

REFORM OPTIONS FOR REDUCING THE TIME, COST, AND NUMBER OF PROCEDURES FOR TRADING ACROSS BORDERS IN NIGERIA

1. Background

The Doing Business Report

The development of a vibrant private sector is central to promoting growth and opportunities for poor people. It is well recognized that encouraging firms to invest, improve productivity and create jobs requires the right legal and regulatory environment. The World Bank Doing Business indicators provide objective measures of business regulations and their enforcement comparable across countries. They indicate the regulatory costs of business and can be used to analyze specific regulations that enhance or constrain investment, productivity and growth.

The Doing Business survey measures and tracks changes in regulations affecting 11 areas in the life cycle of a business: starting a business, dealing with construction permits, getting electricity, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts, resolving insolvency and employing workers¹.

A Technical Committee of the Doing Business and Competitiveness Committee has been tasked with proposing reform options to improve Nigeria's ranking in the Doing Business survey. These reform options focus on three prioritized World Bank Doing Business indicator areas: Starting a Business, Trading Across Borders, and Paying Taxes.

This paper proposes reform options for the Trading Across Borders (TAB) Indicator.

Nigeria's TAB Performance

In the 2013 Doing Business Trading across Borders rankings, Nigeria comes in at 154 out of the 183 countries included in the study. The rankings are based on measures of time and cost associated with exporting and importing a standardized cargo of goods. Overall, Nigeria's performance worsened from 2012 when it ranked 149 out of 183 countries. In addition, the data shows that the average cost of exporting from Nigeria increased to 1,380 dollars in 2013 from 1,263 dollars in 2012, and the average cost of importing into Nigeria increased to 1,540 dollars in 2013 from 1,440 dollars in 2012.

¹ World Bank Doing Business 2013

Table 1: Trading Across Borders data for Nigeria and comparators:

| | TAB rank | Documents to export (number) | Time to export (days) | Cost to export (US\$ per container) | Documents to import (number) | Time to import (days) | Cost to import (US\$ per container) |
|--------------------|------------|------------------------------|-----------------------|-------------------------------------|------------------------------|-----------------------|-------------------------------------|
| Senegal | 67 | 6 | 11 | 1,098 | 5 | 14 | 1,740 |
| Ghana | 99 | 7 | 19 | 815 | 7 | 34 | 1,315 |
| South Africa | 115 | 6 | 16 | 1,620 | 7 | 23 | 1,940 |
| Nigeria | 154 | 10 | 24 | 1,380 | 10 | 39 | 1,540 |
| Sub Saharan Africa | | 8 | 31 | 1,990 | 9 | 37 | 2,567 |
| OECD | | 4 | 10 | 1,028 | 5 | 10 | 1,080 |

The lack of improvement and deterioration of Nigeria's performance in this indicator reinforces the need for Nigeria to undertake urgent and extensive reform to improve its trading across borders performance. In addition, Nigeria is falling far behind comparator countries in West Africa as well as South Africa, which put Nigeria at a competitive disadvantage when it comes to performance in the global trading system.

Ongoing Customs Reforms

The NCS and the Federal Government have embarked on a number of reform efforts to facilitate trade. These reforms include

- Customs modernization to speed up clearance times, simplification and rationalization of tariffs, duties and waiver/exemptions (in compliance with the ECOWAS CET).
- Introduction of computerization into Customs with ASYCUDA ++ to speed up the inspection of goods; implementation of a post-clearance audit system to eliminate delays and congestion in ports;
- Expedited clearance and a "Fast Track" Preferential Customs Scheme for selected manufacturers in Lagos; concession container terminals to private operators; establishing Inland Container Terminals
- Upgrading and installation of hard ware and software necessary for single window / one stop shop for the integration of all stakeholders in this sub-sector;
- Development of a Bill to amend and update the existing Customs and Excise Management Act;
- Implementation of the forty eight hours clearance policy;
- Implementation of twenty four hours and seven days operation at the port;
- Reduction of agencies at the port from sixteen (16) to six (6) to eliminate red tape in the ports and ensure timely clearance of cargoes.
- Introduction of e-transactions in collecting customs duties (e-manifest, e-declaration, e-payment, e-remittance to CBN by designated banks, e-reconciliation by NCS with CBN

