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MARITIME AND ADMIRALTY PRACTICE IN NIGERIA AND UNITED STATES OF AMERICA: A COMPARISON

Prince Pius Imiera

Abstract

The sea is a vital channel or a means by which businesses and commerce are traded and conducted. In addition, the sea is the conduit pipe of voyage, and a valuable source for mineral exploration. Power is generated from the sea and the sea has served as important source of the blue economy. The sea is one of the natural resources nature had blessed Nigeria with. Nigeria, as a riverine nation is domiciled strategically on the west coast of the African continent. It is believed that Nigeria has a very robust maritime law to control and protect her oceanic activities, regardless of the several changes that have taken place in the maritime sector. Similarly, the maritime law of the United States has grown and changed under the new American maritime activity. America, like Nigeria is also endowed with navigable waters through which it carries out its commercial activities on the sea. Both countries had exercised jurisdiction over matters relating to admiralty issues. In this regard, admiralty jurisdiction is concerned with the authority a nation has to entertain and determine some types of cases from actions that occurred on the high seas or other navigable waters. Maritime law cases can arise in respect of civil wrongs, torts or criminal offences. In this aspect of law, jurisdiction may be extended to contractual disputes that arise as a result of maritime law, such contracts included but are not limited to the payment of wages to seaworkers or seamen, movement of persons or cargo from one sea of lading or departure to another sea of berthing, maritime liens and other maritime claims.The problems the research addressed is how are the maritime industries faring in both Nigeria and America, are the laws in the maritime sectors well implemented in both jurisdictions? The research found out that maritime laws needs to be improved upon in the Nigeria and America. The study adopted the doctrinal legal research method by consulting primary and secondary sources of law based on academic textbooks, and peer reviewed journals in maritime area, and made some recommendations at the end of the paper.

Keywords: Maritime, admiralty, claims, Nigeria, USA, jurisdiction, laws, UNCLOS, etc.

Prince Pius Imiera, Ph. D, University of Pretoria, South Africa, LL. B, LL.M, University of Lagos, BL Nigerian Law School, BA, MA, Philosophy, Unilag; Email address: pius4me1964@gmail.com. AFE BABALOLA UNIVERSITY, ADOEKITI STATE, Faculty of law.
Telephone numbers: +2347030420038, +2348055316860, WhatsApp number:
+27786460747

Introduction

Maritime law is used interchangeably with admiralty law and shipping law and it is about the oldest fields in maritime jurisprudence.[12]Maritime law practice is traceable to the Code of Hammurabi.[3] Maritime law has advanced carriage of goods by waterways;[3]and has also developed in connection with and in support of maritime trade.[4]As far back as the twentieth century and post first and the Second World Wars,[5] maritime law has promoted sea trade,[6]it has set standards for the safety of cargo and vessel,[7]it has helped to secure and protect marine environment from hazardous shipping activity.[8] In regard to the foregoing feats achieved in maritime activities, the efforts of the International Maritime Organization [IMO],[9]a United Nations agency and the Comité Maritime International [CMI][10] a non-governmental international professional body, have in no small measure promoted the globalization and uniform use of maritime law. In fact, some achievements have been recorded in a few areas where uniformity has been applied.

Admiralty law is a dynamic field of human endeavor motivated by commercial and technological forces,[11] safety, environmental considerations and more recently security concerns due to international terrorists' attacks.[4] Although the paper pays particular attention

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[1] A. Chircop, 'Maritime Law and Practice' (2018) *Marine & Environmental Law Institute*

[2] Translator King, 'Hammurabi's Code of Laws' (circa 1780 B.C.) sections 235-237: If a shipbuilder builds a boat for someone, and do not make it tight, if during that same year that boat is sent away and suffers injury, the shipbuilder shall take the boat apart and put it together tight at his own expense. The tight boat he shall give to the boat owner. If a man rent his boat to a sailor, and the sailor is careless, and the boat is wrecked or goes aground, the sailor shall give the owner of the boat another boat as compensation. If a man hires a sailor and his boat, and provide it with corn, clothing, oil and dates, and other things of the kind needed for fitting it: if the sailor is careless, the boat is wrecked, and its contents ruined, then the sailor shall compensate for the boat which was wrecked and all in it that he ruined.

