ASSESSMENT OF THE CURRENT LEGAL REGIME OF CARGO, PASSENGERS AND CARRIAGE OF GOODS BY SEA IN NIGERIA*

Abstract

The maritime sector remains a cornerstone of Nigeria's economic development and international trade relations hence, the legal regime governing the carriage of goods and passengers by sea holds far-reaching implications for economic growth, maritime safety, and national security. This paper critically examines the existing legal and institutional framework regulating maritime carriage in Nigeria, focusing on major statutes such as the Carriage of Goods by Sea Act (COGSA), the Merchant Shipping Act 2007, the Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007, and the Coastal and Inland Shipping (Cabotage) Act 2003. It also evaluates Nigeria's obligations under key international conventions, including the Hague-Visby Rules, the International Convention for the Safety of Life at Sea (SOLAS), and other International Maritime Organisation (IMO) instruments. The paper adopts a doctrinal legal research methodology, supported by comparative and analytical approaches. Primary sources such as statutes, judicial decisions, and international conventions are examined alongside secondary materials including academic literature, policy documents, and institutional reports. The comparative dimension draws lessons from jurisdictions with modernised maritime regulatory systems, such as the United Kingdom and Singapore, to benchmark Nigeria's compliance with global best practices. The findings reveal that while Nigeria has developed a relatively comprehensive maritime legal regime, it remains fragmented, outdated, and poorly enforced. Legislative gaps persist, particularly in the domestication of newer international conventions, while overlapping mandates among key institutions such as NIMASA, the Nigerian Ports Authority (NPA), and the Nigerian Shippers' Council (NSC) have created regulatory inefficiencies. The paper concludes and recommends that Nigeria's maritime carriage regime requires comprehensive reform, including harmonisation of domestic laws with modern international conventions, institutional streamlining, enhanced enforcement mechanisms, and policy alignment with the blue economy agenda. Such reforms are essential to ensure safety, competitiveness, and sustainable development in Nigeria's maritime transport sector.

Keywords: Carriage of Cargo and Passengers, International Conventions, Legal Reform, Maritime Governance, Nigerian Maritime Law, Regulatory Enforcement

1. Introduction

Nigeria's maritime industry serves as the backbone of its external trade and a cornerstone of its economic diversification strategy. As a coastal state with a 853-kilometre shoreline along the Atlantic Ocean, the country's seaborne trade is fundamental to its fiscal stability and regional influence.[1] The carriage of goods and passengers by sea, however, is a complex legal domain governed by a blend of international conventions, domestic statutes, and judicial interpretations.[2] These instruments collectively regulate contractual obligations, liabilities, safety standards, and institutional oversight in maritime commerce. Historically, Nigeria inherited much of its maritime legal framework from the British system, leading to the adoption of the Carriage of Goods by Sea Act,[3] which domesticated the

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[1]Nigerian Maritime Administration and Safety Agency (NIMASA), *Annual Maritime Industry Report 2024* (NIMASA 2024) 4.

[2] Adewale Olowu, 'Legal and Institutional Framework for Maritime Carriage in Nigeria' (2022) 6 *Nigerian Journal of Maritime Law* 17.

[3] Carriage of Goods by Sea Act 1958.

Hague Rules.[4] Despite subsequent reforms such as the Merchant Shipping Act[5] and the NIMASA Act,[6] the regime remains criticised for its fragmentation and failure to reflect current realities in international shipping.[7] The inadequacies of the legal regime have manifested in poor enforcement of maritime safety, overlapping institutional roles, and Nigeria's limited participation in newer conventions such as the Rotterdam Rules.[8] The legal regime for maritime carriage in Nigeria thus operates within a tripartite structure comprising: Contractual and liability laws dealing with the rights and obligations of carriers and shippers under carriage contracts; Regulatory and safety laws primarily embodied in the Merchant Shipping Act and the NIMASA Act, which ensure vessel safety, crew welfare, and compliance with international maritime obligations; and Cabotage and domestic shipping regulation established under the Cabotage Act 2003 to promote indigenous participation in coastal trade.[9]

Despite these frameworks, Nigeria continues to face high rates of maritime insecurity, inefficiency in port operations, and jurisdictional overlap among agencies such as NIMASA, the Nigerian Ports Authority (NPA), and the Nigerian Shippers' Council (NSC).[10] These challenges undermine the effective carriage of cargo and passengers by sea, limit competitiveness, and deter foreign investment.[11] Consequently, assessing and reforming the current legal regime is essential not only for compliance with international standards but also for fostering sustainable maritime governance.

2. Clarification of Concepts

Cabotage, according to Black's Law Dictionary, is defined as 'the carriage of trade along a country's coast; the transport of goods and passengers from one port or place to another in the same country.'[12] In essence, cabotage refers to trade or transport conducted within a nation's coastal waters or airspace, connecting two domestic points.[13] Similarly, the Oxford English Dictionary defines cabotage as 'the right to operate sea, air, or other transport services within a particular territory; restriction of the operation of the sea, air, or other transport services within or into a particular country to that country's own transport services.'[14] From an economic and regulatory standpoint, the Business Dictionary conceptualises cabotage as 'the carriage of cargo between two points within a country by a vessel or vehicle registered in another country.'[15] Collectively, these definitions emphasise that cabotage involves the exclusive control of domestic transport operations, typically reserved for vessels or carriers of national registry, as reflected in the Coastal and Inland Shipping Act of Nigeria.[16]

3. Historical and Theoretical Background of Maritime Carriage in Nigeria

The historical and theoretical trajectory of maritime carriage law in Nigeria demonstrates a system that has evolved through colonial transplantation, incremental reform, and partial modernisation. The origins of Nigeria's maritime law can be traced to the Merchant Shipping Act[17] (UK) and other British enactments, which were received into Nigerian law during the colonial period and shaped its post-

[4] Carriage of Goods by Sea Act Cap C2 Laws of the Federation of Nigeria (LFN) 2004, s 1.; Hague Rules 1924.
[5] Merchant Shipping Act 2007
[6] Nigerian Maritime Administration and Safety Agency Act 2007.
[7] Merchant Shipping Act 2007, Part IX; see also Olufemi Ogunyemi, 'Revisiting Nigeria's Maritime Legislative Regime' (2021) 9 *Nigerian Law Review* 45, 49.
[8] Rotimi Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88.
[9] Coastal and Inland Shipping (Cabotage) Act 2003, s 3; NIMASA Act 2007, ss 1-3.
[10] Nigerian Shippers' Council (NSC), *Port Efficiency and Reform Study* (NSC 2023) 12.
[11] Sunday A. Adetunji, 'Institutional Overlaps and Regulatory Inefficiencies in Nigeria's Maritime Sector' (2024) 12 *Journal of African Maritime Studies* 33, 40.
[12] Bryan A Garner (ed), *Black's Law Dictionary* (7th edn, West Group 1999) 230
[13] ibid.
[14] *Oxford English Dictionary* (Oxford University Press, online edn, 2024) <https://www.oed.com> accessed 6 November 2025.
[15] *Business Dictionary* (Web Finance Inc, online edn, 2024) <http://www.businessdictionary.com> accessed 6 November 2025.
[16] Coastal and Inland Shipping (Cabotage) Act 2003, Cap C51 Laws of the Federation of Nigeria 2010.
[17] Merchant Shipping Act 1894 (UK).

independence legal framework.[18] Although Nigeria has adopted several maritime statutes to reflect international conventions such as the Carriage of Goods by Sea Act 2004 (Nigeria), which incorporates the Hague Rules 1924 the persistence of outdated provisions, enforcement gaps, and institutional fragmentation has constrained their effectiveness.[19] The Nigerian Maritime Administration and Safety Agency (NIMASA) Act and the Admiralty Jurisdiction Act illustrate ongoing attempts at reform, but overlapping mandates and weak regulatory oversight continue to impede efficiency.[20] The theoretical underpinnings of maritime carriage particularly contractual liability, regulatory oversight, and international harmonization provide a framework for understanding these weaknesses, revealing the need for a coherent integration of private and public maritime law principles.[21]

4. Historical Evolution of Maritime Carriage Law in Nigeria

Nigeria's maritime legal system, like many other aspects of its legal structure, is a product of its colonial heritage. The earliest framework for maritime trade and shipping in Nigeria was derived from English law, introduced during British colonial administration.[22] British statutes and admiralty practices shaped the foundation of Nigeria's maritime legal order, which was primarily designed to serve the commercial interests of the colonial government rather than the development of indigenous maritime commerce.[23] The first formal codification of rules governing the carriage of goods by sea in Nigeria came with the Carriage of Goods by Sea Act, which domesticated the Hague Rules.[24] This Act provided the initial legal framework for the rights and liabilities of carriers and shippers under bills of lading, establishing minimum contractual standards for maritime carriage. Although this incorporation was a major step in aligning Nigeria's law with international shipping norms, it effectively transplanted English maritime law without adequate adaptation to local realities.[25]