- Establishment of public and private DTI cafes for importers to make their declarations without coming to the Customs office
- Providing WI-FI around all Customs areas to enable importers/agents to view their declarations on their laptops and thereby reducing congestion at all Customs offices nationwide
- Providing for digital signature facility in ASYCUDA/NICIS System
- Installing a comprehensive telecommunications network that enabled the networking of all 26 Customs Area Commands, 4 Zonal Offices and the Headquarters in Abuja in real time.
Sharing intelligence with all government agencies on infraction of trade related import/export
- Deployment of risk management system in border management administration
- Collaboration with all other government agencies for cooperative risk management on trade documents

While these initiatives are laudable they are not sufficient to address Nigeria's poor performance on the Trade Across Borders Indicator.

What can Nigeria do?

Table 2 shows a break down of the time taken, in terms of duration of days for import and export in Nigeria. The table shows that document preparation takes the largest amount of the time involved for import and export in Nigeria with document preparation taking 14 days out of a total of 24 for exports and 19 days out of a total of 39 for imports. This indicates that significant improvements can be made in Nigeria's performance in the Trading Across Borders indicator by focusing on reducing the amount of time taken for the preparation of the documents.

Table 2: Breakdown of time taken in importing and exporting in Nigeria

| Nature of Export Procedures | Duration (days) | Nature of Import Procedures | Duration (days) |
|---|-----------------|---|-----------------|
| Documents preparation | 14 | Documents preparation | 19 |
| Customs clearance and technical control | 3 | Customs clearance and technical control | 12 |
| Ports and terminal handling | 4 | Ports and terminal handling | 5 |
| Inland transportation and handling | 3 | Inland transportation and handling | 3 |
| Totals | 24 | Totals | 39 |

The key documents identified by the DB report as being required for exports in Nigeria are: Bill of lading, Cargo release order, Certificate of origin, Commercial Invoice, Customs export declaration, Form NXP, Inspection report, Packing List, Technical standard/ health certificate, Terminal handling receipts.

The documents required for imports are Bill of lading, Cargo release order, Certificate of origin, Collection order, Commercial invoice, Form M, Packing list, Technical standard/ health certificate, Terminal handling receipts and Customs import declaration (Form I)

2. Analysis of Documents for Import and Exports and key processes

Analysis of Export Documents

Table 3: Analysis of key documents used in the Export process

| Document | Law or regulatory Provision establishing document | Purpose | Submitted to/Issued by |
|---|---|--|--|
| Bill of lading | International Practice/CBN Foreign Exchange Manual | It is issued by a carrier, and details a shipment of merchandise, gives title to the goods, and requires the carrier to deliver the merchandise to the appropriate party | Submitted to Inspection agent/part of shipping documents |
| Cargo release order/Customs clearance | Customs Practice | Issued by Customs after validation of documents for final clearance before cargo is loaded | Issued by NCS |
| Certificate of origin | International Practice | Certificates of Origin attest to the origin of specific goods and may be "non-preferential" indicating that the country a particular product originates from does not qualify for preferential treatment or 'preferential' which enable products to benefit from tariff reductions or exemptions when exported to countries extending these privileges | Non-Preferential COOs are issued in Nigeria by NACIMMA |
| Commercial Invoice/Pro-forma invoice | CBN Foreign Exchange Manual | The Pro-forma invoice serves as evidence of the sales agreement between the exporter and the importing party. It provides details of the buyer and sellers as well as a detailed description of the goods and prices | It is required as part of the supporting documents for the Form NXP application |
| Customs export declaration (Single Goods Declaration Form (SGD_EXP) Form NXP (Nigeria Registration of Exports Proceeds Form) | CBN Foreign Exchange Manual | Used as part of the Export Cargo declaration process | Submitted by the exporter to the Nigeria Customs Service as part of the Export Cargo Declaration process |
| | Pre-shipment Inspection of Exports Act No. 10, 1996/CBN Foreign Exchange Manual | The Exporter applies for and submits the Form NXP through the Commercial Banks. It is used as the basis for the payment of the NESS fee as well as the pre-shipment inspection. It is ultimately submitted | After satisfactory inspection, the inspection Agent completes the relevant portion of the NXP form, retains the duplicate copy and |