[3]E. Mbiah, 'Carriage of Goods by Water Law' A Maritime Legislation Drafting Project Submitted in Partial Fulfilment of The Requirements for The Award of The Degree of Master of Laws, (1991) International Maritime Law Institute Malta 14.

[4] B. Anthony Thekkenath, 'Emerging Significance and Challenges of Maritime Industry' (2022)
(13) (4) 'Journal of Research & Development 93-96.

[5] Annette Becker, 'The Great War: World war, total war' (2015) (97) (900) International Review of the Red Cross 1029–1045.

[6] R. Gidwani,'Impact of maritime trade on the Sierra Leonean economy' (2022) World Maritime
University the Maritime Commons: Digital Repository of the World Maritime University 1. 7
Melnyk, Onyshchenko, Onishchenko, Lohinov, Ocheretna and Dovidenko, 'Basic aspects ensuring shipping safety' (2002) (117) Scientific Journal of Silesian University of Technology 139-149.

[8] TheintNandarHtet, 'Protection of Marine Environment under the Law of the Sea' (2017) i. 9 Allen and E. Sohm, 'International Maritime Organization' (1984) 5.

[10] Frawley, 'A brief history' The CMI and its Relationship with IMO, the IOPC Funds and other UN Organizations. The Comité Maritime International ("CMI") is the oldest organization in the world that is exclusively concerned with the unification of maritime law and related commercial practices.

[11] M.R.Grech, Tim John Horberry and Thomas Koester, 'Human Factors in the Maritime Domain' (2019) Taylor & Francis Group xi.

[12] National Strategy for Maritime Security, 'Maritime Transportation System Security Recommendations for The National Strategy for Maritime Security' (2005) II.

to Nigerian and American law and practice in maritime matters, the scope and nature of navigable shipping activities give the paper an international commercial flavour; as a result, there may be need for comparisons outside of the two major jurisdictions under consideration.

The laws regulating admiralty and Maritime law in Nigeria

The Nigerian maritime law contains the corpus of laws which make up the legal rules, the principles and other instruments concerned with the business of transportation of goods, passengers, logistics, equipment by water, use of marine resources, commerce, and navigation.[5]

The Constitution of the Federal Republic of Nigeria 1999 (CFRN):
The principal law regulating admiralty business in Nigeria is the Constitution of the Federal Republic of Nigeria 1999 (CFRN).The Constitution conferred exclusive jurisdiction on the Federal High Court (FHC) to hear and determine admiralty issues or cases whether civil or criminal in Nigeria.[6]

Admiralty Jurisdiction Act of 1991: Also, the Admiralty Jurisdiction Act of 1991(AJA) is another instrument regulating maritime matters in Nigeria. The Act provides for the extent of the jurisdiction of the FHC in admiralty cases; it gives the FHC wide jurisdiction covering several issues.[15]

The Merchant Shipping Act 2007: The Merchant Shipping Act (MSA),[7] is the law for merchant shipping and other related matters in Nigeria. The MSA ensures that the government agency established and responsible for maritime safety, administration and security shall be the implementing agency.[8]The MSA ensures that all ships trading in Nigeria needs to obtain a Certificate of
License and registration.[9]The Act further empowers the Minister

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Section 1 AJA 1991, 'Jurisdiction to hear and determine any question relating to the property interest in a ship or aircraft or any maritime claim; Any other admiralty jurisdiction being

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[13] S. Dike and P. Godwin Gininwa, 'An Appraisal of The Nigerian Legislation And Institutions Governing Maritime Environment' (2019) (3) (3) African Journal Of International Energy And Environmental Law 173.

[13] Section 251(1)(g) Notwithstanding anything to the contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters - any admiralty jurisdiction, including shipping and navigation on the River Niger or River Benue and their affluent and on such other inland waterway as may be designated by any enactment to be an international waterway, all Federal ports, (including the constitution and powers of the ports authorities for Federal ports) and carriage by sea.

[14] MSA 2007.

[15] MSA 2007 Section 2.

