-site properties owned by the ports authority to ensure the money was in hand. "Looking at cash on the table, not future commitments that could be lost due to bad investments" played an important role in reaching the final agreement, Chigbue said. This step was the only way to overcome union skepticism about the government's financial ability to deliver on its promise of long-term payments.

Sarumi said the ports authority's pledge to help laid-off dockworkers get jobs with private operators played a significant role as well. Dockworkers who obtained employment with private operators would receive better pay as well as benefits, which they had lacked as casual workers under the old order. "[Terminal operators] will pay them far in excess of what we were able to pay; they will train them; they'll give them insurance and pensions, even though fewer numbers might secure employment than hitherto," he said.

The ports authority did not compel private operators to hire laid-off dockworkers, said Sarumi, because such a requirement would have made the concessions less attractive. However, the agency did encourage private operators to retain qualified dockworkers. As part of the handover of responsibilities, private operators worked alongside public managers for several months, with the public managers allowing the private operators to make their own determinations about which dockworkers to retain.

The retrenchment program began in February 2006 with the screening of ports authority employees and continued into 2007. Thousands of employees volunteered for retrenchment, according to Sarumi. Roughly 9,000 employees were let go in stages until 4,000 remained.

*Institutional and regulatory reforms*

Because reforms entailed significant changes in government powers and procedures, the landlord model required changes in existing laws. The laws had to clarify (1) the ports authority's role as owner of port land and superstructure, (2) other government agencies' mandates, and (3) the powers of private companies as operators. In addition, the legislature had to make provision for an independent commercial regulator that could mediate disputes between port sector groups and ensure a fair fee regime. Two bills drawn up by the privatization bureau—the Ports and Harbors Authorities Bill and the National Transport Commission Bill—were meant to clarify the uncertainties and establish the regulator. But in 2005, the draft legislation ran into a roadblock in the National Assembly. Some legislators opposed reforms on ideological grounds; and others, because they were motivated by political considerations. “Opposition based on self-interest began to surface,” Chigbue said.

Sarumi suspected government contractors might have been behind the surprisingly strong opposition: “those who have benefited from public management of ports as contractors, realizing that the largesse was slipping out of their hands.” He offered a hypothetical example of an oil company that would face price competition under the new arrangement, when previously it had charged whatever price it wished.

Unable to secure passage of the bills in the legislature, Chigbue changed course. She argued that an existing law provided sufficient legal grounds to complete the concessions to private terminal operators and that reforms could continue without legislative approval. A 1999 Ports Act had empowered the ports authority to hire third parties to provide services on its behalf for a period of up to five years. Presidential approval was required for contracts

lasting more than five years. Although the authors of the act did not have terminal concessions in mind, Chigbue said, nevertheless the law vested sufficient power in the ports authority to execute terminal concessions, with presidential approval. The privatization council agreed, and the concession process went ahead.

Chigbue said the legislature's failure to pass the two laws did not deter private operators. “They saw the legal framework had not been finalized, but they saw the level of progress made—approved by the Federal Executive Council [cabinet] and introduced in the National Assembly—and they knew they would enter into contracts with government with the seal of government,” she said.

Uba concurred. “We were not concerned about legal risks. Members of the National Assembly were saying it's illegal, but we know it's not illegal; we have this comfort, and even the bidders have that comfort that there's nothing illegal about what they're going into, because the ports act clearly spells out that [the ports authority] can transfer to third-party entities,” he said.

Dallas Hampton, managing director at APM Terminals Apapa Limited, said his company agreed with Chigbue's conclusion. “As it does for all new investments, APM Terminals conducted a thorough review of all of the risks associated with operating in Nigeria, including regulatory and legal issues, and was satisfied that the risk/reward profile more than met the company's minimum criteria,” he said. “There is no lack of enabling legislation for port concession; this is a story promulgated by those who wish to destabilize privatization.”

