

## A Critical Appraisal of the Nigerian Customs Service Role in Trade Facilitation

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**Annotation:** This paper is concerned with the role of Nigeria Customs Services (NCS) in the wake of globalization and liberalization and how it has been able to facilitate trade since 1975. It traces the evolution of the Nigeria Customs Service from its inception till date and its role in trade facilitation. Furthermore, the impact of the World Customs Organization (WCO) on the Nigeria Customs Services is based on the Revised Kyoto Convention. We identified the impact of liberalization on the agency with respect to trade facilitation. In addition, we highlighted the related challenges faced by the agency in the age of globalization. In conclusion, the paper argued that the prevalence and emphasis on globalization and liberalization in order for countries to compete favourably, agents of trade facilitation, in the Nigerian case, Nigeria Customs Service must harmonies its processes in order not to constitute a barrier to international trade. The sad situation is that the agency still lags behind specifically with regard to the World Customs Organization (WCO) standard of trade facilitation. Hence, the paper recommends the need for the government to ensure proper funding of the agency, training of officers of the agency and the need for automation of its system to reduce the ever-increasing incidences of corruption so as to meet up world best practices in order not to constitute a barrier to trade facilitation. We adopted the method of content analysis and historical research design.

**Keywords:** Nigerian Customs Service (NCS), Role, Trade Facilitation, Liberalization, Globalization.

### Introduction

The evolution of Nigeria's customs service can be traced to 1891, over a century ago, when the British colonial administration appointed M.T.A Wall as the Director-General of customs for the collection of Inland Revenue in the Niger Coast protectorate. The Royal Niger Company prior to this time carried out this task of revenue collection. The name Department of Customs and Excise emerged in 1992 when the first comptroller of Customs and Excise was appointed, and in 1945, the Customs and Excise Service Preventive was established under the leadership of Mr Nicol a Briton. It was made up of two divisions maritime and preventive.

A developing country like Nigeria has increasingly focused on trade in order to facilitate economic growth and development. This has directly led to an emphasis on opening external markets that would promote investment in different sectors of business. Shafaeddin (2005) provides support for the above argument in his observation that by the early 1980s, leading to the 1990s, the process of trade liberalization and market-oriented economic reforms had kick-started.

Trade liberalization as used in this context will be subjected to the definition put forth by Shafaeddin (2005, p. 23) as “any act that would make the trade regime more neutral- nearer to a trade system free of government intervention.” Lee (2005) loosely defines trade liberalization as a move towards free trade through the reduction of tariffs and other barriers. It is characterized by an increment in the flow of goods and services across national borders. Trade liberalization is significantly and unquestionably beneficial to developing countries. Although this assertion is debatable because of the adverse effect of trade liberalization on developing countries, such as job outsourcing, theft of intellectual property, and more importantly the unfavourable effect on local businesses and producers. However, the benefits of trade liberalization far outweigh the criticism of the free trade policy. Indeed, there is a vast potential gain for the liberalization of trade in Nigeria and other developing countries. In Nigeria, the Customs Service has been at the forefront of trade facilitating trade. At this point, it is important to define the terms trade liberalization and trade facilitation.

The concept of trade liberalization can best be explained or described as the removal or reduction of restrictions or barriers on the free exchange of goods between nations. These barriers include tariffs in form of duties and surcharges, and non-tariffs, such as licensing rules and quotas. Proponents of trade liberalization are of the opinion that trade liberalization lowers consumer costs, increases efficiency, and fosters economic growth.

On the other hand, the term trade facilitation refers to the simplification and harmonization of international trade procedures where trade procedures are the “activities, practices and formalities involved in collecting, presenting, communicating and processing data required for the movement of goods in international trade” (WTO 1998). Many practitioners simply define trade facilitation as the simplification, harmonization, standardization and modernization of trade procedures. However, other definitions go a little further. For example, the United Nations Centre for Trade Facilitation and Electronic Business (UN/CEFACT), defines trade facilitation as “the simplification, standardization and harmonization of procedures and associated information flows required to move goods from seller to buyer and to make payment” (OECD 2001).

