

COASTAL AND INLAND SHIPPING (CABOTAGE) (AMENDMENT) BILL, 2020

ARRANGEMENT OF SECTIONS

Section:

1. Amendment of Act, No.5, 2003
2. Substitution for "PART I".
3. Amendment of section 8
4. Substitution for section 9
5. Substitution for section 10
6. Substitution for section 11
7. Insertion of a new section 11A
8. Amendment of section 12
9. Amendment of section 14
10. Amendment of section 15
11. Amendment of section 21
12. Amendment of section 22
13. Amendment of section 23
14. Amendment of section 25
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16. Amendment of section 27
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18. Amendment of section 31
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31. Insertion of new sections 56 -57
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A BILL

FOR

AN ACT TO AMEND THE COASTAL AND INLAND SHIPPING (CABOTAGE) ACT, NO. 5, 2003 TO RESTRICT THE USE OF FOREIGN VESSELS IN DOMESTIC COASTAL AND INLAND COMMERCIAL ACTIVITIES, PROMOTE THE DEVELOPMENT OF INDIGENOUS TONNAGE AND TO ESTABLISH A CABOTAGE VESSEL FINANCING FUNDS; AND FOR RELATED MATTERS.

Sponsored by Hon. Yusuf Adamu Gagdi

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

- 1 1. The Coastal and Inland Shipping (Cabotage) Act, No. 5, 2003 Amendment of
- 2 (in this Act referred to as "the Principal Act") is amended as set out in this Act, No. 5, 2003
- 3 Act.
- 4 2. Substitute for PART I of the Principal Act, a new "PART I"- Substitution for
- 5 PART I - OBJECTIVES AND ADMINISTRATION OF THE ACT PART 1
- 6 1. The objectives of the Act are to- Objectives of
- 7 (a) restrict the use of foreign vessels in coastal and inland the Act
- 8 commercial activities on Nigerian waters;
- 9 (b) promote the development of indigenous tonnage and capacity;
- 10 (c) establish a cabotage vessel financing fund; and
- 11 (d) regulate vessels or craft used in coastal and inland commercial
- 12 activities on Nigerian waters.
- 13 2. The Agency of Government responsible for the administration Administration
- 14 of this Act shall be the Nigerian Maritime Administration and Safety Agency of the Act
- 15 (in this Act referred to as "the Agency")."
- 16 3. Section 8 (1) of the Principal Act is amended by substituting for Amendment of
- 17 paragraph (a), a new paragraph "(a)"- section 8
- 18 "(a) engaged in salvage operation as determined by the Minister to

1 be beyond the capacity of Nigerian owned and operated salvage vessels and
2 companies provided such salvage vessels operation is in compliance with the
3 International Convention on Salvage 1989 and its amendments, and industry
4 standards;"

Substitution for
section 9

5 **4.** Substitute for section 9 of the Principal Act, a new section "9" -

Waiver on wholly
Nigerian ownership

6 **10.** The Agency, acting under the authority of the Minister, may, upon
7 the receipt of an application, grant a waiver to a duly registered vessel on the
8 requirement for a vessel under this Act to be wholly manned by Nigerian
9 citizens where it is established that there is no qualified Nigerian officer or
10 crew for the position specified in the application, but such waivers shall be
11 granted within a period of seven to fourteen days, and, in the event of not
12 granting the waiver, a notification shall be given to the applicant."

Substitution for
section 10

13 **5.** Substitute for section 10 of the Principal Act, a new section "10"-

Waiver on
manning
requirement

14 **10.** The Agency, acting under the authority of the Minister, may, upon
15 the receipt of an application, grant a waiver to a duly registered vessel on the
16 requirement for a vessel under this Act to be wholly owned by Nigerian citizens
17 where it is established that there is no wholly Nigerian owned vessel that is
18 suitable and available to provide the services or carry out the activity described
19 in the application, but such waivers shall be granted within a period of seven to
20 fourteen working days, and, in the event of not granting the waiver, a
21 notification shall be given to the applicant."