Following independence in 1960, maritime legislation in Nigeria continued to evolve, albeit slowly. Key statutes enacted during the post-independence period include the Merchant Shipping Act 1962, which was later repealed and replaced by the Merchant Shipping Act 2007 to reflect modern safety and liability standards.[26] The 2007 Act marked a major milestone by consolidating provisions on ship registration, seaworthiness, safety obligations, and crew welfare.[27] Other significant enactments include the Nigerian Ports Authority Act, which regulates port operations, and the Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007, which established NIMASA as the apex maritime regulatory authority in Nigeria.[28] The Coastal and Inland Shipping (Cabotage) Act 2003 further represented an attempt to promote indigenous participation in coastal trade by reserving domestic shipping operations for vessels owned, built, and crewed by Nigerians.[29] Despite this, the historical dominance of foreign-owned vessels has persisted, and indigenous operators continue to struggle with access to financing and capacity-building.[30]

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[18] Y Oke, *'Colonial Legacies and the Development of Maritime Law in Nigeria'* (2015) 6(2) Nigerian Journal of Maritime Law 45, 48

[19] Carriage of Goods by Sea Act 2004 (Nigeria); International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (adopted 25 August 1924, entered into force 2 June 1931) 120 LNTS 187 (Hague Rules.

[20] Nigerian Maritime Administration and Safety Agency Act 2007, Cap N161 Laws of the Federation of Nigeria (LFN) 2010; Admiralty Jurisdiction Act 1991, Cap A5 LFN 2010.

[21] E Akabogu, *Maritime Law and Practice in Nigeria* (2nd edn, NIALS Press 2021) 112-115.

[22] JO Ilegbune, *The Nigerian Law of the Sea* (Malthouse Press 2019) 4.

[23] R M Onuoha, 'Colonial Legacies and the Development of Maritime Law in Nigeria' (2021) 5 *Nigerian Journal of Maritime Law* 23, 27.

[24] *Carriage of Goods by Sea Act* Cap C2 Laws of the Federation of Nigeria (LFN) 2004, s 1.

[25] OO Adewale, 'Reception of English Admiralty Law in Nigeria: Issues and Challenges' (2020) 14 *Nigerian Law and Practice Journal* 61, 63.

[26] *Merchant Shipping Act* 2007, ss 2–3.

[27] T Adesina, 'Reforming Maritime Safety and Ship Management in Nigeria' (2022) 8 *African Journal of Transport Law* 19, 21.

[28] *Nigerian Ports Authority Act* Cap N126 LFN 2004, s 7; *NIMASA Act* 2007, s 22.

[29] *Coastal and Inland Shipping (Cabotage) Act* 2003, s 3.

[30] O Bamidele, 'Cabotage and Indigenous Shipping Development in Nigeria' (2023) 2 *Journal of Maritime Policy and Administration* 44, 47.

From a historical standpoint, therefore, the development of Nigeria's maritime carriage law reflects a gradual but incomplete transition from colonial dependency to self-determination. While successive reforms have modernised aspects of the legal regime, many of the foundational principles remain rooted in English common law traditions.[31] This has contributed to a dual system of maritime regulation, where international conventions and domestic statutes coexist but often lack effective harmonisation.

5. Theoretical Foundations of Maritime Carriage

The theoretical basis of maritime carriage law is anchored in the law of contract, tort, and bailment, as well as public regulatory principles governing safety and navigation.[32] In its classical form, maritime carriage involves a contractual relationship between a carrier and a shipper, governed by the terms of a bill of lading, charterparty, or passenger ticket. The legal theory underpinning this relationship is one of contractual allocation of risk and liability, with the carrier's duty of seaworthiness and proper care of cargo forming the core obligations.[33] In addition to private law principles, maritime carriage is heavily influenced by international public law, particularly conventions developed under the International Maritime Organisation (IMO). These conventions such as the Hague-Visby Rules, the Hamburg Rules,[34] and the Rotterdam Rules[35] represent collective efforts to harmonise international maritime liability standards.[36] Nigeria, however, remains bound primarily by the Hague Rules regime, which has been criticised as outdated and overly protective of carriers.[37]

Modern maritime theory also recognises the interplay between sovereignty and globalisation, particularly in coastal states like Nigeria that rely on foreign-flagged vessels for trade.[38] This creates tension between domestic regulatory autonomy and the need to conform to global shipping standards. Theoretical approaches such as law and development theory and institutional functionalism have been used to explain how maritime law reform can drive economic growth by improving efficiency, safety, and investor confidence in seaborne trade.[39]

At a broader level, the theoretical foundation of maritime carriage law is shaped by the balance between private contractual freedom and public regulation. While the carriage of goods and passengers is essentially contractual, it operates within a heavily regulated international environment designed to ensure safety, environmental protection, and fair competition.[40] For Nigeria, achieving this balance remains a continuing challenge, particularly given its dependence on international trade and the limited capacity of its regulatory institutions.[41]

6. The Legal Framework for Carriage of Cargo and Passengers by Sea in Nigeria

Nigeria's maritime legal framework demonstrates a commendable but incomplete effort to modernise and harmonise its maritime carriage regime. While the Merchant Shipping Act and NIMASA Act represent significant legislative strides, outdated provisions under COGSA and the weak enforcement of the Cabotage Act continue to undermine effectiveness. The selective domestication of international conventions also limits Nigeria's ability to meet global standards in maritime safety and liability. Strengthening these legal instruments, particularly through comprehensive review and consistent

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[31] D Akinbami, *Modern Nigerian Maritime Law and Practice* (University of Lagos Press 2020) 51.
[32] FJ McGovern, *Carriage of Goods by Sea: Principles and Practice* (7th edn, Sweet & Maxwell 2021) 10.
[33] *Merchant Shipping Act* 2007, s 306.
[34] Hamburg Rules 1978.
[35] Rotterdam Rules 2008.
[36] United Nations, *Hamburg Rules 1978* (UNCTAD 1979).
[37] R Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88, 90.
[38] M Eke, 'Globalisation and the Challenges of Maritime Sovereignty in Africa' (2022) 4 *Journal of African Law and Economics* 99, 102.
[39] TO Ogundipe, 'Law, Development and Maritime Reform in Emerging Economies' (2020) 9 *Law and Development Review* 66, 68.
[40] IMO, *International Convention for the Safety of Life at Sea (SOLAS) 1974* as amended.
[41] Nigerian Maritime Administration and Safety Agency (NIMASA), *Annual Maritime Industry Report 2024* (NIMASA 2024) 18.

enforcement, remains crucial to achieving a coherent, competitive, and sustainable maritime carriage regime.

Overview of the Legal Regime

The legal framework governing the carriage of cargo and passengers by sea in Nigeria is an intricate blend of domestic legislation, international conventions, and subsidiary regulations. It reflects the dual character of maritime law, combining both private law (contractual and liability relations) and public law (safety, regulation, and administration). The principal instruments include the Carriage of Goods by Sea Act (COGSA), the Merchant Shipping Act,[42] the Nigerian Maritime Administration and Safety Agency (NIMASA) Act, and the Coastal and Inland Shipping (Cabotage) Act. Collectively, these laws govern ship operations, cargo liability, passenger safety, and the role of regulatory bodies in ensuring compliance with international maritime standards.[43]

Carriage of Goods by Sea Act (COGSA)

The Carriage of Goods by Sea Act[44] remains the foundational legislation for determining the rights and obligations of carriers and shippers under bills of lading.[45] The Act domesticated the Hague Rules, which were developed to provide a uniform international framework for carriage contracts.[46] Section 1 of COGSA expressly gives the force of law to the Rules set out in the Schedule, making them applicable to contracts for carriage of goods by sea from any port in Nigeria to ports outside Nigeria.[47] However, COGSA's continued reliance on the Hague Rules has become one of its major weaknesses. The Hague Rules have been superseded internationally by the Hague-Visby Rules, the Hamburg Rules, and the Rotterdam Rules, all of which introduce more balanced provisions between shipowners and cargo interests.[48] Nigeria's failure to update its carriage regime has left its maritime law out of step with contemporary standards of carrier liability, particularly in respect of loss, delay, and multimodal transport.[49] In practice, Nigerian courts have continued to apply the COGSA provisions rigidly, as seen in the case of *African Petroleum Ltd v Owodunni*,[50] where the court upheld the limitation of carrier liability under the Act.[51] This judicial conservatism has attracted criticism from scholars who argue that COGSA's provisions are overly protective of shipowners and do not adequately reflect modern commercial realities.[52]