To a large degree, trade facilitation can be viewed as an extension of trade liberalization. In order to liberalize and facilitate trade, globalization has been at the centre. Since the end of the cold war, globalization is the new catchphrase. Globalization has become an inseparable part of international trade. The result is the emergence of specialization in international trade in terms of exchange of the goods, services and resources. With the passing of time, globalization has become a deeply rooted phenomenon. The result is, a product that has been manufactured in the outmost part of the globe could easily find its way into the market at the other corner of the globe. Thanks to the whole idea of market liberalization and globalization.

The paper is particularly concerned with the duties and roles of the Nigeria Customs Service with regard to how its activities facilitate trade in the country. In doing this, the paper is structurally divided into three sections with the exemption of the abstract, introduction and conclusion. The first section deals with a brief historical overview of the Nigeria Customs Service. Its present status as an organization is a product of a long historical evolution that cannot and should not be discarded in understanding the role of the agency in trade facilitation today. Secondly, the next section is concerned with the functions, experiences and challenges of the agency and how it has fared thus far in trade facilitation. Lastly, a critical appraisal of the agency’s role in trade facilitation with regard to taking advantage of globalization and liberalization to foster economic growth and development is discussed under last this section.

### **A Brief Historical Overview of the Nigerian Customs Service**

The task of a critical appraisal of the role of the Nigeria Customs Service in trade facilitation would have some basic historical highlights with regard to the establishment of the organization and the duties of the organization as a critical body in the facilitation of trade. Today, what is commonly referred to as the Nigeria Customs Service is a paramilitary organization whose origin though not in its full-fledged form, could be traced back to “a little over a century ago when the British Colonial administration appointed Mr T. A. Wall, in 1891, as the Director-General of Customs for the collection of inland Revenue in Niger Coast Protectorate” (Amadi, 1991).

In 1922, the organization was known as the Department of Customs and Excise and the first Comptroller of Customs and Excise, Federation of Nigeria was appointed. Sometime around 1945, the Customs and Excise Preventive Service was established and Mr Nicol, an English man was made the leader. The Customs and Excise Preventive Service as it came to be known then consisted of two divisions namely; Maritime and Preventive divisions. On the one hand, the Maritime Division was saddled with the responsibility of collecting import and excise duties and other related functions while on the other hand, the Preventive Division was responsible for the enforcement duties which included prevention of smuggling, arresting and prosecution of smugglers. As contained in the Nigeria Customs Service gazette, with the promulgation of the Customs and Excise Management Act (CEMA) No. 55 of 1958, the affairs of the Department were brought under the management of a Board. The Chairman of the Board of Customs and Excise was the Chief Executive Officer of the Department. In 1965, Mr E. P. C. Langdon, a Briton, was appointed the first Chairman and Chief Executive Officer. He was succeeded by Mr S. G. Quinton. (Amadi, 1991).

At Independence in 1960, the first Nigerian Chairman of the Board and Chief Executive Officer was appointed by the Federal Government in 1964, some years after Nigeria gained independence and at his death, he was succeeded by Mr Henny Etim Duke. Additional powers alongside the definition of the membership of the Board were granted in Decree No. 7 of 197. Also, more members were admitted to the Board to represent the Federal Ministries of Economic Development and Reconstruction, Trade and Industries. Clearly, the aim of the decree was to broaden the scope of the national interest by making room for better guidance in the Board’s decision-making. By 1975 the position of the Chairman of the Board was abolished, and Decree No. 41 of 1975 conferred the powers formerly vested on the Chairman and his Deputy in the hands of the Director of Customs and Excise and his Deputies. With this, Alhaji Shehu A. Musa became the head of Customs. He embarked on major proposals for the reform of the organization one of which was to tackle the challenge of the two parallel Services namely; Revenue and Preventive. These parallel services created both administrative and enforcement problems for the agency (Ajayi, 1990).