Substitution for
section 11

22 **6.** Substitute for section 11 of the Principal Act, a new section "11" -

Waiver on
Nigerian built
vessels

23 **11.(1)** The Agency, acting under the authority of the Minister, may,
24 upon the receipt of an application, grant a waiver to a duly registered vessel on
25 the requirement for a vessel under this Act to be built in Nigeria where it is
26 established that no Nigerian shipbuilding company has the capacity to build the
27 particular type and size of vessel specified in the application.

28 **(2)** The Ministry shall, immediately after the commencement of this
29 Act, compile and publish information on the type, size and characteristic of
30 vessels and craft which are built in Nigeria."

1	7. Insert after section 11 of the Principal Act, a new section "11A"-	Insertion of a new section 11A
2	11A. (1) Any application for a waiver under this Act shall include a	Condition for grant of waiver
3	plan by the applicant committing to comply with the Nigerian content	
4	requirement with respect to employment, training, succession planning, as	
5	may be stipulated under the Nigerian Oil and Gas Industry Content	
6	Development Act, any other legislation with provisions relating thereto and	
7	any guideline made under this Act."	
8	(2) The Agency may stipulate any other condition or guideline	
9	under this Act.	
10	8 . Section 12 of the Principal Act is amended by substituting for	Amendment of section 12
11	the word, "Minister", in line 1, the word, "Agency".	
12	9. Section 14 of the Principal Act is amended by substituting for	Amendment of section 14
13	subsection (2), a new subsection "(2)" -	
14	"(2) The Minister may review, revoke or vary any waiver granted	
15	under this Act."	
16	10. Section 15 (1) of the Principal Act is amended by substituting	Amendment of section 15
17	for the words, "Coastal Trade", in line 3, the words, "coastal and inland	
18	commercial activities on Nigerian waters".	
19	11. Section 21 of the Principal Act is amended by substituting for	Amendment of section 21
20	the words, "domestic coastal trade" in line 2, the words, "coastal and inland	
21	commercial activities on Nigeria waters."	
22	12. Section 22 of the Principal Act is amended -	Amendment of section 22
23	(a) in subsection (2), by substituting for the words, "domestic trade	
24	whether for coastal or inland waters", in line 1, the words, "coastal and	
25	inland commercial activities on Nigerian waters"; and	
26	(b) by substituting for subsection (5), a new subsection "(5)" -	
27	"(5) Vessels eligible for registration under this Act shall include	
28	passenger vessels, crew boats, passenger crew boats, security boats,	
29	bunkering vessels, fishing vessels and trawlers, barges, off-shore service	
30	vessels, tugs, anchor handling tugs and supply vessels, floating petroleum	

1 storage, dredgers, tankers, carriers, drilling rigs, mobile offshore drilling rigs,
2 seismic survey vessels, date vessels, floating storage and offloading platforms,
3 floating production storage and offloading platforms, and any other craft or
4 vessel used for carriage on, through or underwater, of persons, property or any
5 substance."

Amendment of
section 23

6 **13.** Section 23 of the Principal Act is amended -

7 (a) in subsection (1), by substituting for the words, "domestic trade",
8 in line 2, the words, "coastal and inland commercial activities on Nigerian
9 waters";

10 (b) in subsection (2), by substituting for the words, "domestic trade",
11 in line 1, the words, "coastal and inland commercial activities on Nigerian
12 waters"; and

13 (c) in subsection (3) (i), by substituting for the expression, "60 per
14 centum", in line 1, the expression, "at least 40 of the 64 shares of a vessel".

Amendment of
section 25

15 **14.** Section 25 of the Principal Act is amended -

16 (a) in paragraph (b), by deleting after the word, "or" in line 1, the
17 words, "it is no longer eligible for registration under the Merchant shipping Act
18 or under this Act"; and

19 (b) by inserting after paragraph (b), a new paragraph "(c)" -

20 "(c) it is no longer eligible for registration under the Merchant
21 Shipping Act or under this Act."

Amendment of
section 26

22 **15.** Section 26 (1) (b) of the Principal Act is amended by substituting
23 for the words, "domestic coastal trader", in line 2, the words, "coastal and
24 inland commercial activities on Nigerian waters".