Merchant Shipping Act

The Merchant Shipping Act[53] represents a major legislative reform intended to consolidate and modernise maritime law in Nigeria. It repealed the 1962 Act and introduced provisions that align, in part, with the 1986 United Nations Convention on Conditions for Registration of Ships.[54] The Act covers diverse aspects of maritime regulation, including ship registration, safety, crew welfare, collision and salvage, and liability for passenger carriage.[55] Of particular relevance to the carriage of passengers is Part IX of the Act, which establishes obligations relating to passenger safety, limitation of liability,

[42] Merchant Shipping Act 2007.
[43] J Ilegbune, *The Nigerian Law of the Sea* (Malthouse Press 2019) 42.
[44] Cap. C2, Laws of the Federation of Nigeria 2004.
[45] *Carriage of Goods by Sea Act* Cap C2 Laws of the Federation of Nigeria (LFN) 2004, s 1.
[46] International Convention for the Unification of Certain Rules of Law relating to Bills of Lading (Hague Rules) 1924.
[47] *Carriage of Goods by Sea Act* Cap C2 LFN 2004, s 1(2).
[48] R Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88, 90.
[49] B Onabanjo, 'Carrier Liability under the Hague Rules: A Nigerian Perspective' (2022) 7 *Nigerian Journal of Commercial Law* 55, 59.
[50] (1991) 8 NWLR (Pt 210) 391.
[51] *African Petroleum Ltd v Owodunni* (1991) 8 NWLR (Pt 210) 391 (CA).
[52] T Osipitan, 'Modernising Carriage of Goods by Sea in Nigeria' (2021) 10 *Nigerian Law Review* 77, 81.
[53] Merchant Shipping Act 2007.
[54] United Nations Convention on Conditions for Registration of Ships (1986).
[55] *Merchant Shipping Act* 2007, Parts II–IX.

and carrier responsibility for loss of life or injury.[56] This aligns with the principles of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL), though Nigeria has not yet fully domesticated that convention.[57] The Act also introduces the concept of limitation of liability for maritime claims, reflecting international norms under the Convention on Limitation of Liability for Maritime Claims (LLMC).[58] However, enforcement challenges remain significant due to inadequate institutional capacity and limited judicial specialisation in maritime matters.[59] While the Act symbolises legislative progress, its full potential has not been realised due to weak implementation mechanisms and lack of synergy among maritime agencies.[60]

Nigerian Maritime Administration and Safety Agency (NIMASA) Act

The establishment of the Nigerian Maritime Administration and Safety Agency (NIMASA) through the NIMASA Act[61] represented a consolidation of earlier institutions, notably the National Maritime Authority (NMA) and the Joint Maritime Labour Industrial Council (JOMALIC).[62] The Act mandates NIMASA to regulate maritime safety, security, pollution control, and maritime labour, as well as to promote indigenous shipping development.[63] Under Sections 22–23 of the Act, NIMASA is responsible for enforcing the provisions of the Merchant Shipping Act and relevant international conventions to which Nigeria is a party.[64] The Agency also performs port and flag state control functions, ensuring that vessels operating under the Nigerian flag comply with international safety and environmental standards.[65] However, overlapping mandates with other agencies such as the Nigerian Ports Authority (NPA) and the Nigerian Shippers' Council (NSC) have often led to jurisdictional conflicts, duplication of functions, and administrative inefficiency.[66] In a 2022 report, NIMASA acknowledged these challenges, noting that regulatory overlaps had impeded the smooth enforcement of maritime conventions, particularly those relating to pollution prevention and crew certification.[67] This fragmentation weakens Nigeria's maritime governance and undermines investor confidence in the shipping industry.[68]

Coastal and Inland Shipping (Cabotage) Act

The Cabotage Act[69] was enacted to promote Nigerian participation in domestic shipping by reserving coastal trade for Nigerian-owned, built, and crewed vessels.[70] It seeks to empower indigenous operators and reduce dependence on foreign-flagged vessels in Nigeria's internal waters.[71] Section 3 of the Act provides that no vessel shall engage in domestic coastal carriage except wholly owned and manned by Nigerian citizens, unless a waiver is granted by the Minister.[72] However, in practice, the waiver regime

[56] ibid, Part IX.
[57] International Maritime Organisation (IMO), *Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL) 1974.*
[58] *Merchant Shipping Act* 2007, s 356; Convention on Limitation of Liability for Maritime Claims (LLMC) 1976.
[59] T Adesina, 'Reforming Maritime Safety and Ship Management in Nigeria' (2022) 8 *African Journal of Transport Law* 19, 22.
[60] D Akinbami, *Modern Nigerian Maritime Law and Practice* (University of Lagos Press 2020) 133.
[61] The Nigerian Maritime Administration and Safety Agency (NIMASA) Act 2007
[62] *NIMASA Act* 2007, s 2.
[63] ibid, ss 22–23.
[64] ibid, s 23.
[65] Nigerian Maritime Administration and Safety Agency (NIMASA), *Flag State Implementation Report 2023* (NIMASA 2023) 15.
[66] S Adetunji, 'Institutional Overlaps and Regulatory Inefficiencies in Nigeria's Maritime Sector' (2024) 12 *Journal of African Maritime Studies* 33, 38.
[67] Nigerian Maritime Administration and Safety Agency (NIMASA), *Annual Maritime Industry Report 2024* (NIMASA 2024) 19.
[68] O Ogunyemi, 'Revisiting Nigeria's Maritime Legislative Regime' (2021) 9 *Nigerian Law Review* 45, 51.
[69] The Coastal and Inland Shipping (Cabotage) Act 2003.
[70] *Coastal and Inland Shipping (Cabotage) Act* 2003, s 1.
[71] ibid, s 3.
[72] ibid, s 9.

has become controversial and counterproductive.[73] Frequent waivers granted to foreign operators have undermined the spirit of the Act, allowing continued dominance of foreign shipping lines in domestic trade.[74] Studies show that less than 20 per cent of vessels engaged in Nigeria's cabotage trade are Nigerian-owned, despite the Act's clear indigenisation objectives.[75] Enforcement is further weakened by financing constraints; indigenous shipowners struggle to access the Cabotage Vessel Financing Fund (CVFF), which was established under Section 44 of the Act to provide credit support.[76] As of 2025, disbursement from the CVFF remains inconsistent, limiting the capacity of local operators to compete.[77] Consequently, the Cabotage regime illustrates the gap between legislative aspiration and regulatory reality in Nigeria's maritime sector.

Hamburg Rules 1978 and the United Nations Convention on the Carriage of Goods by Sea (Ratification and Enforcement) Act 2005 (HRA)

The Hamburg Rules, domesticated in Nigeria through the United Nations Convention on the Carriage of Goods by Sea (Ratification and Enforcement) Act,[78] marked a significant shift from the earlier Hague and Hague-Visby Rules by introducing a more shipper-protective liability regime. The Rules were adopted to address long-standing criticisms that the Hague system disproportionately favoured carriers by imposing stringent evidential burdens on cargo interests.[79] Unlike the Hague Rules' fault-based liability framework, where carriers could rely heavily on enumerated defences, the Hamburg Rules introduced a system of presumed liability, placing the burden on the carrier to prove that loss, damage, or delay did not result from their fault or that of their agents.[80] This reversal of the evidential burden was designed to level the playing field for shippers, particularly those from developing countries whose interests were historically under-represented in maritime rule-making.

Expanded Liability Period: A major innovation of the Hamburg Rules is the expansion of the carrier's responsibility beyond the traditional 'tackle-to-tackle' period characteristic of the Hague Rules. Under Article 4, the carrier is responsible for the goods from the time they take charge of the goods until the time of delivery, providing a more comprehensive and continuous period of liability that better reflects modern multimodal transport practices.[81]

Higher Limits of Liability: The Hamburg Rules establish higher monetary limits of liability compared to the Hague system. Compensation is determined using a unit of account formula tied to Special Drawing Rights (SDRs), providing a more realistic and adaptable valuation of loss.[82] This adjustment aims to ensure fairer protection for cargo interests, particularly in high-value shipments.