Consequent to this, as recounted in the annals of the Nigeria Customs Service, there was a major reorganization of the department on April 1, 1977. The present unified service of the Department of Customs and Excise was the result. This meant a unification of the Technical and Preventive Services into one integrated service where employees could serve in either of the two sections without hindrance. The unification restructured the Department into five main Directorates outside of Customs Tariff and Trade; Customs Enforcement Directorate; Customs Investigation Directorate; Customs Inspection Directorate; Customs Inspection Directorate and Customs Economic Relations, Research; and Planning Directorate (NCS 2023). Under this arrangement, the Deputy Directors were in charge of each Directorate and the Director was in charge of the Department of Customs and Excise and Chairman, Board of Customs and Excise. In addition to the four Directorates, divisions were created “whose headship was drawn from the pool of the Public

Service. These were Administrative, Legal, Finance/Accounts, and Internal Audit and Mr Oyebode Oyeleye as the first Director” (NCS 2023).

Another structural change occurred in 1985. The Department was removed from the Federal Ministry of Finance to Internal Affairs. “This was a sequel to the Nigerian government’s acceptance of the recommendations of the Study Group on Customs and Smuggling which was headed by Alhaji Yahaya Gusau. Thus, the Customs, Immigration and Prisons Services Board (CIPB) was created with the promulgation of Decree No. 14 of 11 January 1986” (NCS 2023). In 1992, the Department of Customs and Excise was transferred back to the Federal Ministry of Finance and its paramilitary organization was recognized. Since then, it has been known as Nigerian Customs Service with a Comptroller-General in charge. Statutorily, the functions and role of the Nigerian Customs Services include but are not limited to the following; (i ) Collection of Revenue (Import/Excise Duties & other Taxes/Levies) and accounting for same. (ii). Anti-smuggling activities. (iii). Monitoring foreign exchange utilization, (v). Licensing and registration of customs agents, (v). Manifest Processing, (vi) Security functions, (vii) Engaging in research, planning and enforcement of fiscal policies of the government. (viii). Generating statistics for planning and budgetary purposes. Etc.

### **The Nigerian Customs Service: Function, Experience and Challenge**

Like Customs Services around the world, The Nigerian Customs Service plays a vital role in the economic life of the country. Virtually all sectors of the Nigerian economy are in one way or another affected by the activities of Nigerian Customs. Statutorily, the functions and role of the Nigerian Customs Services include but are not limited to the following; (i) Collection of Revenue (Import/Excise Duties & other Taxes/Levies) and accounting for same. (ii). Anti-smuggling activities. (iii). Monitoring foreign exchange utilization, (v). Licensing and registration of customs agents, (v). Manifest Processing, (vi) Security functions, (vii). Engaging in research, planning and enforcement of fiscal policies of the government. (viii). Generating statistics for planning and budgetary purposes. (ix). Generating statistics for planning and budgetary purposes (Working in collaboration with other government agencies in all approved ports and stations. (x).Trade facilitation. (xi). Collaborative functions with government agencies such as the CBN, NDLEA, Police, SON, FIRS, and NAFDAC. (xii)Implementation of bilateral and multilateral agreements entered into by the government. Etc.

Trade facilitation has remained fundamental to the Nigerian Customs Service. In the wake of globalization, liberalization and free trade zones, the Nigerian Government considers the agency and its role in trade facilitation as crucial elements of economic growth and development. The Nigerian Customs Service is situated at a critical juncture within the hub of the international supply chain of goods and services. Thus, a major challenge of the agency lies in;

*The proactive management of the seeming contradictory role of ensuring improvements in speedy delivery of services, while maintaining systematic and effective intervention controls necessary to meet the demands of complex and growing international trade, characterized in recent times by economic crime, money laundering, the menace of terrorism, threatening weapons of mass destruction, violation of intellectual property. Rights and dumping of toxic and hazardous substances (NCS. 2023).*

From the above, the herculean task of the Nigerian Customs Service as a steward of Nigerian trade and border management puts it under tremendous pressure in its role of facilitating legitimate trade in a global environment with numerous challenges. For instance, in 2022, the targeted revenue for



the agency was pegged at 3.1 trillion naira but the agency only generated 2.6 trillion naira in revenue. According to Comptroller-general, Col. Hameed Ali, the reason for this shortcoming of about 400 billion naira in the targeted revenue was;

*A lot of factors including the fluctuation of the naira, the fiscal policies, and border issues among others. So, if you put all these factors together, and look at the target we were given, you can now come to the conclusion that the sheer amount of money that would have come to the government that is out there (Comptroller-General, Col. Hameed Ali as cited in Business Day Feb. 3, 2023).*