Amendment of
section 27

25 **16.** Section 27 of the Principal Act is amended by substituting for the
26 words, "domestic trade", in line 3, the words, "coastal and inland commercial
27 activities on Nigerian waters".

Amendment of
section 28

28 **17.** Section 28 of the Principal Act is amended by substituting for the
29 words, "coastal trade" in line 3, the words, "coastal and inland commercial
30 activities on Nigerian waters".

1	18. Section 31 (3) (d) of the Principal Act is amended by	Amendment of section 31
2	substituting for the words, "the Nigerian Customs Service, the Nigerian	
3	Navy, the Nigerian Police and any other law enforcement agency as he may	
4	deem necessary", in line 1, the words, "any relevant government	
5	agency"..	Substitution for section 33
6	19. Substitute for section 33 of the Principal Act, a new section	
7	"33" -	Port clearance to vessels
8	33. Notwithstanding the provisions of any other law, no port	
9	clearance shall be granted to a vessel engaged in shipping coastal and inland	
10	commercial activities on Nigerian waters unless the owner, charterer,	
11	master or agent satisfies the proper customs or such other authority	
12	authorised to issue port clearance that the vessel is licensed to engage in	
13	shipping coastal and inland commercial activities on Nigerian waters or has	
14	the prescribed waiver."	Amendment of section 34
15	20. Section 34 of the Principal Act is amended by substituting for	
16	the words, "domestic coastal trade", in line 1, the words, "coastal and inland	
17	commercial activities on Nigerian waters".	Amendment of section 35
18	21. Section 35 of the Principal Act is amended-	
19	(a) in paragraph (a), by substituting for the expression,	
20	"N10,000,000", in line 1, the expression, "N20,000,000"; and	
21	(b) in paragraph (b), by substituting for the expression,	
22	"N15,000,000", in line 1, the expression, "N250,000,000".	Substitution for section 36
23	22. Substitute for section 36 of the Principal Act, a new section	
24	"36"-	Failure in comply with a requirement of an enforcement officer
25	36. (1) Any person who fails to comply with a requirement made,	
26	or direction given, by an enforcement officer under this Act or fails to make a	
27	required disclosure, commits an offence and is liable on conviction-	
28	(a) in the case of an individual, to imprisonment for a term of six	
29	months; and	
30	(b) in the case of a body corporate, to a fine of not less than	

1 N250,000,000.

2 (2) When the offence is of a continuous nature or a repeated one, the
3 offender shall, on conviction, be sentenced to imprisonment for a term not less
4 than five years without any option of fine.

5 (3) Where an offence under this Act or regulations made under it, has
6 been committed by a company or other body of persons, any person who, at the
7 time of the commission of the offence, is a director, manager or partner in the
8 corporate body or other body of persons who acted in such capacity, shall be
9 charged with the same offence and shall be liable, on conviction, to a fine of not
10 less than N5,000,000.00."

Amendment of
section 37

11 **23.** Section 37 of the Principal Act is amended by-

12 (a) substituting for subsection (2), a new subsection "(2)" -

13 "(2) Any person who contravenes subsection (1), commits an offence
14 and is liable, on conviction -

15 (a) where it is an individual, to a fine not less than ₦5,000,000.00" or
16 imprisonment for a term of not less than six months, or both; and

17 (b) where it is a body corporate, to a fine not less than
18 N100,000,000:00 and forfeiture of the vessel involved in the offence"; and

19 (b) inserting after subsection (2), a new subsection "(3)" -

20 "(3) When an offence is committed by a vessel under sections 3 -6 and
21 on more than one day or is continued by the vessel for more than one day, it
22 is deemed to be a separate offence for each day on which the offence is
23 committed or continued."

Deletion of
section 38

24 **24.** Section 38 of the Principal Act is deleted.

Amendment of
section 40

25 **25.** Section 40 of the Principal Act is amended by substituting for the
26 expression, "N500,000.00", in line 3, the expression, "N5,000,000.00".