[16] Section 5 of the Act provides that "no ship shall operate commercially in or from the waters of Nigeria unless the ship is; a registered Nigerian ship, provided with a certificate of foreign registration or other documents similar or equivalent to the required by the Act, registered by the law of the country other than Nigeria as a ship of

exercised by any other court in Nigeria immediately before the commencement of this Act; Any jurisdiction connected with ship or aircraft which is vested in any other court in Nigeria immediately before the commencement of this Act; Any action or application relating to any cause or matter by any ship owner or aircraft operator or any other person under the Merchant Shipping Act or any other enactment relating to a ship or an aircraft for the limitation of the amount of his liability in connection with the shipping or operation of aircraft or other property; Any claim for liability incurred for oil pollution damage; Any matter arising from shipping and navigation on any inland waters declared as national waterways; Any matter arising within a Federal port or national airport and its precincts, including claims for loss or damage to goods occurring between the off-loading of goods across space from a ship or an aircraft and their delivery at the consignees' premises, or during storage or transportation before delivery to the consignee; Any banking or letter of credit transaction involving the importation or exportation of goods to and from Nigeria in a ship or an aircraft, whether the importation is carried out or not and notwithstanding that the transaction is between a bank and its customer; Any cause or matter arising from the constitution and powers of all ports authorities, airport authority, and the National Maritime Authority; Any criminal cause or matter arising out of or concerned with any of the matters in respect of which jurisdiction is conferred.' to exempt a licensed Nigerian ship or a class of Nigerian ship by notice from registration when operating outside the waters of Nigeria.[19]

Additionally, the MSA regulates collisions of ships in Nigeria; accordingly, the Act provides for the liability in collision cases.[20]In respect to the division of loss in collision cases, the Act provides inter alia that:[21]

> Where the fault of two or more ships, damage or loss is caused to one or more of them, or to their cargo or freight or to any property, the liability to make good the damage or loss shall be in proportion to the degree in which each ship was at fault.

As a result of what has been said, the Act further provides for the limitation of actions for claims in maritime matters in Nigeria:[22] No action shall be maintainable to enforce any claim or lien against a ship or its owners in respect of any damage or loss to another ship, its cargo, freight, or any property on board or damages for loss of life or personal injury suffered by any person on board, caused by the fault of the former ship, whether such ship is wholly or partly in fault unless the proceedings in respect of the damages are commenced within two years from the date where the damage or loss or injury was caused or the salvage services was rendered.

that country and is by the law of that country exempted from registration, exempted from registration, and a licensed Nigerian ship operating solely within the waters of Nigeria.

[19] MSA 2007 Section 5(2).

[20] MSA 2007 Section 338-344.

[21] MSA 2007 Section 340(1).

[22] MSA 2007 Section 343 (1) (2).

The Nigerian Maritime Administration and Safety Agency Act 2007 (NIMASA) Act

The NIMASA in addition to other laws on maritime matters in Nigeria, controls maritimerelated cases in the country. The Act was established with a view to:[10]

1. Promoting maritime safety and security;
2. Protecting the maritime environment;
3. Provide shipping registration; and; 4. Commercial shipping and maritime labor.

The Act established the Agency (NIMASA) to oversee the execution of the Act.[11]The Agency is to promote the development of indigenous commercial shipping in the international and coastal shipping trade, the agency is also to regulate all ships registered in Nigeria, crafts flying a foreign flag in the exclusive economic zone, territorial and inland waterways, and in the ports of the Federal
Republic of Nigeria and other functions.[12]

The Coastal and Inland Shipping (Cabotage) Act No.5, 2003

The Cabotage Act (CA) was enacted principally:[13]

1. To restrict the use of foreign vessels in the domestic coastal trade;
2. To promote the development of indigenous tonnage;
3. To establish a reserve for the commercial transportation of goods and services within Nigerian coastal inland waters to vessels flying the Nigerian flag and owned by persons of Nigerian citizenship; and;
4. To ensure that indigenous shipping companies are protected from any form of incapacitation that would arise from the domination of carriage of cargo within the Nigerian waters by foreign vessels.

The CA further restricts vessels in domestic coastal trade for the purpose of reserving cabotage trade for Nigerian citizens only.[13]

The Admiralty Jurisdiction Procedure Rules (AJPR) 2023

The 2023 AJPR repealed the 2011 version ("AJPR 2011"). The 2023 brought into it many transformative changes with the aim of simplifying Nigeria's maritime and admiralty practice, it also removed some technicalities in Nigeria's maritime activity space, and makes quicker and faster the resolution of admiralty matters in the country. The AJPR 2023 heralds a new era

[23] Preamble to NIMASA 2007.

[24] NIMASA 2007 Section 3 (1) there is established the Nigerian Maritime Administration and Safety Agency.