The agency is also hindered by the numerous allegations of corruption and fraud scandals. Cases of collection of bribes by the officials of the agency, and enabling smuggling and undervaluation of goods. The reason for some of these challenges ranges from incompetence and lack of discipline of officials of the agency to complacency in punishing offenders as deterrence. If the agency must effectively discharge its duty in trade facilitation certain policy reviews by the government must be done: automation of the clearing process is required to reduce incidences of corruption; the establishment of the list of products and services from ECOWAS Trade liberalization scheme; and the need to cut down on bureaucracy and ensure proper investigation and punishment of offenders for misconduct (Nigerian Finder 2023).

### **Evaluation of The Role of Nigeria Customs Service in Trade Facilitation**

Globally, there is a paradigm shift in the way the Customs are perceived; not only as a revenue-generating agency to the government but also as a very important stakeholder in the area of trade facilitation; Unfortunately, Nigeria's Logistics and trade facilitation performance continues to lag behind other countries and the overall economic performance is still not up to the targeted expectation. This is the case in spite of the fact that Nigeria has led the continent's multilateral trade agreement such as the Economic Community of West African State (ECOWAS) which enjoys robust trade linkage with its neighbours and is as well connected to international trade routes. However, much of the logistics process is not within the control of the Customs, rather poor port infrastructure including roads, railways and electricity contribute to the challenge.

Consequently, limited port capacity, with respect to the overall volume and the size of vessels that can be handled, constitutes a constraint in the agency's ability to become a regional hub. The Lagos free trade zone initiative at Lekki is aimed at improving this problem and allowing Nigeria to take advantage of growing container trade in the region (Customs Modernization in Nigeria 2012).

Peterson (2007) maintained that custom procedures on transit goods facilitate trade, but poor transit system in the producing area is a major obstacle to trade and penalize many landlocked developing countries not only in Nigeria. A well-designed transit system aims at facilitating the transport of goods through a custom territory, without levying duties and taxes in the countries of departure and transit, in accordance with the destination principle of taxation, which states that "indirect taxes should be levied only in the country of consumption" (Peterson 2007, p. 13). The customs code should provide transit-related legislation; transit should regulate the binding agreement between customs and the different parties affected by the transit operation; and the code for provision of a good transit system includes the shipments being sealed at the point of departure, and this made available to ensure the payments of duties and taxes. Inability of the traders to efficiently provide evidence of transit goods departure and the lack of modern technology by customs to track transit goods hinders the prompt release of the consignment by the importing country customs. In many countries, these core elements are either lacking or weak and should be the focus of any transit

modernization initiation and trade policies should recognize that customs transit, is only part of a wider range of policy issues that affect transit.

Moreso, these other issues are pertaining to many other participants and procedures, including cross- border vehicle regulations, Visas for trade drivers, insurance, police controls, and the quality of infrastructure. Even if customs transit procedures are effective and efficient, full trade facilitation will require that these issues mentioned above be addressed. However, according to customs modernization in Nigeria (2012), effective and efficient transit facilitation institutions such as corridor agreements can promote active cooperation between and among transit and landlocked countries. Transit agreements are important in forming and shaping such cooperation, either at the bilateral, sub- regional level. Transit operations will benefit from good public –Private Corporation that can identify deficiencies in border- crossing procedures.

With trade liberation facilitated by globalisation, the Nigeria Customs Service has not fared too badly. Although left behind by other countries with better infrastructure and technological facilities, Nigeria Customs has made efforts to meet up with other countries. The low point however, is Nigeria has become a dumping ground for other countries because it is more of a consuming nation than a producing nation.