Amendment of
section 40

27 **26.** Section 42 of the Principal Act is amended -

28 (a) by substituting for the subsection (2), a new subsection "(2)" -

29 "(2) The purpose of the Fund is to promote the development of
30 indigenous ship acquisition, ship building, ship repair and capacity

1	development by providing financial assistance to Nigerian operators in the	
2	coastal and inland commercial activities."; and	
3	(b) by inserting after subsection (2), a new subsection "(3)" -	
4	"(3) Five percent of the Fund shall be applied to the Maritime	
5	Security Fund for maritime safety and security."	Amendment of section 43
6	27. Section 43 of the Principal Act is amended -	
7	(a) in paragraph (a), by substituting for the words, "coastal trade",	
8	in line 2, the words, "coastal and inland commercial activities on Nigerian	
9	waters"; and	
10	(b) in paragraph (c), by inserting after the word, "waivers", in line	
11	2, the words, "on coastal and inland commercial activities on Nigerian	
12	waters".	Substitution for section 44
13	28. Substitute for section 44 of the Principal Act, a new section	
14	"44" -	Collection, etc. Fund
15	44. The funds shall be collected by the Agency and deposited in a	
16	designated account in the Central Bank of Nigeria and administered under	
17	the guidelines proposed by the Minister and approved by the National	
18	Assembly."	Amendment of section 45
19	29. Section 45 of the Principal Act is amended by-	
20	(a) inserting a new subsection "(2)" -	
21	"(2) The Maritime Security Fund shall benefit from five percent of	
22	the Fund."; and	
23	(b) renumbering the section appropriately.	Amendment of section 53
24	30. Section 53 of the Principal Act is amended by substituting for	
25	the words, "Nigerian domestic coastal and inland waters trade", in line 2, the	
26	words, "coastal and inland commercial activities on Nigerian waters".	Insertion of a new section 56 - 57
27	31 .Insert after section 55 of the Principal Act, new sections "56" -	
28	"57" -	Interpretation
29	56. In this Act-	
30	"Agency" means Nigerian Maritime Administration and Safety Agency	

1 (NIMASA)

2 "Cargo" means goods carried in or on a vessel whether or not of commercial
3 value and includes livestock;

4 "coastal and inland commercial activities" means -

5 (a) the carriage of persons, passengers or goods by vessels from any
6 place in Nigeria to any place above or under Nigerian waters, any place in
7 Nigeria or from any place above Nigerian waters to the same place or to any
8 other place above or under Nigerian waters and includes the carriage of
9 persons, passengers or goods in relation to the exploration or exploitation of
10 the mineral, living or non-living resources in or under Nigerian waters;

11 (b) any activity of commercial nature within Nigerian waters,
12 including the carriage of goods and persons, for exploration or exploitation of
13 mineral and other natural resources in or under Nigerian waters;

14 (c) the carriage of goods, persons, passengers by vessel or any other
15 mode of transport from one place in Nigeria or above Nigerian waters to any
16 place in Nigeria or above or Nigerian waters, either directly or through a place
17 within Nigerian waters and includes the carriage of goods, persons and
18 passengers in relation to the exploration or exploitation of transportation of
19 mineral, living or non-living natural resources or material of any kind in or
20 under Nigerian waters; and

21 (d) the engaging, by vessel, in any other marine transportation
22 activity of a commercial nature in Nigerian waters and, the carriage of any
23 goods or substances of commercial value within the waters of Nigeria.

24 "conventional vessels" means vessels of 500Gross Tonnage (GRT) and above
25 or such vessels covered by International Maritime Organisation (IMO);

26 "enforcement officer" means a person so designated to be an enforcement
27 officer for the purposes of this Act;

28 "enforcement unit" means the Department within the National Maritime
29 Authority charged with the responsibility for enforcing the provisions of this
30 Act;