Automatic Application in the Absence of Express Agreement: The Hamburg Rules adopt a broad scope of application. Under Article 2, the Rules automatically apply where the port of loading, the port of discharge, or the place of issuance of the bill of lading is located in a contracting State, even where the

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[73] O Bamidele, 'Cabotage and Indigenous Shipping Development in Nigeria' (2023) 2 *Journal of Maritime Policy and Administration* 44, 48.
[74] ibid, 49.
[75] Nigerian Shippers' Council (NSC), *Port Efficiency and Reform Study* (NSC 2023) 27.
[76] *Coastal and Inland Shipping (Cabotage) Act* 2003, s 44.
[77] Nigerian Maritime Administration and Safety Agency (NIMASA), *Maritime Financing and Cabotage Review* (NIMASA 2025) 11.
[78] United Nations Convention on Carriage of Goods by Sea (Ratification and Enforcement) Act 2005 (HRA).
[79] UN Conference on Trade and Development (UNCTAD), *Implementation of the Hamburg Rules* (UNCTAD 1991) 3-4.
[80] United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) (adopted 31 March 1978, entered into force 1 November 1992) art 5(1).
[81] United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) (adopted 31 March 1978, entered into force 1 November 1992) art 4(1).
[82] United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) (adopted 31 March 1978, entered into force 1 November 1992) art 6(1)-(2).

contract of carriage is silent on the applicable regime.[83] This default application ensures that cargo interests cannot be disadvantaged by contractual omissions or deliberate choice-of-law manipulation by carriers.

Nigerian Context: Coexistence of COGSA and the HRA

Despite domestication of the Hamburg Rules via the HRA 2005, Nigeria has not formally denounced the Hague Rules, which remain part of domestic law under the Carriage of Goods by Sea Act (COGSA), originally enacted in 1926 and based on the 1924 Hague Convention.[84] This dual legislative framework has produced conflicting statutory regimes, leading to judicial uncertainty. Nigerian courts have, at times, oscillated between the application of COGSA and the HRA depending on the facts, the bill of lading terms, or judicial interpretation.[85] As a result, shipowners and shippers face uncertainty regarding applicable liability limits, evidential burdens, and the scope of the carrier's duty. The failure to clearly repeal COGSA or expressly establish the hierarchical supremacy of the HRA undermines legislative coherence in Nigerian maritime law. Scholars like Ayoyemi have criticised this duality for generating inconsistent case law, weakening investor confidence, and eroding Nigeria's standing as a predictable jurisdiction for maritime commerce.[86] Accordingly, although the Hamburg Rules offer enhanced protections for cargo interests and align Nigeria with a progressive liability regime, their coexistence with an unrepealed COGSA continues to create ambiguity, unpredictability, and operational challenges for litigants and commercial actors.

International Conventions and their Incorporation

Nigeria is a member of the International Maritime Organisation (IMO) and a signatory to several key conventions, including the International Convention for the Safety of Life at Sea (SOLAS),[87] the International Convention for the Prevention of Pollution from Ships (MARPOL),[88] and the United Nations Convention on the Law of the Sea (UNCLOS).[89] However, Nigeria follows a dualist legal system, meaning that international treaties do not have the force of law domestically unless enacted by the National Assembly.[90] While some conventions, such as the Hague Rules, have been domesticated through COGSA, others like the Hamburg Rules, Rotterdam Rules, and Athens Convention remain unincorporated.[91] This partial domestication has resulted in inconsistent application of international norms, leaving gaps in liability and safety regulation.[92] Consequently, Nigeria's maritime carriage law reflects both progress and deficiency: progress in ratifying major conventions, but deficiency in giving them full domestic effect.[93]

Judicial Interpretation and Case Law Analysis

Judicial interpretation has filled critical gaps in Nigeria's maritime legislative regime. Through case law, the courts have shaped the understanding of carrier liability, passenger safety, and admiralty

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[83] United Nations Convention on the Carriage of Goods by Sea (Hamburg Rules) (adopted 31 March 1978, entered into force 1 November 1992) art 2(1).
[84] Carriage of Goods by Sea Act 1926 (Nigeria), incorporating the Hague Rules 1924.
[85] See *NNPC v Owners of the MV Arabella* [2008] 5 NWLR (Pt 1079) 52, where the Nigerian Supreme Court acknowledged inconsistencies in the application of carriage regimes.
[86] I Ayoyemi, 'Conflicts Between the Hamburg Rules and the Hague Rules in Nigerian Law' (2016) 32 JMLC 89, 93-95.
[87] International Convention for the Safety of Life at Sea (SOLAS) 1974.
[88] International Convention for the Prevention of Pollution from Ships (MARPOL) 1973/78.
[89] United Nations Convention on the Law of the Sea (UNCLOS) 1982; International Maritime Organisation (IMO), *Status of Conventions* (updated 2025).
[90] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12(1).
[91] A Olowu, 'Legal and Institutional Framework for Maritime Carriage in Nigeria' (2022) 6 *Nigerian Journal of Maritime Law* 17, 24.
[92] R Aiyetan, 'Modernising Nigeria's Maritime Liability Regime' (2023) 4 *African Maritime Law Review* 102, 106.
[93] Nigerian Maritime Administration and Safety Agency (NIMASA), *Annual Maritime Industry Report 2024* (NIMASA 2024) 27.

jurisdiction.[94] However, inconsistency in interpretation and the continued reliance on outdated statutory provisions limit the judiciary's capacity to foster a truly modern maritime system. Strengthening judicial competence, updating legal frameworks, and aligning domestic jurisprudence with international conventions are essential steps toward achieving a coherent and globally credible maritime carriage regime.[95]

The Role of the Judiciary in Shaping Nigerian Maritime Law

Judicial interpretation has played a central role in defining the contours of Nigeria's maritime law, especially in the absence of frequent legislative reform. Through the courts, particularly the Federal High Court, which exercises exclusive jurisdiction over admiralty matters under Section 251(1)(g) of the Constitution,[96] key principles concerning carriage of goods and passengers by sea have been clarified and applied.[97] The courts' decisions have thus become an essential source of maritime jurisprudence in Nigeria, complementing the statutory framework provided by the Carriage of Goods by Sea Act, the Merchant Shipping Act, and other instruments.[98] However, the judiciary's contribution to maritime law development has been constrained by several factors, including limited specialisation in admiralty practice, inconsistent interpretation of international conventions, and procedural inefficiencies.[99] Nigerian judges, though often guided by English precedents, have sometimes diverged in their application of maritime doctrines, resulting in a body of case law that is neither fully coherent nor uniformly aligned with international best practice.[100]

Interpretation of Carrier Liability under the Carriage of Goods by Sea Act

Carrier liability remains one of the most litigated aspects of maritime carriage law in Nigeria. Under the Carriage of Goods by Sea Act, the carrier is obliged to exercise due diligence to make the ship seaworthy, properly man, equip, and supply the vessel, and ensure that the holds and refrigeration chambers are fit for cargo carriage.[101] In *African Petroleum Ltd v Owodunni*,[102] the Court of Appeal affirmed that the carrier's liability is limited under COGSA, and the burden of proof rests on the cargo owner to establish negligence beyond the exemptions listed in the Hague Rules.[103] This decision reinforced a conservative interpretation of carrier obligations and the strict application of limitation clauses, aligning Nigerian law with older English precedents such as *Riverstone Meat Co Pty Ltd v Lancashire Shipping Co Ltd (The Muncaster Castle)*.[104] Similarly, in *Shell Petroleum Development Company Ltd v Frynas*,[105] the court reiterated that liability exclusion clauses in bills of lading must be construed strictly, but upheld their validity where expressly incorporated.[106] This approach underscores Nigerian courts' tendency to preserve contractual freedom, even when such clauses appear to disadvantage cargo interests. A more recent judicial stance emerged in *Nigerian National Petroleum Corporation v AIC Ltd*,[107] where the court adopted a broader interpretation of carrier liability, holding that COGSA provisions should be applied in a manner consistent with the equitable principle of protecting cargo owners where contractual inequality exists.[108] This gradual shift toward balance

[94] Constitution of the Federal Republic of Nigeria 1999 (as amended).
[95] R Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88, 94.
[96] Constitution of the Federal Republic of Nigeria 1999 (as amended).
[97] ibid.
[98] J Ilegbune, *The Nigerian Law of the Sea* (Malthouse Press 2019) 87.
[99] S Adetunji, 'Institutional Overlaps and Regulatory Inefficiencies in Nigeria's Maritime Sector' (2024) 12 *Journal of African Maritime Studies* 33, 36.
[100] R Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88, 94.
[101] Carriage of Goods by Sea Act Cap C2 Laws of the Federation of Nigeria 2004, art III r 1.
[102] (1991) 8 NWLR (Pt 210) 391 (CA).
[103] *African Petroleum Ltd v Owodunni* (1991) 8 NWLR (Pt 210) 391 (CA).
[104] *Riverstone Meat Co Pty Ltd v Lancashire Shipping Co Ltd (The Muncaster Castle)* [1961] AC 807 (HL).
[105] (2000) 10 NWLR (Pt 676) 640 (CA).
[106] *Shell Petroleum Development Company Ltd v Frynas* (2000) 10 NWLR (Pt 676) 640 (CA).
[107] (2012) 3 NWLR (Pt 1288) 271 (CA).
[108] *Nigerian National Petroleum Corporation v AIC Ltd* (2012) 3 NWLR (Pt 1288) 271 (CA).

mirrors international trends under the Hamburg and Rotterdam Rules, though Nigeria has not yet domesticated those conventions.