to the Central Bank and is used to enforce and verify the repatriation of export proceeds. The CBN Foreign Exchange Manual requires the repatriation of export proceeds within 90 days. The Pre-shipment inspection Act also provides for the repatriation of all export proceeds.

forwards the remaining four copies to the NCS.

Upon the shipment of the goods, the NCS shall complete the respective section of the NXP form, retain the triplicate copy and distribute the remaining three copies to CBN;NEPC/DPR and to the exporter

After shipment, the exporter Submits to the processing bank a photocopy of the NXP form duly endorsed and stamped by NCS evidencing the shipment of goods;

Eight originals of the CCI are distributed to:

- Federal Ministry of Finance; Nigeria Customs Service (Area Comptroller at the port of shipment); Nigerian Ports Authority; Exporter; Exporter's shipping/freight agent, for the vessel conveying the goods; Exporter's bank, for onward transmission to the importer's bank overseas and Central Bank of Nigeria ; Nigerian Export Promotion Council (NEPC), while certified true copies shall be forwarded to: Nigeria Customs Service, Headquarters and Federal Office of Statistics (FOS).

Inspection report

Pre-shipment Inspection of Exports Act No. 10, 1996/CBN Foreign Exchange Manual

The Inspection Agent(s) shall ensure the quality, quantity and the value of the goods to be exported to the consignee and shall, if satisfied, issue a Clean Certificate of Inspection (CCI) in respect of such goods. The Pre-shipment Inspection of Exports Act makes it illegal for any person to export any oil or non oil export from Nigeria without the inspection and issuance of a certificate of inspection by an inspection agent appointed by law.

Packing List

CBN Foreign Exchange Manual/International Practice

Itemized list of what shipment contains including quantity and description of each item. It is created by the shipper to inform all parties including the receiver of the goods, transportation company and customs about the details of the shipment. It is used to verify if the shipment is accurate by comparing the packing list with what was actually delivered.

Submitted as part of the Form NXP process

| | | | |
|---|-----------------------------|--|---|
| Technical standard/ health certificate | | These include NAFDAC export certificates, MANCAP certificates, NAQS (National Quarantine Services) Export Permit Certification – which needs inspection report, Environmental Impact Assessment report, Export permit from Federal Livestock Director and Aquatic Resource Permit from Ministry of Agriculture and Water Resources | Issued by relevant agencies and submitted as part of the Form NXP process |
| Terminal handling receipts | CBN Foreign Exchange Manual | Terminal handling receipts are given to shippers by terminal operators as receipts for the storage of containers and the payment of terminal storage fees. | Issued by terminal operators |

Key Stakeholders

Relevant Stakeholders currently connected to the Export process include: Federal Ministry of Trade and Industry, Central Bank of Nigeria, Designated Commercial Banks, Shipping Companies/Airlines, Exporters/Agents, NACCIMA, NAFDAC, SON, NESREA, NPA, FAAN, NBS, NIBSS, EFCC, NFIU, Quarantine, RMRDC, FIRS.