Although the port concessions went ahead, there were negative repercussions from the assembly's failure to pass the bills, especially because there was no legal foundation for creating an independent commercial regulator. When the ports authority decided it would itself perform the function, some observers cited a

potential conflict of interest with the agency receiving payments and royalties and regulating the process at the same time. “You can’t play football and referee at the same time,” said Joshua Asanga, who served as port manager at Tin Can Island and Apapa from 2007 to 2012.

The National Assembly continued to consider the bills in subsequent years, but as of February 2013, the issue remained unresolved.

Shittu, head of the licensed customs brokers association, said multiple government agencies lobbied the National Assembly to be named the commercial regulator—because of the opportunities for graft such a regulator could wield. The lobbying created gridlock in the legislature and prevented the National Assembly from reaching a resolution. Without a commercial regulator, Shittu said in 2013, port users’ grievances were building. “Now, if you’re overcharged, you don’t have anywhere to go,” he said. “Nobody’s fighting for you.”

Francis Ojadi, a ports specialist at Lagos Business School, said it was not clear that lawmakers were aware of the technical components of a commercial regulator’s functions, such as determining when terminal operators should move cargo to nearby container yards to clear space. The issue was sensitive, he said, given the fact that terminal operators benefit from the container storage charges that depend on clearing processes. “There is the need to understand the issues to be regulated and then decide who should regulate,” he said.

## OVERCOMING OBSTACLES

The managers of the new ports arrangement encountered several challenges as they implemented the new changes. They had to acclimate remaining staff members to new roles, adapt to the changes in direction that followed a political transition, and prevent government agencies from recolonizing the port.

As the Nigerian Ports Authority transferred operational responsibility to private companies,

the agency began the sensitive process of reworking its internal structure and operations to deal more effectively with its changing responsibilities. Personnel had to adapt to a reform plan that called for decentralization of responsibility from Abuja to multiple autonomous port authorities and reorientation of remaining ports authority staff to the monitoring of terminal operators instead of the running of daily operations.

As managing director, Sarumi sought to create change agents that would begin a process of transformation. Earlier in his career, Sarumi had spent significant time studying port operations in Japan, Europe, and the United States; and he had decided that key staff could learn valuable lessons from similar experiences and spread those lessons throughout the organization. He sent high-level staff, including several port managers, on study trips to the port of Antwerp in Belgium, to Harvard University, and to other destinations.

The ports authority also offered new training opportunities, but these did not change mind-sets, according to Abdul Salam Mohammed, who succeeded Sarumi as managing director in 2007. Mohammed had worked on a transition management team at the Nigeria Social Insurance Trust Fund earlier in his career and had concluded from that experience that new personnel were needed to facilitate the transition. “I would bring in new people at different levels with new mentalities, people not used to the way things were done,” he said. “New people can say, ‘Did you try it this way?’ And there can be a marriage of this. At the [ports authority], there were some new hands but not that transitional arrangement.”

To adjust to its new monitoring role, the ports authority set up units that corresponded to terminal operators’ structures. The units collected information regarding their operators’ performance and issued quarterly reports to compliance units in local port authorities and to

headquarters in Abuja. “They measure the level of work that has been done, how much these works cost, where you are in the development plan,” said port manager Asanga.

Ports authority employees struggled to define their relationships with the private operators. Employees had to schedule site visits to monitor equipment or staffing levels, because they no longer had the right to show up unannounced. As part of a campaign to reduce corruption, access to the ports was sharply limited. Some employees resisted those rules, according to Mohammed. “A person who is so used to collecting fees will always look for ways to get back to the port, even if he has a different responsibility. That’s still a challenge,” he said.

Decentralization of authority, too, faced resistance and was only partially implemented. In early 2007, President Obasanjo issued a directive splitting the ports authority into autonomous western and eastern port authorities. However, President Umaru Yar’Adua, Obasanjo’s successor, reversed the directive months later, and the ports authority remained a single national agency.

Chigbue said 2007’s change in presidential leadership altered the political dynamic around port reform, complicating the plan to decentralize authority. The political transition also created an opening for some of the more than 20 agencies ordered by the previous administration to vacate their positions at the ports to lobby to reclaim their ground. Some agencies argued that their statutory responsibilities of inspection and security required their presence at the ports; others lobbied based on their contention that similar agencies had offices at ports in other countries.