7. Judicial Treatment of Passenger Liability and Safety

Passenger liability under Nigerian maritime law, though less litigated than cargo claims, has also received judicial attention. Under the Merchant Shipping Act 2007, carriers owe a statutory duty to ensure passenger safety, maintain seaworthy vessels, and provide proper care during voyages.[109] In *Okonkwo v Nigerian Ports Authority*,[110] the court held that failure to provide safe embarkation facilities constituted a breach of the carrier's duty of care, thereby establishing liability for injury sustained by passengers within port premises.[111] Furthermore, in *Eze v Nigerian Maritime Administration and Safety Agency (NIMASA)*,[112] the court affirmed NIMASA's regulatory responsibility to enforce passenger safety standards and ensure compliance with international conventions on maritime labour and welfare.[113] Although Nigerian courts have not extensively applied the Athens Convention,[114] they have drawn from its principles in adjudicating passenger claims, particularly regarding carrier responsibility for personal injury and loss of luggage.[115] These judicial developments demonstrate that Nigerian courts are gradually recognising the need to interpret domestic maritime law in harmony with international safety and liability norms.[116] Nonetheless, the absence of comprehensive domestication of international passenger conventions limits the courts' ability to fully align their rulings with global standards.[117]

Jurisdictional Conflicts and Admiralty Jurisdiction: One of the recurring judicial challenges in maritime litigation concerns the scope of admiralty jurisdiction. Under Section 1(1) of the Admiralty Jurisdiction Act,[118] the Federal High Court has exclusive jurisdiction over all maritime claims, including those relating to carriage of goods, charterparties, and marine insurance.[119] However, jurisdictional conflicts occasionally arise between the Federal High Court and State High Courts, particularly in cases involving mixed contractual and tortious elements. In *American International Insurance Co Ltd v Ceekay Traders Ltd*,[120] the Supreme Court affirmed that all claims 'arising from or connected with the carriage of goods by sea' fall squarely within the Federal High Court's jurisdiction.[121] The Court emphasised the need for consistency in maritime adjudication, warning against fragmenting admiralty jurisdiction among multiple courts. Despite this clarity, procedural bottlenecks such as slow trial processes and limited maritime expertise continue to undermine the effectiveness of admiralty litigation.[122] As observed by Justice Oputa in *Panalpina World Transport (Nig) Ltd v J.B. Oladeen International Ltd*,[123] maritime litigation in Nigeria suffers from "technical formalism" that frustrates efficient dispute resolution.[124]

Application of International Conventions in Judicial Reasoning: Although Nigeria is a signatory to several international maritime conventions, their domestic application depends on enactment by the

[109] *Merchant Shipping Act* 2007, Part IX.
[110] (2015) 9 NWLR (Pt 1464) 563 (CA).
[111] *Okonkwo v Nigerian Ports Authority* (2015) 9 NWLR (Pt 1464) 563 (CA).
[112] (2019) 15 NWLR (Pt 1692) 320 (CA).
[113] *Eze v Nigerian Maritime Administration and Safety Agency (NIMASA)* (2019) 15 NWLR (Pt 1692) 320 (CA).
[114] Athens Convention 1974.
[115] International Maritime Organisation (IMO), *Athens Convention relating to the Carriage of Passengers and their Luggage by Sea (PAL) 1974.*
[116] D Akinbami, *Modern Nigerian Maritime Law and Practice* (University of Lagos Press 2020) 201.
[117] R Aiyetan, 'Modernising Nigeria's Maritime Liability Regime' (2023) 4 *African Maritime Law Review* 102, 110.
[118] Admiralty Jurisdiction Act 1991.
[119] ibid, s 1(1).
[120] (1981) 5 SC 81.
[121] *American International Insurance Co Ltd v Ceekay Traders Ltd* (1981) 5 SC 81.
[122] T Adesina, 'Reforming Maritime Safety and Ship Management in Nigeria' (2022) 8 *African Journal of Transport Law* 19, 25.
[123] (2010) 19 NWLR (Pt 1226) 1 (CA).
[124] *Panalpina World Transport (Nig) Ltd v J.B. Oladeen International Ltd* (2010) 19 NWLR (Pt 1226) 1 (CA).

National Assembly pursuant to Section 12 of the Constitution.[125] Nonetheless, Nigerian courts occasionally invoke international conventions persuasively, especially where domestic law is silent or ambiguous.[126] For example, in *Nigerian National Shipping Line Ltd v Allied Trading Co Ltd*,[127] the Supreme Court referenced the Hague-Visby Rules in interpreting the standard of carrier care, even though those Rules were not domesticated.[128] Similarly, in *Karo v The MV 'Atlantic Star'*,[129] the Federal High Court relied on principles of the MARPOL Convention and the SOLAS Convention to determine liability for environmental pollution arising from cargo spillage.[130] These cases reflect a pragmatic judicial trend towards aligning domestic maritime decisions with international norms, even within Nigeria's dualist framework.[131]

Critical Appraisal: While judicial decisions have progressively contributed to the evolution of Nigerian maritime law, the courts remain hindered by systemic inefficiencies, outdated precedents, and limited exposure to evolving international conventions.[132] The reliance on English case law, though useful, often fails to capture Nigeria's unique maritime realities, such as weak enforcement, infrastructural deficits, and indigenous shipping challenges.[133] There is a compelling case for judicial capacity-building in admiralty and carriage law, alongside legislative reforms to expand the Federal High Court's specialised maritime divisions.[134] A more harmonised approach between judicial reasoning and international maritime instruments would enhance predictability and promote investor confidence in Nigeria's shipping sector.[135]

8. Challenges in the Current Legal Regime for Carriage of Cargo and Passengers by Sea in Nigeria

Despite Nigeria's extensive body of maritime legislation, the effectiveness of its legal regime remains limited by persistent structural, institutional, and enforcement challenges. These challenges not only undermine the efficiency of maritime operations but also impede Nigeria's capacity to meet international obligations.[136] This section analyses the major legal and operational bottlenecks affecting maritime carriage in Nigeria, focusing on outdated legislation, weak enforcement mechanisms, jurisdictional conflicts, limited institutional capacity, and inadequate domestication of international conventions.

Outdated Legislation and Fragmented Legal Framework: A primary weakness of the Nigerian maritime regime is its reliance on outdated laws that have not kept pace with global developments in shipping and trade. The Carriage of Goods by Sea Act (COGSA), which incorporates the Hague Rules, remains the central statute on cargo liability.[137] However, these Rules have been superseded internationally by the Hague-Visby Rules, the Hamburg Rules, and the Rotterdam Rules, all of which provide for modern issues such as electronic documentation, multimodal transport, and delay in

[125] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12(1).
[126] A Olowu, 'Legal and Institutional Framework for Maritime Carriage in Nigeria' (2022) 6 Nigerian Journal of Maritime Law 17, 26.
[127] (1990) 6 NWLR (Pt 154) 643 (SC).
[128] *Nigerian National Shipping Line Ltd v Allied Trading Co Ltd* (1990) 6 NWLR (Pt 154) 643 (SC).
[129] *Karo v The MV "Atlantic Star"* (2018) unreported.
[130] *Karo v The MV "Atlantic Star"* (Federal High Court, Lagos, 2018, unreported).
[131] R Aiyetan, 'The Role of International Conventions in Nigerian Maritime Jurisprudence' (2024) 5 *Journal of Maritime and Aviation Law* 77, 80.
[132] J Ilegbune, *The Nigerian Law of the Sea* (Malthouse Press 2019) 92.
[133] O Bamidele, 'Cabotage and Indigenous Shipping Development in Nigeria' (2023) 2 *Journal of Maritime Policy and Administration* 44, 50.
[134] O Ogunyemi, 'Judicial Reforms and Admiralty Practice in Nigeria' (2022) 8 *Nigerian Law Review* 33, 37.
[135] Nigerian Maritime Administration and Safety Agency (NIMASA), *Annual Maritime Industry Report 2024* (NIMASA 2024) 28.
[136] J Ilegbune, *The Nigerian Law of the Sea* (Malthouse Press 2019) 101.
[137] *Carriage of Goods by Sea Act* Cap C2 Laws of the Federation of Nigeria 2004, s 1.