Table 3: Analysis of key documents used in the Import process

| Document | Law or regulatory Provision establishing document | Purpose | Required by |
|-------------------------------------|--|--|---|
| Bill of lading | International Practice/CBN Foreign Exchange Manual | It is issued by a carrier, and details a shipment of merchandise, gives title to the goods, and requires the carrier to deliver the merchandise to the appropriate party | Submitted as part of the Form M process/also submitted to Customs for the clearing of the goods |
| Cargo release order | Customs Practice | It is issued by Customs after final physical inspection of goods and clearance for the release of the goods. | Issued by Customs |
| Certificate of origin | International Practice/CBN Foreign Exchange Manual | Certificates of Origin attest to the origin of specific goods and may be “non-preferential” indicating that the country a particular product originates from does not qualify for preferential treatment or ‘preferential’ which enable products to benefit from tariff reductions or exemptions when exported to countries extending these privileges | Issued by issuing authority from exporting country |
| Customs declaration (Single) | CBN Foreign Exchange Manual | Used as part of the Import Cargo Declaration Process | Submitted to the Nigeria Customs |

Goods Declaration Form (SGD_I)

Service and distributed to Nigeria Customs Service, ;Treasury, Federal Office of Statistics; Importer; Nigerian Ports PLC; Authorized Dealer Federal Ministry of Finance (Monitoring Secretariat) ; Deputy Accountant General (Revenue).

Collection order²

| | | | | |
|---|--|---------|---|---|
| Commercial invoice/Pro-Forma Invoice | CBN Exchange Manual | Foreign | The Pro-forma invoice serves as the evidence of the sales agreement , showing the beneficiary details, applicant details, goods description and value, freight cost, country of origin and supply as well endorsement. It is required as part of the Form M application process, and is submitted along with the Form M | Submitted as part of the Form M Process |
| Form M | CBN Exchange Manual | Foreign | Document issued by the Central Bank of Nigeria for the purpose of monitoring all importation of physical goods into Nigeria. It is required to be submitted to Banks along with supporting documentation and it is an indication of intention to source forex from official market to fund imports | Required by the Central Bank |
| Packing list | CBN Exchange Manual/International Practice | Foreign | Itemized list of what shipment contains including quantity and description of each item. It is created by the shipper to inform all parties including the receiver of the goods, transportation company and customs about the details of the shipment. It is used to verify if the shipment is accurate by comparing the packing list with what was actually delivered. | International Practice/submitted as part of the Scanning Import Application process |

² The document being referred to by the DB survey in this case is not clear.

| | | | | |
|---|---|---------|--|---|
| Technical standard/ health certificate | CBN Exchange manual/Regulations by relevant agencies | Foreign | For the importation of regulated products, such as medicines processed foods, medical devices, bottled water and chemicals, a number of technical and health certificates are required. These include: pharmaceutical licenses for drugs, certificate of Retention of Premises for drugs, NAFDAC Import Permit for chemicals, PHCN Clearance for generators, DPR Import Permit for Petroleum Products, Fisheries Certificate for fish and fishery products issued by Fisheries Dpet. Of Fed. Ministry of Agriculture, NAFDAC Clearance Permit- for finished pharmaceutical products and food related products, SONCAP Product Certificate, DPR Certificate for Storage Facility for Petroleum Products | Issued by relevant agencies and submitted as part of the Form M Process |
| Terminal handling receipts | CBN Exchange Manual | Foreign | Terminal handling receipts are given to shippers by terminal operators as receipts for the storage of containers and the payment of terminal storage fees. Nigerian Terminal Operators issue Exit notes at the end of the cargo clearance process | Issued by terminal operators |

Key Stakeholders Involved in the Import Process

Relevant Stakeholders currently connected to the Import process include: Federal Ministry of Trade and Industry, Central Bank of Nigeria, Designated Commercial Banks, Shipping Companies/Airlines, Exporters/Agents, NACCIMA, NAFDAC, SON, NESREA, NPA, FAAN, NBS, NIBSS, EFCC, NFIU, Quarantine, RMRDC, FIRS.

3. Reform Options and Recommendations

While the majority of import and export trade practices are international, significant ground can be made in improving the import and export processes and documentation in Nigeria by examining the rationale, processes and documents involved the commercial documentation involving the Central bank, specifically the Form NXP for exports and the Form M process for imports.