[25] NIMASA 2007 Section 22 general functions.

[26] Preamble to the Cabotage Act No. 5, 2003.

[27] CA Section 3, 'which states that a vessel other than a vessel wholly owned and manned by a Nigerian citizen, built and registered in Nigeria shall not engage in the domestic coastal carriage, or cargo and passengers within the coastal, territorial, inland waters, island and any point within the waters of the Exclusive Economic Zone of Nigeria.'

for admiralty practice in Nigeria as it provided for a faster, more effective, and well-structured legal framework.[14]

The AJP Rule 2023 established the Admiralty Divisions within the FHC to:[15]

1. Empower designated admiralty judges to hear admiralty cases;
2. Reduce the technicalities in Nigeria's maritime practice (especially as it relates to parties and service of originating processes);
3. Promote international cooperation in maritime legal proceedings;
4. Demystify the somewhat blurry requirements of the law regarding filing caveats against the release of vessels;
5. Ensure efficient dispensation of admiralty matters with a view to boosting the development of Nigeria's maritime industry and improve the industry's outlook within the international space.

Finally, the various Nigerian maritime statutes contain provisions regulating maritime commercial and oceanic activities and trades in Nigeria, however, it is noted that the maritime laws enumerated above are not restricted to the ones examined. For instance, apart from the domestic maritime laws, there are international maritime laws applicable in Nigeria.[16]

The laws regulating admiralty and Maritime law in USA The Constitution of the United States of America

Like Nigeria, the United States of America's Constitution is the principal law regulating admiralty and maritime matters. The USA provides *inter alia that*:

> The judicial Power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States, and Treaties made, or which shall be made, under their Authority; to all Cases affecting Ambassadors, other public Ministers and Consuls; to all Cases of admiralty and maritime Jurisdiction; to Controversies to which the United States shall be a Party; to Controversies between two or more States; between a State and Citizens of another State, between Citizens of different States, between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects.[17]

[28] Abdulrazaq Owolabi Abdulkadir and Saheedat OwolabiLawa, 'Symphony and Maintenance of Seized Ships: Experimenting U.S Maritime Court's Practice in Nigeria' (2023) (17) (2) *Fiat Justisia:JurnalIlmu Hukum* 182.

[29] AJPR 2023 Order 2 Rules 1, 2, and 3.

[30] The United Nations Convention on the Law of the Sea effective in 1994 and The Hague- Visby Rules as amended by the Brussels Protocols 1968.

[31] Article III Section 2 Clause 1 of the USA Constitution.

Other laws or Acts regulating maritime matters in the USA include but not limited to the following: Shipping Act of 1984; Foreign Shipping Practices Act of 1988; Section 19 of the Merchant Marine Act, 1920; and the Public Law 89-777, Financial Responsibility for Death or Injury to Passenger and for Nonperformance of Voyage.

Court conferred with jurisdiction over admiralty claims in Nigeria The Federal High Court: Admiralty jurisdiction maintains a high level of importance in the Nigerian legal framework, this fact is supported with the robust significance accorded to it by the Nigerian government when it ensured that the country's maritime resources are exploited efficiently and sustainably, with a few to promoting foreign commerce and investment which ultimately benefits the economy landscape in the country.[18]To this end, the Federal High Court (FHC) in Nigeria is conferred with exclusive jurisdiction over admiralty matters.[19]

National Industrial Court jurisdiction over crew wages: Not too long ago, the exclusive admiralty jurisdiction vested in the Federal High Court has been invaded into by the National Industrial Court in respect of the adjudication of crew claims for wages and the inalienable *in rem* right of arrest of vessel by crew for unpaid

wages, a practice that is globally recognized in admiralty practice.[20] As a result, the NIC held that the decision of the Federal High Court for claims for wages of crew a claim for wages of crew fell outside the jurisdiction of the Federal High Court.[21]The NIC placed reliance on

Section 254(C) (a)(k) of the 1999 Constitution of Nigeria (as amended) to confer jurisdiction on the National Industrial Court in respect of matters pertaining to crew wages.[23]

In addition, the Court held further that:

> The National Industrial Court was invested with exclusive jurisdiction over employee wages and other labor related matters. It therefore held that the action of the Applicant being one founded on claims for unpaid crew wages was outside the jurisdictional competence of the Federal High Court. The Court further considered Section 2(3) (r) of the Admiralty Jurisdiction Act vis a vis Section 254C (a) & (k) of the 1999 Constitution of Nigeria (as amended) and held that the Section 2(3)(r) of AJA being at variance with the provision of the Constitution was void to the extent of its inconsistency.[22]

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[32] Atoyebi, 'An Analysis of Admiralty Jurisdiction in Nigeria II'<http://www.omplex.com.ngpunlication> accesses on 17 May 2024.