“Changes in government have their own costs, which are inevitable,” said Chigbue. “People take advantage and begin to reverse things done by the previous administration that were not in their interests.”

Shittu of the customs brokers association said that ultimately, agencies were motivated by the opportunities to solicit bribes. “Some of those unofficial fees collected on the ground are also useful for their godfathers up there. Somebody posts you to the port; you have to report to that person on a daily basis. The person protects you,” he said. Further automation of clearance procedures was necessary, but unlikely to occur, he added. “People benefit from the current system,” he said. “People prefer manual systems because when the document gets to me, I can say, ‘What do I get for doing this document for you?’ even though they’re being paid a salary to do their work.”

## ASSESSING RESULTS

The success of Nigeria’s port reforms became apparent in a variety of ways. For instance, in July 2006, Chigbue, head of the enterprises bureau, said she heard a startling disclosure by Controller General of Customs Jacob Buba. During a closed-door meeting in the office of then foreign minister Okonjo-Iweala, with the president of the International Monetary Fund and others in attendance, Buba reported an interesting reversal at Lagos’s major ports of Apapa and Tin Can Island. Previously, some officials had clamored to be posted to those ports, where opportunities for corruption were abundant. “Suddenly, people were asking to leave,” said Chigbue. “After concession, they were asking to move away from their ports, ostensibly because opportunities for compromises had been eliminated.”

The involvement of respected international companies underscored the success of the concession model for terminal operations. APM Terminals, Switzerland-based Mediterranean Shipping Company, and other firms that became terminal operators committed to pay an estimated US\$6 billion in entry fees, infrastructure investments, lease fees, and

throughput fees over the lives of their contracts. Apapa Container Terminal alone secured from APM a total commitment of more than US\$1 billion.

Terminal operators committed to make substantial investments in the expansion of storage capacity and in the acquisition of ship-handling and yard-handling equipment over the durations of their concessions. A 2011 bureau report to the National Council on Privatization found that most of the terminal operators were meeting the aggressive targets of their port development contracts, and terminated only one contract for noncompliance.

In addition, port efficiency improved under new management at all Nigerian ports rose from 1.5 million metric tons in 2005 to 7.5 million metric tons in 2007, though it was the impact of concessions by APM already been on an upward trend. Waiting times for berth at APM Terminals' operation at Apapa, Nigeria's largest container port, dropped from 2.5 days in 2006 to less than a day in 2012, according to the company. This compared favorably with the neighboring ports at Tema<sup>8</sup> in Ghana and Lomé<sup>9</sup> in Togo. The number of standard shipping containers moved per hour, a measure of efficiency, more than doubled from 7 to 19 at APM Terminals from 2006 to 2011, according

to the bureau. As a result of shorter waiting times, congestion fees were slashed, saving the Nigerian economy US\$200 million in 2006, according to the World Bank.<sup>10</sup>

Nigeria achieved gains in international logistics rankings as well. On the United Nations Conference on Trade and Development's liner shipping connectivity index, a measure of a country's integration into global liner shipping networks, Nigeria rose from

Table 1. Cargo Throughput by Year at All Ports

Year	1999	2000	2001	2002
Throughput (in metric tons)	22,232,936	28,932,880	35,940,692	36,987,241
Year	2003	2004	2005	2006
Throughput (in metric tons)	39,765,945	40,816,947	44,952,078	49,173,324
Year	2007	2008	2009	2010
Throughput (in metric tons)	57,473,350	65,192,919	66,908,322	74,910,284

Source: Nigerian Ports Authority

However, total dwell time, an overall measure of how long cargo remained at ports, showed only marginal improvement in the years after the concession process. For Nigerian importers, slow clearance times meant higher storage fees and detracted from the benefits received from reforms. A 2010 US Agency for International Development report found total dwell times of 20 days at Apapa Port and 29 days at Tin Can Island Port. Even though those time periods were shorter than the monthlong waits in 2006, they lagged behind those of 17 days at Tema and 3 days at Maputo, in Mozambique, and Durban, in South Africa.<sup>12</sup> A separate study conducted by the World Bank found dwell times of 20 days at Tema, 19 days at Douala, Cameroon, and 18 days at Lomé.<sup>13</sup> Compared with an international gold standard

of two days for cargo clearance, cargo continued to languish in Nigeria's ports.