Mason (2010) attests that Nigeria, Africa's most populous and largest economy and biggest investors attraction, is still faced with some internal challenges such as smuggling and high import of substandard goods through our porous borders that are threatening investors' confidence. For instance, Nigerian government intend making its customs work like their European counterpart, some of these pressing issues need to be addressed and we need to proffer possible ways to resolve the issues of inadequate funding as one of the challenges facing the Nigeria customs. At present this challenge is not based on an allocation from the federal budget, but on a percentage of the revenue, Nigeria customs received about 7% in 2015, while NCS does its budget planning annually, moreover, the actual allocation of these funds, done on a monthly basis and depends on month-by-month revenue collection. The difficulties entailed by this situation are obvious. Primarily, the monthly nature of financing can result in absolute pitfalls that have a serious negative impact of on fiscal management. Secondly, while it gives the agency interest in performing well at one of its tasks- revenue collection, it could be detrimental to another, namely trade facilitation. An interest in extracting the maximum possible amount in customs duties could entail an overemphasis on inspections and lengthy procedures at the expense of speed. Thirdly, it could also dispose NSC to neglect the processing of exports, which under the current system yields no revenue whatever. Fourthly, it creates a problem given the long-term trends in the sphere of customs-free trade liberalization at a regional and a global level, and of export-promotion devices like trade zone.

In the context of increasing trade liberalization and falling duty rates, international experience suggests that the new organizational structure, procedures, and penalties authorized by this draft will substantially increase revenue for the Federal Government while still allowing customs to fulfil its other key obligations. The proposed new legislation will boost revenue while still promoting trade facilitation and enhancing the protection of national security (Mason, 2010).

In line with the above Mason (2010) states that the new legislation is expected to give a fully legal basis for the implementation of modern customs procedures. Key features are likely to include, provision for, use of risk management maximum utilization of ICT systems, post- clearance and mutual assurance agreements with other customs administration procedures. Requirements for most traders to provide financial guarantees to ensure that their customs debt will be paid, special simplified treatment for authorized traders allowing for the use of the fast-track process, and

cooperation with traders including consultation with trade groups using a single window system. Electronic payment and prohibition of both pre-shipment inspections and destinations by private contractors; other features included in the new legislation are penalty procedures will almost certainly be updated based on international best practices.

According to Mason (2010), the current situation is sinuously flawed. Legislation provides strong penalties for smuggling (a criminal offence), yet the penalties for administrative offences such as intentionally under-declaring are inadequate, providing zero incentive for traders to provide accurate and timely documentation and information for processing, this problem needs to be addressed if a compliance culture is to be developed.

Against the backdrop of depleting natural resources, governments the world over are increasingly identifying Free Zones as a veritable tool to fast-track industrialization and for sustainable economic development. The reason for this is not farfetched. Investors intentionally are looking for jurisdictions where they would save costs and maximize returns on investment. The Free Zone offers this opportunity as it has been identified as investors' having attractive incentives and enabling environment.

The Free Zone is the preferred place for investment because of its business-friendly law and regulations deliberately put in place by the government to boost manufacturing activities and promote the export of finished products. The licensing, monitoring, regulating and facilitating of investment into the Free Zones' programmes in Nigeria is vested in the Nigeria Export Processing Zones Authority (NEPZA) by the Nigeria Export Processing Zones Act 63 of 1992. The law also empowers the Authority to grant all requisite permits and approvals for operators in the zones.

The Free Zones regulatory framework is liberal and provides a conducive environment for profitable operations in Nigeria's Free Zone. The law also provides for active participation of the private sector given that, Free Zones can be established by any or all of the following:

- i. Public Sector
- ii. The Private Sector and
- iii. A combination or partnership of the public and the private sector.

However, in seeking approval to develop and operate a Free Zone, be it private or public sector owned, the following are the basic requirements:

- i. Availability of an unencumbered piece of land on which the zone will be sited.
- ii. A feasibility report on the projects showing among others:
  - a) The economic and financial viability
  - b) The socio-economic effects of the project
  - c) Thorough evidence of financial capability of the sponsors
  - d) The development plan
- iii. A study showing the environmental impact assessment of the project.
- iv. A perimeter survey plan of the proposed site showing the coordinates/beacons.

All these shall accompany an application letter by the sponsor to NEPZA who shall then conduct an in-depth appraisal before recommending to the President and Commander-in-Chief for approval.