[33] Section 251(1)(g) of the 1999 CFRN as amended.

[34] C.Ilogu, 'Interrogating Admiralty Practice in Nigeria' (2017) *Foundation Chambers* 6.

[35] (Suit No. FHC/L/CS/1807/2017 – Assurance foreningenSkuld [GJENSIDIG] v. MT "Clover Pride" &Anor).

[36] Notwithstanding the provisions of section 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters:- a. Relating to or connected with any labor, employment, trade union, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labor. Relating to or

Courts vested with jurisdiction over admiralty claims in the USA The Supreme Court: The United States of America Constitution vests appellate powers in the Supreme Court to entertain cases concerning admiralty and maritime jurisdiction, particularly as it relates to cases involving the high seas or other navigable waters within the USA, shipping and other transactions on America's waters.[23]

2. The Federal Courts: In addition, the Federal Courts in the US are vested with powers on admiralty and maritime cases, the US established admiralty courts, from which appeals could be taken to a court of appeals set up by Congress under the Articles of Confederation.[24]The US federal courts hearing admiralty cases have exclusive jurisdiction over prize cases.[27]On top of this, admiralty and maritime jurisdiction of the Federal courts include power to seize and forfeit vessels engaged in activities in violation of the laws of America or municipal law, such as illicit trade,[25] infraction of revenue laws[26] and many other cases.[27]

Claims under maritime law practice in Nigeria and USA

In Nigeria, maritime claims may arise in connection to the ownership, possession, mortgage and the general operation of a

vessel.[28]Maritime claims are either proprietary or general in nature, the former are claims that directly affect the *res* or subject matter while the later are claims that do not directly affect the *res* or subject matter but arises out of the operation of the res or any agreement relating to or connected with the *res*.[29]

Under the Nigeria Maritime law and practice, proprietary claims relate to the following: the possession of a ship; a title to or ownership of a ship or of any share in a ship; a mortgage of a ship or of a share in a ship; a mortgage of a ship's freight; a claim between co-owners of a ship relating to the possession, ownership, operation or earning of a ship; a claim for the satisfaction or enforcement of a judgment given by the court or any court (including a court of foreign country) against a ship or other property in an admiralty proceeding *in rem;* a claim for interest

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connected with disputes arising from payment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee.

[37] R.Guolee, 'Admiralty and maritime law under the Constitution' (2022) *Legally reviewed* 1.

[38] Brandon Murrill,' Federal Admiralty and Maritime Jurisdiction' (2022) Congressional Research Service 1.

[39] Mask, Deirdre and MacMahon Paul, 'The revolutionary war prize cases and the origins of diversity jurisdiction' (2015) Buffalo Law Review, (63) (3) 477-547.

[40] B. Murrill, 'Federal Admiralty and Maritime Jurisdiction Part 4: Torts and Maritime Contracts or Services' (2022) Congression Research Service 2.

[41] Justia US Law, 'Cases of Admiralty and Maritime Jurisdiction' <https://www.law.justia.com › constitution › article-3 › 27-case...com>. accessed July 11 2024.

[42] The administrative office of the U.S. courts, 'The Federal Court System in the United States: an introduction for judges and judicial administrators in other countries' *2016+ 12.

[43] F. Atoyebi, 'Maritime Claims in Nigeria' (2023) Femi Atoyebi & co. 1.