It is necessary to build on existing efforts and initiatives, in particular the ongoing Nigeria Customs Services Single Window Project. There are significant overlaps between the Committee's goals and the NCS Single Window project, with the possibilities for redundancies and duplicative efforts. Therefore it is important to determine the extent of the Single Window Reforms, the expected date for takeoff as well as the impact that the full implementation of the Single Window Project can bring to the Trading Across Borders ranking. The NCS engaged a team of internationally recognized consultants who have concluded a National Single Window feasibility study (Needs/Gap Analysis) covering:

- Business Process Analysis AS-IS and TO BE (across stakeholder groups)
- Data Harmonisation (across stakeholder groups)
- ICT Readiness Assessment (across stakeholder groups)
- Change Management
- Capacity Building (across stakeholder groups)
- National Single Window Blueprint
- National Single Window Roadmap
- Proof of Concept, NNSW (NAFDAC; SON; NESREA; NAQS and Terminal Operators)
- Development of Trade Information Portal
- Legal Analysis and Institutional Framework

The Nigeria National Single Window Feasibility Study Report has set targets for achieving 50% Better, Faster and Cheaper Trade Across Border Indicators within 5 years. For export processes, it has set the targets of moving from the current time and cost of exports of 24 days and 1,380 USD/Container to 12 days and 600 USD/Container. And for the import processes, it has set the target of moving from the current 39 days and 1,540 USD/Container that it takes to import a container to 20 days and 700 USD/Container. These targets are in line with the overall aims of Nigeria Doing Business reform program.

Inter-agency collaboration and coordination mechanism within government agencies as well as with the private sector remain one of the most challenging issues for the success of the National Single Window. There is also a need for national commitment and the institutionalization of the political will by transforming the policy mandate into routine management mechanisms among the stakeholders involved in the implementation and operations of the Single Window.

3.1. Immediate

Suspension of the National Export Supervision Scheme for Non- Oil Exports including Form NXP Application and Pre-destination Inspection for Non-Oil Exports.

The Nigerian Export Supervision Scheme (NESS) was re-introduced in October 2004 after its suspension in 1999. The re-introduction of the NESS Scheme was in line with Provisions of the Pre-shipment Inspection of Exports Act No. 10 of 1996, which stipulated that all exports from Nigeria had to be inspected before shipment. Under the Scheme, a company was contracted to inspect quality, quantity, monitoring of export transactions (non-oil goods) and tracking of export proceeds through, among others, opening of domiciliary accounts and maintenance of NXP Form Register. The Form NXP process involves the registration of all exports through commercial banks. Exporters are also required to pay NESS fees of 0.5% of ad valorem of the accepted (FOB) value of the exports. Expenses related to the remuneration, fees and other charges payable to the inspection agent are funded from the NESS fees.

There is a need to re-examine the rationale and purpose of the Nigeria Export Supervision Scheme with its attendant processes and associated costs. First is the compulsory registration of all export transactions through the Form NXP process at commercial banks, and secondly is the compulsory pre-destination inspection of all exports. In practice however, the compulsory pre-destination inspection is used to verify the information made available during the registration of export transactions - as the inspection focuses on the quantity and value of the products being exported. While there may be a rationale for the supervision of oil exports for fraud, audit purposes etc. The rationale for the scheme with the physical inspection of non-oil exports before shipment at the exporter's factory and the attendant fees, time and cost is not clear, particularly since this is in addition to the inspection and quality certification carried out by NAFDAC, SON, and NAQS. The 0.5% of value of exports fee again is in addition to the fees paid for quality and standard inspections.