There were several reasons for the stubbornly high cargo dwell times. One was the continued port presence of nonessential agencies whose requirements created delays. Shittu, who served on an advisory port reform committee to President Goodluck Jonathan, Yar'Adua's successor, said the government's continued struggle to reduce the number of agencies at the ports stemmed from a coordination problem between ministries and a question of political will. "All these agencies answer to their own ministers," he said. "Now we have a coordinating minister [Coordinating Minister of the Economy and Minister of Finance Ngozi Okonjo-Iweala] who is the person in the committee we report to, and she could give the other ministers directives. But it's difficult because they view themselves as equal, so she has to use guile, wile, and a political balancing act in order to persuade them." President Jonathan created the position of coordinating minister in 2011.

Lagos Business School ports specialist Ojadi said that restricting the number of agencies at the ports was less important than reducing the number of agencies with the authority to hold up cargo clearance. "Kicking agencies out of the port must be complemented by streamlining the process," he said. "The [National Agency for Food and Drug Administration and Control] is gone, but you still need their approval, which requires visits to their office to get the first stamp, submission of the invitation for physical examination of cargo, and the second stamp from the agency for the release of the cargo prior to customs final release. This process involves some logistical challenges."

Meanwhile, the Nigeria Customs Service struggled to improve its own performance. Beginning in 2005, the customs service implemented an automated system intended to improve clearance times and reduce corruption

and bribery by limiting face-to-face interactions between customs officials and clearing agents. Additionally, the service hired firms to inspect imported cargo at Nigerian ports by using scanning equipment.

Neither reform helped much, at least initially. The customs service continued to examine as much as 70% of all cargo physically in the first few years after the changes, a time-consuming process. The World Bank's Logistics Performance Index showed that the physical inspection rate at Nigeria's ports and airports was 72% in 2007. And although the rate improved significantly in subsequent years, falling to 42.86% in 2012, the level remained well above international norms. Shippers' storage fees accumulated as terminal operators took as long as seven days to position cargo for scanning or physical examination.

There were several reasons for the high rate of customs examinations. One was that many importers were not trustworthy. Wale Adeniyi, public relations officer with the customs service, said an internal study of 1,020 random entries uncovered errors and inaccuracies in declarations that generated an additional 12 billion nairas (US\$76 million) in fees. Further, in some instances, importers abandoned cargo at ports because they lacked the funds to pay clearance fees. In other cases, importers plotted to purchase their own cargo at reduced rates through intermediaries when the customs agency put the unclaimed cargo up for auction.

Customs officials, too, were part of the problem. Mohammed, head of the ports authority from 2007 to 2010, said customs officials had revenue targets that created an incentive for them to forgive—or even collude with—importers that tried to import banned items or falsify declarations. In performance evaluations, an official would be "assessed on the basis of revenue, so he's interested in getting that revenue," Mohammed said. "He will classify these things differently, charge the tariff,

collect the revenue, and be commended by his superiors for doing a good job.” (Customs service PR officer Adeniyi asserted that the service issued only revenue projections, not targets, and that there were not necessarily repercussions for missing projected revenues.)

Finally, weak intermodal transport links remained a burden. Rail and inland waterway systems had been neglected and needed repairs and upgrades. Almost all cargo received at the ports was transported via roads. Sarumi, head of the ports authority from 2003 to 2007, said competition between port and city traffic, in Lagos in particular, created serious road congestion. He suggested the Lagos state government and the federal government, led by officials from rival political parties, had to cooperate to improve transport links.