delivery.[138] Nigeria's continued adherence to the Hague Rules means that carriers enjoy significant exemptions from liability, leaving cargo interests inadequately protected.[139] In contrast, jurisdictions such as the United Kingdom, Canada, and Singapore have updated their laws to reflect the Hague-Visby or Hamburg regimes, ensuring a fairer balance of responsibility between shipowners and cargo owners.[140] This legislative inertia undermines Nigeria's competitiveness in global shipping and discourages investment in its maritime trade. Furthermore, maritime legislation in Nigeria is fragmented across multiple Acts such as the Merchant Shipping Act, NIMASA Act, and Cabotage Act with overlapping provisions and administrative mandates.[141] This fragmentation breeds uncertainty and inefficiency, often leading to jurisdictional disputes between agencies and inconsistent policy implementation.[142] As Ogunyemi notes, the result is 'a patchwork of maritime laws whose incoherence compromises enforcement and policy coherence.'[143]

Weak Enforcement and Regulatory Capacity: Enforcement remains the Achilles heel of Nigeria's maritime governance.[144] Although NIMASA is empowered under Sections 22-23 of its Act to implement international maritime conventions and enforce safety regulations, it often lacks the technical and logistical capacity to effectively discharge these duties.[145] Deficiencies in vessel inspection, flag state control, and port state control have led to Nigeria's reputation as a flag of convenience in some international shipping circles.[146] The enforcement challenges are exacerbated by corruption, poor inter-agency coordination, and bureaucratic delays.[147] For example, the Cabotage Act designed to promote indigenous participation in domestic shipping has been undermined by indiscriminate issuance of waivers to foreign vessels, effectively neutralising its indigenisation objectives.[148] A 2023 NIMASA audit revealed that more than 60 per cent of cabotage waivers granted were issued without rigorous compliance checks.[149] Additionally, maritime security enforcement has been hampered by piracy and oil theft in the Gulf of Guinea.[150] While Nigeria launched the Deep Blue Project in 2021 to address maritime insecurity through inter-agency collaboration, enforcement remains inconsistent, particularly in littoral states where illegal bunkering and hijacking persist.[151]

Limited Domestication of International Conventions: Although Nigeria has ratified major international maritime conventions including SOLAS, MARPOL, and UNCLOS, most remain unincorporated into domestic law due to Nigeria's dualist legal system.[152] This creates a situation where Nigeria is bound internationally but unable to enforce these obligations domestically.[153] For instance, while the Merchant Shipping Act partially aligns with the Athens Convention on passenger liability, the absence of full

[138] R Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88, 91.
[139] B Onabanjo, 'Carrier Liability under the Hague Rules: A Nigerian Perspective' (2022) 7 *Nigerian Journal of Commercial Law* 55, 60.
[140] D Akinbami, *Modern Nigerian Maritime Law and Practice* (University of Lagos Press 2020) 142.
[141] *Merchant Shipping Act* 2007; *NIMASA Act* 2007; *Cabotage Act* 2003.
[142] A Olowu, 'Legal and Institutional Framework for Maritime Carriage in Nigeria' (2022) 6 *Nigerian Journal of Maritime Law* 17, 25.
[143] O Ogunyemi, 'Revisiting Nigeria's Maritime Legislative Regime' (2021) 9 *Nigerian Law Review* 45, 53.
[144] S Adetunji, 'Institutional Overlaps and Regulatory Inefficiencies in Nigeria's Maritime Sector' (2024) 12 *Journal of African Maritime Studies* 33, 35.
[145] *NIMASA Act* 2007, ss 22–23.
[146] Nigerian Maritime Administration and Safety Agency (NIMASA), *Flag State Implementation Report 2023* (NIMASA 2023) 12.
[147] O Bamidele, 'Cabotage and Indigenous Shipping Development in Nigeria' (2023) 2 *Journal of Maritime Policy and Administration* 44, 47.
[148] *Cabotage Act* 2003, s 9.
[149] NIMASA, *Annual Maritime Industry Report 2023* (NIMASA 2023) 23.
[150] International Maritime Bureau (IMB), *Piracy and Armed Robbery Report Q4 2024* (IMB 2024) 18.
[151] Nigerian Navy, *Deep Blue Project Progress Review 2024* (Navy HQ 2024) 8.
[152] Constitution of the Federal Republic of Nigeria 1999 (as amended), s 12(1).
[153] R Aiyetan, 'The Role of International Conventions in Nigerian Maritime Jurisprudence' (2024) 5 *Journal of Maritime and Aviation Law* 77, 79.

domestication limits its legal applicability.[154] Similarly, the LLMC principles on limitation of liability for maritime claims are only selectively incorporated, leading to uncertainty in court decisions on liability caps.[155] The lack of domestication also weakens Nigeria's capacity to comply with global environmental standards, such as those under MARPOL, which regulate pollution from ships.[156] The International Maritime Organisation (IMO) has repeatedly urged Nigeria to harmonise its national laws with ratified conventions to enhance compliance monitoring and enforcement effectiveness.[157]

Institutional Overlaps and Jurisdictional Conflicts: The multiplicity of maritime institutions with overlapping functions has created significant regulatory inefficiency.[158] Agencies such as NIMASA, the Nigerian Ports Authority (NPA), and the Nigerian Shippers' Council (NSC) often perform similar or competing roles in port administration, safety regulation, and trade facilitation.[159] For example, both NIMASA and the NPA claim overlapping authority in port state control and ship inspection, leading to duplication of efforts and inter-agency friction.[160] In 2022, a dispute arose between the two agencies over responsibility for implementing International Ship and Port Facility Security (ISPS) Code provisions, resulting in regulatory delays and confusion among shipping operators.[161] These institutional conflicts undermine regulatory coherence and weaken Nigeria's maritime governance.[162] As Sunday Adetunji observes, 'Nigeria's maritime sector suffers not from a lack of regulation but from an overabundance of uncoordinated regulators.'[163] The absence of a centralised maritime coordination mechanism or a unified maritime policy framework continues to frustrate the realisation of a robust maritime legal order.[164]

Judicial and Procedural Inefficiencies: Maritime litigation in Nigeria faces considerable procedural hurdles, including delays, limited expertise, and inconsistent interpretation of maritime law.[165] The Federal High Court, which exercises exclusive admiralty jurisdiction, is burdened with a wide variety of non-maritime cases, resulting in congested dockets and prolonged case durations.[166] Many judges lack specialised training in admiralty and international maritime conventions, leading to inconsistent jurisprudence.[167] Moreover, procedural rigidity such as strict evidentiary rules and limited use of maritime arbitration undermines efficient dispute resolution.[168] Although the Arbitration and Mediation Act[169] now provides for maritime arbitration, practical uptake remains low due to limited awareness and institutional support.[170]

Financial and Infrastructural Constraints: Financial constraints also hinder effective implementation of maritime laws. The Cabotage Vessel Financing Fund (CVFF), established to support indigenous shipowners, has been inadequately managed, with disbursement delays and unclear eligibility criteria.[171] As of 2025, only a handful of indigenous operators have accessed the fund.[172] Infrastructural

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[154] Merchant Shipping Act 2007, Part IX.
[155] T Adesina, 'Reforming Maritime Safety and Ship Management in Nigeria' (2022) 8 African Journal of Transport Law 19, 22.
[156] International Maritime Organisation (IMO), *Status of MARPOL Implementation* (updated 2025).
[157] ibid.
[158] S Adetunji (n 134) 38.
[159] Nigerian Ports Authority (NPA), *Port Operations Report 2023* (NPA 2023) 14.
[160] ibid, 16.
[161] Nigerian Maritime Administration and Safety Agency (NIMASA), *ISPS Compliance Review 2022* (NIMASA 2022) 9.
[162] O Ogunyemi (n 133) 55.
[163] S Adetunji (n 134) 39.
[164] D Akinbami (n 130) 149.
[165] A Olowu (n 96) 28.
[166] Admiralty Jurisdiction Act 1991, s 1(1).
[167] O Ogunyemi (n 97) 58.
[168] Nigerian Shippers' Council (NSC), *Maritime Arbitration and Dispute Resolution Report* (NSC 2023) 17.
[169] Arbitration and Mediation Act 2023.
[170] Arbitration and Mediation Act 2023, ss 54–57.
[171] Cabotage Act 2003, s 44.
[172] NIMASA, *Maritime Financing and Cabotage Review* (NIMASA 2025) 13.