The processes involved under the NESS including the application for Form NXP, RFI Form Application, Export NESS Fees payment as well as the Pre-shipment Inspection for Non-Oil Products by the Inspection company takes an average of 6-7 days. Eliminating these processes alone, without undertaking any other reform can potentially reduce the time it takes for exporting from Nigeria from 24 to 17 days. World bank Studies have shown that each additional day that a product is delayed, prior to being shipped, reduces trade by more than one percent³. The elimination of the NESS Scheme and its processes, leading to a reduction in the time and costs for exports in Nigeria, can therefore help to grow Nigeria's non-oil exports significantly. In addition, the elimination of the Form

³ Simeon Djankov, Caroline Freund and Cong S. Pham, 2010. "Trading on Time," The Review of Economic and Statistics, MIT Press, vol 92(1), pages 166-173, February
<http://www.doingbusiness.org/~media/GIAWB/Doing%20Business/Documents/Methodology/Supporting-Papers/DB-Methodology-Trading-On-Time.pdf>

NXP and the Pre-shipment Inspection for Non-Oil Products eliminates 2 documents from the number of documents involved in exports (Inspection Report and the Form NXP).

Clarification of Certificate of Origin Requirement for exports

A certificate of origin for exported goods is issued only when the exporter is requested to provide this to meet the requirements of the importing country. There is no clear statutory or regulatory requirement for the compulsory issuance of certificate of origin for all Nigerian exports. The CBN should issue a clarifying circular on the non-mandatory nature of the requirement of Certificates of origin for Nigerian exports as evidence of reform on this document.

Suspension of the Export Levy Payment

Exporters of certain commodities are required to pay an export levy of 5 dollars per metric ton + 30 dollars as processing fee to a designated bank. A receipt by FMTI is issued for this payment with Shippers filling and submitting a Certificate of Commodity Export obtained from FMTI. This Levy appears to be an additional administrative cost on export and its elimination will help further reduce the 1,380 dollars cost of exporting in Nigeria.

Clarification of Certificate of Origin Requirement for Imports

CBN should issue a clarification circular on Certificates of Origin not being mandatory for all imports into Nigeria, unless a preferential tariff or benefit is claimed. The Pro-forma Invoice is already required to have information on originating details therefore Certificates of origin should not be mandatory.

Combination of Packing List/Commercial Invoice for Imports and Exports

The CBN Foreign Exchange Manual should be amended to allow for the inclusion of Packing List details in the Pro-forma invoice thereby allowing for a combined Pro-forma Invoice and Packing List in order to reduce the number of documents required for processing imports and Exports.

In total, the implementation of these immediate measures can reduce the number of documents used for exports from 10 to 6, and the number of documents used for imports from 10 to 8.

Nigeria National Single Window

The following are some of the key recommendations for immediate implementation towards the actualization of the Nigeria National Single Window

- Government review and adoption of the Nigeria National Single Window Roadmap

- The issuing of a Presidential/Ministerial directive establishing a mandate for the implementation and operationalization of the Nigeria National Single Window.
- Inauguration of Single Window Steering Committee

3.2. Medium Term

Repatriation of Export Proceeds

There is a need to examine the policy rationale for the repatriation of export proceeds. The elimination of the requirement will remove the need for the Form NXP and its attendant costs and processes. It will also allow the inspection process to focus on quality and standards – potentially removing the need for the pre-shipment inspection and focusing only on the quality and standards inspections by NAFDAC and SON.

Fast-track Launching of the Single Window

The Single Window project is crucial to improving the long-term efficiency of Nigeria's trade processes. It is important to get all the key stakeholders in the trade processes involved in the Single Window project and to provide the necessary resources for the takeoff of the project. While the NCS continues to drive the project, the possibilities of public private partnerships should be explored in line with international best practices. In addition, there should be the constitution of the Governance/Operational model with defined roles and responsibilities.

3.3. Long Term

The Pre-shipment Inspection of Export Act

Apart from the suspension of the NESS scheme for non-oil exports, the FG should look at the possibility of repealing or amending the Pre-shipment Inspection of Export Acts to remove the legal obligation for the compulsory pre-destination inspection of all exports.

Standards and Quality Certifications

Beyond the documents and the processes that the DB TAB Indicator focuses on, there is a need for Nigeria to address the quality and standards certification processes undertaken by NAFDAC, SON and the NAQS. Beyond the certification and inspection undertaken by these agencies, performance targets should be set for them to ensure that trade facilitation is a major consideration in their certification processes.