Following renewed concerns in 2012 about congestion in the ports, clearance times began to drop. Ascanio Russo, director of Grimaldi Agency Nigeria Limited and executive director of the Grimaldi-owned Roro Terminal at Tin Can Island Port, attributed the drop to contextual factors, such as less-than-expected throughput in 2012, and to the improved efficiency of terminal operators that had invested significantly in new port equipment and infrastructure. “Before, it took one month on average to take delivery of a container; now it’s about 20 days,” said Russo. “That improved capacity, and that’s why you don’t see congestion in the ports anymore.”

## REFLECTIONS

Overall, the concession process yielded significant improvements in port performance, especially in light of Nigeria’s weak starting point. With complementary reforms, the benefits from terminal concessions could be amplified. Joshua Asanga, a longtime ports authority official, said critics should put reforms in the context of the history of Nigeria’s port sector. “It’s the problem of expectations that sets

us back when we’re trying to evaluate something like this,” he said. “You can’t expect to be like the Port of New York and New Jersey or the Port of Hong Kong. You need to be ambitious, but you also need to look at from where we are coming.”

Multiple observers noted the need to lock in reforms through the passage of enabling legislation. The lack of an independent commercial regulator remained a significant challenge. Irene Chigbue, head of the Bureau of Public Enterprises, said such efforts became more difficult after the 2007 elections brought in a new administration and new legislators who had little knowledge about Nigeria’s ports and the history of reforms. Those new officials became targets for interests that had opposed port reforms for years. “You must never underestimate anti-reform agents. They have power, they have access, they have resources, and they won’t sit still and fold their legs—they’ll mobilize,” she said. “They’re still fighting to scandalize the ports reform, and they’re still dreaming to have it reversed.”

Still, even after the reversion to a single national ports authority under President Umaru Yar’Adua, port managers did receive a greater degree of autonomy, which Asanga said bore fruit. “Things are moving faster; communication is better. We’re better than where we were before,” he said, adding that more autonomy for port managers, particularly with respect to the procurement of new equipment, would produce better results.

Looking ahead, Managing Director Abdul Salam Mohammed, who left the ports authority in 2010, said the agency’s managers needed a clear vision of where they were headed. “Government gave the top management a clear mandate for the transition team, but the team that came afterward didn’t have that. They didn’t say, ‘OK, this is how far we have come, and this is where we want to go,’” he said.

Asanga concurred that a concrete, long-term vision was needed. “Forward looking, we need to progress through a master plan, look for possible areas for new port development. . . . With a master plan, it’s a studied growth, not haphazard growth,” he said. Asanga was confident that a master plan would be adopted by the end of 2013.

Ports authority managing director Adebayo Sarumi questioned whether Nigeria was yet in a position to benefit from the competitive pressures the architects of the reform hoped to generate. The terminal at Apapa managed by APM Terminals was the only one built with container traffic in mind. “Others create container terminals, but in terms of the depth at berth, the lengths of ships that can be accommodated, the ship-to-shore cranes, the APM Terminal remains one with technical advantage over and above the others. So you can send your container ship to a general cargo berth, but everyone knows that a purpose-built container terminal will provide better service.” However, Sarumi said he was encouraged by the ongoing construction of a new container terminal in the

Lekki neighborhood of Lagos. “Only when new ports develop will you have true competition,” he said.

By comparison with other privatization ventures in Nigeria, port sector reforms produced strong outcomes. Chigbue attributed the success to collaborative support by multiple stakeholders, including Sarumi, and to the political support she received from Minister of Transport Abiye Sekibo, who chaired the Transportation Sector Reform Implementation Committee of the privatization council, as well as Ngozi Okonjo-Iweala, former finance minister who chaired the presidential committee that negotiated pension buyouts with labor. “Some ministers fought privatization, but these ministers supported it,” she said. Ultimately, though, she credited President Olusegun Obasanjo, particularly for providing political will through the presidential task force in negotiations with labor unions that had threatened to derail the reform process at a critical juncture. “With all of this cooperation, the key thing was that the president took responsibility and gave maximum support,” she said.

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