deficits further compound these issues. Nigeria's ports suffer from congestion, inadequate dredging, poor hinterland connectivity, and obsolete cargo-handling equipment.[173] These shortcomings raise shipping costs and deter foreign carriers.[174] The inefficiencies also contribute to demurrage disputes and contractual breaches in carriage transactions, exposing shippers and carriers to avoidable losses.[175]

Corruption and Compliance Gaps: Corruption within regulatory and enforcement agencies continues to erode the integrity of Nigeria's maritime governance.[176] Reports from Transparency International and the Nigerian Maritime Anti-Corruption Network (MACN) reveal that illegal payments and procedural bottlenecks at Nigerian ports add an estimated $150 million annually to shipping costs.[177] Corruption also distorts the enforcement of cabotage waivers, safety certification, and vessel registration.[178] A 2024 MACN report found that over 30 per cent of ship inspection certificates were issued without proper verification, undermining safety and environmental compliance.[179] Such practices discredit Nigeria's reputation within the global maritime community and deter foreign investment.[180]

9. Comparative Analysis with Some Other Jurisdictions

A comparative assessment of Nigeria's maritime carriage regime is indispensable for identifying legislative and institutional reforms capable of aligning it with international best practices.[181] This section examines maritime carriage frameworks in the United Kingdom, Singapore, and South Africa, three jurisdictions with robust maritime traditions and effective regulatory systems. It highlights key lessons that Nigeria can adopt in updating its carriage laws, strengthening enforcement, and harmonising domestic legislation with global standards.[182]

United Kingdom's Model of Legislative Modernisation: The United Kingdom's maritime law has long influenced Nigerian maritime jurisprudence due to shared common law heritage.[183] The UK has progressively modernised its legal framework for carriage of goods and passengers by sea through the Carriage of Goods by Sea Act, which gives effect to the Hague-Visby Rules, and the Carriage of Goods by Sea Act, which modernised the law relating to bills of lading and sea waybills.[184] Unlike Nigeria, the UK's 1971 Act replaced the outdated Hague Rules with the Hague-Visby Rules, thereby introducing more balanced provisions on carrier liability, limitation of damages, and documentation.[185] For instance, Article IV Rule 5 of the Hague-Visby Rules increased the limitation of liability per package and clarified carrier responsibility for deck cargo and delay.[186] Judicial interpretation has further reinforced the modernisation trend. In *The Starsin*,[187] the House of Lords reaffirmed that contractual terms in bills of lading should reflect commercial reality rather than rigid formalism, ensuring that liability is allocated fairly between carriers and shippers.[188] Similarly, the Merchant Shipping Act consolidated multiple maritime statutes, covering ship safety, pollution control, and crew welfare under a unified legal framework.[189] Moreover, the UK's regulatory environment anchored by the Maritime and Coastguard Agency (MCA) ensures effective enforcement of international conventions such as SOLAS

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[173] Nigerian Ports Authority (NPA), *Port Infrastructure Audit Report 2024* (NPA 2024) 21.
[174] ibid, 23.
[175] Nigerian Shippers' Council (n 158) 18.
[176] Transparency International, *Corruption Perceptions Index 2024* (TI 2024) 32.
[177] Maritime Anti-Corruption Network (MACN), *Nigeria Port Corruption Assessment 2024* (MACN 2024) 14.
[178] ibid, 16.
[179] ibid, 18.
[180] Transparency International (n 129) 35.
[181] J Ilegbune, *The Nigerian Law of the Sea* (Malthouse Press 2019) 119.
[182] D Akinbami, *Modern Nigerian Maritime Law and Practice* (University of Lagos Press 2020) 155.
[183] R Aiyetan, 'Nigeria and the Rotterdam Rules: The Case for Modernisation' (2023) 3 *African Journal of Maritime Policy* 88, 93.
[184] *Carriage of Goods by Sea Act* 1971 (UK); *Carriage of Goods by Sea Act* 1992 (UK).
[185] R Williams, *Maritime Law* (Sweet & Maxwell 2022) 72.
[186] Hague-Visby Rules 1968, art IV r 5.
[187] [2004] 1 AC 715.
[188] *The Starsin* [2004] 1 AC 715 (HL).
[189] *Merchant Shipping Act* 1995 (UK).

and MARPOL.[190] This coherent alignment of domestic legislation with international norms offers a practical model for Nigeria, where enforcement remains fragmented and statutory provisions outdated.[191]

Singapore's Integration of Law, Policy, and Administration: Singapore provides a benchmark for maritime governance in developing economies.[192] Through the Merchant Shipping Act, the Maritime and Port Authority of Singapore Act, and related regulations, Singapore has achieved an integrated, innovation-driven maritime legal regime.[193] Singapore's Maritime and Port Authority (MPA) combines regulatory, developmental, and promotional functions under a single institutional framework thereby avoiding the jurisdictional conflicts common in Nigeria.[194] The MPA's approach ensures unified policy implementation covering port management, shipping safety, crew certification, and maritime environmental protection.[195] In terms of carriage of goods, Singapore applies the Hague-Visby Rules, supplemented by the Hamburg Rules principles where applicable, providing flexibility and balance between carrier and cargo interests.[196] Courts in Singapore have also demonstrated commercial pragmatism. In *The 'Vasiliy Golovnin'*,[197] the Singapore Court of Appeal emphasised efficiency and good faith in resolving maritime disputes, reflecting the judiciary's understanding of the commercial realities of global shipping.[198] Singapore's legal and institutional integration is complemented by its robust maritime dispute resolution framework, centred around the Singapore Chamber of Maritime Arbitration (SCMA) and the Singapore International Commercial Court (SICC).[199] These bodies have helped transform Singapore into a global maritime arbitration hub.[200] For Nigeria, Singapore's experience demonstrates the benefits of institutional consolidation, specialised adjudication, and strategic policy continuity.[201] By contrast, Nigeria's multiplicity of maritime agencies and fragmented legal regime hinder efficiency, policy coherence, and enforcement capability.[202]

South Africa: Regional Leadership in Maritime Law Reform: South Africa offers a valuable comparative model within the African continent, having undertaken significant maritime law reform in recent decades.[203] Its maritime legal framework is primarily governed by the Carriage of Goods by Sea Act, which domesticated the Hague-Visby Rules, and the Merchant Shipping Act.[204] South Africa's Act explicitly repealed earlier legislation based on the Hague Rules, ensuring compliance with contemporary international standards.[205] Additionally, South Africa has successfully integrated international conventions such as SOLAS, MARPOL, and UNCLOS into domestic law, reflecting a proactive dualist approach.[206] Institutionally, the South African Maritime Safety Authority (SAMSA) established under the South African Maritime Safety Authority Act serves as both regulator and promoter of maritime safety and environmental protection.[207] SAMSA's centralised structure enhances

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[190] Maritime and Coastguard Agency (MCA), *Annual Report 2023* (MCA 2023) 11.
[191] O Ogunyemi, 'Revisiting Nigeria's Maritime Legislative Regime' (2021) 9 *Nigerian Law Review* 45, 57.
[192] T Adesina, 'Reforming Maritime Safety and Ship Management in Nigeria' (2022) 8 *African Journal of Transport Law* 19, 27.
[193] *Merchant Shipping Act* (Chapter 179, Singapore); *Maritime and Port Authority of Singapore Act* 1996.
[194] Maritime and Port Authority of Singapore (MPA), *Annual Report 2024* (MPA 2024) 9.
[195] ibid, 12.
[196] Chong Kah Wah, *Shipping Law in Singapore* (LexisNexis 2021) 105.
[197] [2008] 4 SLR 994.
[198] *The 'Vasiliy Golovnin'* [2008] 4 SLR 994 (CA, Singapore).
[199] Singapore Chamber of Maritime Arbitration (SCMA), *Arbitration Rules 2022* (SCMA 2022) preamble.
[200] Singapore International Commercial Court (SICC), *Maritime Case Digest 2024* (SICC 2024) 4.
[201] T Adesina (n 149) 30.
[202] S Adetunji, 'Institutional Overlaps and Regulatory Inefficiencies in Nigeria's Maritime Sector' (2024) 12 Journal of African Maritime Studies 33, 40.
[203] A Olowu, 'Legal and Institutional Framework for Maritime Carriage in Nigeria' (2022) 6 Nigerian Journal of Maritime Law 17, 30.
[204] *Carriage of Goods by Sea Act* 1986 (South Africa); *Merchant Shipping Act* 1951 (as amended, South Africa).
[205] ibid.
[206] South African Maritime Safety Authority (SAMSA), *Annual Report 2024* (SAMSA 2024) 13.
[207] South African Maritime Safety Authority Act 1998.