1 "Exclusive Economic Zone" has the meaning given to it under the Exclusive
2 Economic Zone Act;
3 "foreign vessel" means a vessel other than a Nigerian vessel;
4 "hull" means the shell, or outer casing, and internal structure below the
5 main deck which provide both the floatation envelope and structural
6 integrity to the vessel in its normal operation;
7 "in-transit call" means any call, other than an emergency or technical call, by
8 a vessel at any place where passengers go ashore temporarily but re-board
9 the vessel before the vessel leaves that place or are transported by land to
10 another location to re-board the same vessel and includes cargo not
11 discharged at the transit call;
12 "inland waters" has the meaning given to it under the National Inland Waters
13 Authority Act, Cap. N47, Laws of the Federation of Nigeria, 2004 ;
14 "licence" means a document issued under this Act, authorising a foreign ship
15 or vessel to be registered for participation in the coastal trade while in
16 Nigerian Waters;
17 "master" in relation to a vessel has the same meaning as in the Merchant
18 Shipping Act, Cap. M10, Laws of the Federation of Nigeria, 2004;
19 "Minister" means the Ministry charged with the responsibility for matters
20 relating to shipping and Ministry has the corresponding meaning;
21 "Nigerian citizen" means a citizen of Nigeria as defined in the Nigerian
22 Constitution, 1999;
23 "Nigerian Vessel" means a vessel which is registered in Nigeria and has the
24 meaning given to it in section 23 (1) and (2) of this Act;
25 "Nigerian waters" includes inland waters, territorial waters or waters of the
26 Exclusive Economic Zone and the meaning given to them by the National
27 Inland Waterways Authority Act, Cap. N47, Laws of the Federation of
28 Nigeria, 2004;
29 "owner", in relation to a vessel, includes the person having, for the time
30 being, either by law or by contract, the right of the owner of the ship as

- 1 regards the possession and use;
- 2 "place above Nigerian waters", in the context of coastal and inland commercial
3 activities on Nigerian waters, includes any vessel, offshore drilling unit,
4 production platform, artificial island, sub sea installation, pumping station,
5 living accommodation, storage structure, loading or landing platform, dredge,
6 floating crane, pipe laying or other barge or pipeline, rigs, floating production
7 storage and offloading platform (FPSO), floating storage unit (FSU) and any
8 anchor cable or rig pad used in that connection;
- 9 "superstructure" means the main deck and any other structural part above the
10 main deck;
- 11 "territorial waters" has the meaning given to it under the Territorial Waters
12 (Amendment) Act;
- 13 "un-conventional vessels" means vessels of less than 500 gross tonnage (GRT)
14 that are not covered by International Maritime Organisation (IMO);
- 15 "vessel" includes any description of vessel, ship, boat, hovercraft or craft,
16 including air cushion vehicles and dynamically supported craft, designed, used
17 or capable of being used solely or partly for marine navigation and used for the
18 carriage on, through or under water of persons or property without regard to
19 Coastal and Inland Shipping (Cabotage) 1003 No 5 A79 method or lack of
20 propulsion;
- 21 "vessel" includes any description of vessel, ship, boat, hovercraft or craft,
22 including air cushion vehicles and dynamically supported craft, designed, used
23 or capable of being used solely or partly for marine navigation and used for the
24 carriage on through or under water of persons or property without regard to
25 method or lack of propulsion;
- 26 "vessel built in Nigeria" means where all the major component of its hull and
27 superstructure are fabricated in Nigeria or assembled entirely in Nigeria;
- 28 "vessel wholly manned by Nigerians" means where all the shipboard officers
29 and crew employed aboard the vessel is exclusively of Nigerian citizens;
- 30 "wholly owned Nigerian vessel" means a vessel which is owned and registered

1 in Nigeria whose 64 shares are beneficially owned by Nigerian citizens or a
2 company registered in Nigeria with 100 per centum of its share capital
3 beneficially owned by Nigerian citizens and the share in the vessel and the
4 ship owning company shall be held by Nigerian citizens free from any trust
5 or obligation in favour of non-Nigerians."

Citation

6 57. This Act may be cited as the Coastal and Inland Shipping
7 (Cabotage) Act, 2003.

Citation

8 32. This Bill may be cited as the Coastal and Inland Shipping
(Cabotage) (Amendment) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Coastal and Inland Shipping (Cabotage) Act No. 5, 2003 to restrict the use of foreign vessels in domestic coastal and inland commercial activities, promote the development of indigenous tonnage and establish a Cabotage Vessel Financing Fund.