The procedure for companies/enterprises to locate in an approved and developed Free Zone certified by the authority to admit companies are as follows:

- a) The prospective enterprise/developer obtains an application Form from the zone of interest or any of NEPZA's offices in the federation.
- b) Cost of application is not uniform but depends on the tariff structure of the Zone.
- c) On completion of the application by the prospective investor, it is submitted to the zone of interest or to NEPZA
- d) Within the framework of NEPZA's operation, the investor is expected to hear of the outcome of the application within 5 working days.
- e) If the application is approved, the enterprise is expected to visit the zone, pay the applicable licensing fee and become a member of the zone's family.

The approved enterprise shall thereafter have the freedom to request serviced plots with all the facilities already provided and can access the bundle of privileges, rights, incentives and obligations in the Free Zones Scheme.

There are about 31 free zones in Nigeria, with about 10 currently awaiting approval. The Calabar free trade zone was the pioneer free trade zone in Nigeria. It commenced operation in November 2001. Since its commencement, the free trade zone scheme has been used as a vehicle for industrial and commercial development of the country. Private sector participation and partnership with the federal government and other tiers of government has helped spread the scheme. This has culminated in the establishment of the specialized free trade zone and other types of zones. They are: Nigeria Export Processing Zone Authority (NEPZA) for the general purpose of zones and Oil and gas export free zone authority (OGEFZA) for oil and gas zone. The challenges faced by free zone in Nigeria ranges from; lack of standard financial laws and rules; relax oversight and lack of transparency; reliance on cash for transaction; and tax evasion and tax avoidance etc. In addition, reducing incidence of physical inspection of cargo, and continuing to develop or initiate new ideas designed for the 21<sup>st</sup> century, which would make the Nigeria Customs Service have the capacity to declare a 48-hour window for cargo clearance. Furthermore, Cargo warehouses are poorly ventilated, overcrowded, and chaotic; Security in the terminal areas is lax, with little control of human traffic around the premises.

Currently, clearance delays are frequent, though air cargo is subject to less delay than sea-borne but the 48-hour window is still far off and valuable, time-sensitive cargo often not released as quickly as necessary, integrity breaches often occur, with cargo often tampered with, gleaned from, or pilfered entirely, and many airlines complaining about missing cargo from most of consignments.

The importance of a secured border cannot be underemphasized because during conflicts, loose hold on borders either serve as avenues to replenish supplies or aid recuperating and fleeing forces as the case maybe. The obvious and ugly effects of porous borders in conflict environment abound in various regions on the African continent.

In summary, the various challenges experienced by the Nigeria Customs service include funding. The Nigeria government has not provided adequate funding for the agency. This lack of funding is responsible for the inability of the agency to provide adequate infrastructure, welfare and an enabling working environment for personnel of the agency. Another challenge faced by the agency is insurgency. Terrorism has affected many countries around the globe. Though it is not an entirely new challenge, the Nigerian government has been unable to handle the menace effectively. This is



especially relevant in Northern Nigerian Border States. These states are Yobe, Borno and Adamawa. The activities of the insurgents have hindered effective manning and collection of revenue. The rate of crime has also soared leading to the inability of the Nigeria Customs service to fight smuggling effectively. With the proliferation of light weapons and small arms, the life of Customs personnel has been at risk in these Border States. Ultimately, insurgency has led to dwindling revenue as well as harsh working environment for the Nigeria Customs Service.

### Conclusion

The role of customs has changed significantly as a result of both evolutionary factors, including the increasing globalization of trade, and evolutionary factors such as the terrorist attacks. The resultant shift in government policies and the way in which those policies are administered have brought us to a point where it is no longer possible to clearly define the role of customs. While the responsibilities of border management continue to be carried out, the blend of relevant government agencies is changing; consequently, what may represent core business for one administration may fall outside the sphere of responsibility of another. The challenges of the agency are tremendous and provisions at its disposal in the effective discharge of its duty are inadequate. The world trade organization, world customs and other international bodies are responding through the development of global standards that recognize the changing nature of border management but the Nigerian Customs Service still lags behind. The study has also shown that globalization has fostered the integration of national markets and the interdependence of countries worldwide for a wide range of goods, services and commodities, incorporating the liberalization of tariffs and other barriers to trade, foreign investment agreements; autonomous unilateral structural reforms; technological innovations in transportation and communications. The Nigerian Customs Service is yet to fully meet this new development and tap into its numerous opportunities.

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