coordination and reduces overlap among maritime bodies.[208] Judicially, South African courts have shown readiness to interpret domestic law in line with international standards. In *Transnet Ltd v The Owners of the MV Snow Crystal*,[209] the Supreme Court of Appeal underscored the importance of consistency with global maritime conventions in determining carrier liability and jurisdiction.[210] Nigeria can draw significant lessons from South Africa's proactive legislative reform, centralised maritime administration, and judicial modernisation.[211] These features have collectively enhanced South Africa's maritime competitiveness and compliance with international obligations, positioning it as a regional maritime leader.[212]

Comparative Lessons for Nigeria

From the comparative perspectives examined, several critical lessons emerge for Nigeria:

Legislative Modernisation: Nigeria must replace its outdated Carriage of Goods by Sea Act *(COGSA)* with a statute based on the Hague-Visby or Rotterdam Rules, as the UK and South Africa have done.[213] This will ensure fairness in liability allocation and conformity with international trade practices.

Institutional Integration: The consolidation of maritime regulatory functions under a single agency akin to Singapore's MPA or South Africa's SAMSA would eliminate duplication and enhance operational efficiency.[214]

Judicial Specialisation: The creation of specialised maritime divisions within the Federal High Court, modelled on Singapore's SICC, would promote expertise and expedite maritime dispute resolution.[215]

Policy Coherence and Strategic Vision: Nigeria should establish a National Maritime Policy Council to coordinate maritime transport, trade, and blue economy initiatives, ensuring long-term strategic continuity.[216]

Effective Domestication of Conventions: As in South Africa, all ratified international conventions especially the Athens, MARPOL, and LLMC conventions should be promptly domesticated to bridge the gap between international obligations and local enforcement.[217]

10. Conclusion

Maritime law remains a fundamental pillar of Nigeria's trade and economic architecture. Given that over eighty per cent of Nigeria's international trade is conducted through seaborne transport, the effectiveness of its maritime legal and institutional framework has direct implications for national development, regional integration, and international competitiveness. This paper has demonstrated that while Nigeria possesses an extensive collection of maritime statutes and institutions, the current regime governing the carriage of cargo and passengers by sea remains largely ineffective, outdated, and poorly coordinated. The assessment revealed deep-seated challenges, including the persistence of antiquated legislation such as the Carriage of Goods by Sea Act (COGSA), weak enforcement mechanisms, institutional overlaps, and insufficient domestication of international conventions. These deficiencies have created a fragmented and inconsistent maritime governance structure that hinders operational efficiency, legal certainty, and investor confidence. Moreover, the lack of judicial specialisation and

[208] SAMSA (n 196) 15.
[209] [2007] ZASCA 34.
[210] *Transnet Ltd v The Owners of the MV Snow Crystal* [2007] ZASCA 34.
[211] R Aiyetan, 'The Role of International Conventions in Nigerian Maritime Jurisprudence' (2024) 5 *Journal of Maritime and Aviation Law* 77, 82.
[212] ibid, 83.
[213] D Akinbami (n 140) 163.
[214] Maritime and Port Authority of Singapore (MPA), *Strategic Maritime Plan 2023–2028* (MPA 2023) 6.
[215] Singapore International Commercial Court (SICC) (n 156) 6.
[216] Nigerian Maritime Administration and Safety Agency (NIMASA), *Blue Economy Policy Framework 2022* (NIMASA 2022) 8.
[217] International Maritime Organisation (IMO), *Status of Conventions* (updated 2025).

infrastructural inadequacies continues to delay maritime dispute resolution and impede the growth of indigenous shipping capacity.

Comparative analysis with jurisdictions such as the United Kingdom, Singapore, and South Africa shows that legislative modernisation, institutional integration, and adherence to international standards are central to maritime sector transformation. These countries have successfully built coherent legal regimes that support safe, secure, and efficient maritime operations. Nigeria, by contrast, remains constrained by policy inconsistency and administrative inefficiency, both of which limit its ability to harness its maritime potential fully.

The findings of this study make it clear that Nigeria's maritime future depends on decisive reform. The first step must be legislative renewal replacing COGSA with a modern legal framework aligned with the Hague-Visby, Hamburg, or Rotterdam Rules. Simultaneously, the creation of a unified maritime authority and the domestication of international conventions will ensure regulatory coherence and compliance with global standards. Strengthening judicial capacity, developing infrastructure, and enhancing transparency in maritime operations will further consolidate Nigeria's position as a maritime hub within the Gulf of Guinea.

Ultimately, achieving a modern, efficient, and sustainable maritime regime requires political will, institutional discipline, and strategic foresight. A comprehensive National Maritime Policy that integrates trade, security, environmental, and developmental objectives will provide the necessary blueprint for reform. If effectively implemented, these reforms will not only improve maritime safety and governance but also position Nigeria as a competitive maritime nation capable of driving economic diversification and supporting Africa's blue economy agenda.

11. Recommendations

In light of the above findings, several recommendations and areas for improvement are proposed to strengthen the Nigerian maritime legal and institutional framework. The recommendations set out below are aimed at repositioning Nigeria as a leading maritime nation in Africa through modern, efficient, and transparent governance. A holistic reform anchored on legislative modernisation, institutional efficiency, and adherence to international standards will ensure a safer, more competitive, and sustainable maritime industry capable of driving Nigeria's long-term economic transformation.

Legislative Reform and Modernisation: Nigeria should urgently review and replace the Carriage of Goods by Sea Act (COGSA) with a new legislation that reflects the provisions of either the Hague-Visby Rules, Hamburg Rules, or Rotterdam Rules. This would ensure a more equitable balance of responsibility between carriers and cargo owners, modernise documentation procedures (including electronic bills of lading), and align Nigeria's liability regime with global standards. Similarly, the Merchant Shipping Act 2007 should be amended to incorporate updated international conventions relating to passenger carriage, maritime safety, and pollution control.

Institutional Restructuring and Coordination: There is a pressing need to streamline the functions of maritime agencies such as NIMASA, NPA, and NSC under a unified institutional framework. A National Maritime Authority should be established to harmonise maritime regulation, safety administration, and trade facilitation. This would eliminate jurisdictional conflicts and improve operational efficiency. Inter-agency collaboration should also be strengthened through a formal coordination mechanism overseen by the Federal Ministry of Marine and Blue Economy.

Effective Domestication of International Conventions: Nigeria must domesticate all ratified maritime conventions, including the MARPOL, SOLAS, and Athens conventions, to ensure local enforceability. The domestication process should be prioritised by the National Assembly through fast-track legislative procedures, ensuring that Nigeria's maritime obligations are fully incorporated into domestic law.

Judicial Capacity Building and Specialisation: To address the delays and inconsistencies in maritime adjudication, specialised Maritime Divisions of the Federal High Court should be created, particularly

in Lagos, Port Harcourt, and Calabar. Judges and practitioners should receive regular training in admiralty and international maritime law to enhance expertise. In addition, greater use of maritime arbitration should be encouraged under the Arbitration and Mediation Act 2023, supported by institutional partnerships with maritime arbitration bodies.

Strengthening Enforcement and Anti-Corruption Mechanisms: Anti-corruption measures must be strengthened within port and maritime regulatory operations. A transparent compliance monitoring system should be established, supported by digital platforms for ship registration, certification, and waiver issuance. Independent audit committees should be mandated to review NIMASA's and NPA's operational activities annually to ensure accountability.

Promoting Indigenous Participation and Cabotage Reform: The Cabotage Act 2003 should be comprehensively reviewed by the legislators to ensure stricter control over the issuance of waivers and to incentivise genuine indigenous ownership and operation of vessels. Indigenous shipping companies should be supported through tax incentives, low-interest financing, and access to maritime insurance facilities.

Environmental Protection and Maritime Security: Given the rising environmental and security challenges in the Gulf of Guinea, Nigeria should integrate environmental sustainability and maritime security into its national maritime strategy. Strengthening the Deep Blue Project, improving coast guard capacity, and enforcing anti-pollution standards will promote safe and sustainable maritime operations.