[44] Section 2(1) of the Admiralty Jurisdiction Act of 1991.

in respect of a claim referred to in paragraphs (a), (b), or (c) of section 2(2).[30] On the other hand, the general maritime claims are set out in section 2(3) of the AJA.[31]

On the other hand, in the US admiralty practice, the maritime lien and the right in *rem*, that is, *jus in rem,* are identical because the right in *rem* is only available to enforce a maritime lien, and only against the identical ship, cargo and/or the freight money concerned.[48] In the US, a right in *rem* may be claimed against a vessel without regard for the presence or absence of the owner or agent; as a result, the equipment or vessel may be arrested in *rem* by the Marshal of the federal court even in the presence of the shipowner regardless of the fact the owner wants to in the lawsuit.[49]The United States admiralty courts are empowered to either increase or decrease the kinds of claims which are considered to have given rise to a maritime lien enforceable in *rem*; an instance of the extension of the maritime secret lien by jurisprudence was where:

> the court gave a cargo owner a lien on the ship for refund of freight money several months after the charges or dues; a claim in respect of a liability for port, harbor, canal or light tolls, charges or dues, or tolls, charges, or dues of any kind, in relation to a ship; a claim arising out of bottomry; a claim by a master, shipper, charterer, or agent in respect of disbursements on account of a ship; a claim for an insurance premium, or for a mutual insurance call, in relation to a ship, or goods or cargoes carried by a ship; a claim by a master, or a member of the crew, of a ship for- wages; or an amount that a person, as employer, is under an obligation to pay to a person as employee, whether the obligation arose out of the contract of employment or by operation of law, including by operation of the law of a foreign country; a claim for the forfeiture or condemnation of a ship or of goods which are being or have been carried, or have been attempted to be carried in a ship, or for the restoration of a ship or any such goods after seizure; a claim for the enforcement of or a claim arising out of an arbitral award (including a foreign award within the meaning of the Arbitration and Conciliation Act made in respect of a proprietary maritime claim or a claim referred to in any of the preceding paragraphs; a claim for the enforcement of or a claim arising out of an arbitral award (including a foreign award within the meaning of the Arbitration and Conciliation Act made in respect of a proprietary maritime claim or a claim referred to in any of the preceding paragraphs); a claim for interest in respect of a claim referred to in any of the paragraphs (i-xxi) of this subsection.

[30] Section 2(2) Of the Admiralty Jurisdiction Act 1991.

[31] A claim for damage done by a ship, whether by collision or otherwise; a claim for damage received by a ship; a claim for loss of life or for personal injury, sustained in consequence of a defect in a ship or in the apparel or equipment of a ship; subject to subsection (4) of this section, a claim, including a claim for loss of life or personal injury, arising out of an act or omission of the owner or charterer of a ship; a person in possession or control of a ship; a person for whose wrongful act or omission the owner, charterer or person in possession or control of the ship is liable; a claim for loss of or damage to goods carried by a ship; a claim out of an agreement relating to the carriage of goods or persons by a ship or to the use or hire of a ship, whether by charter-party or otherwise; a claim relating to salvage (including life salvage of cargo or wreck found on land) a claim in respect of general average; a claim in respect of pilotage of a ship; a claim in respect of towage of a ship or an aircraft when it is waterborne; a claim in respect of goods, materials, or services (including stevedoring and lighterage service) supplied or to be supplied to a ship for its operation or maintenance; a claim in respect of the construction of a ship (including such a claim relating to a vessel before it was launched); a claim in respect of the alteration, repair or equipping of a ship or dock

> freight had been paid and the cargo delivered, because the contract provided that the ship owner would refund part of the freight if it should be proved that similar cargo was carried by a rival ship for a lesser freight.[32]

Modern development of Admiralty and Maritime laws in Nigeria and the USA: a comparison

Maritime practice is a global phenomenon, therefore it occupies a very vital space in international and local sea trading; in this connection, modern development and realities that support crossborder and municipal shipping transaction all over the world must play substantial functions and in particular, local Courts, where most maritime disputes are commenced, should remain progressive in reflecting these realities.[33]The Admiralty jurisdiction practice addresses some robust issues by providing comprehensive local laws in Nigeria in line with the International Convention Relating to the Arrest of Sea-going Ships, 1952.[34]The Nigerian maritime sector has received the much-needed attention it requires due to the ministry of marine and blue economy that was established by the Federal Government of Nigeria to manage the nation's vast marine resources for the benefit of Nigerians in addition to the procedural and substantive reforms in the maritime industry since the constitution of the Nigeria Admiralty Law and Procedure Reform Committee by the Nigerian Maritime Law Association in 2020.[35]

In comparison, it is only the USA amongst other principal trading countries of the maritime world, that have regulated the cost of transportation services performed on the high seas.[36]In addition to being outstanding among maritime countries, the US, Canada and Mexico, have received comparatively cautious interference from the Interstate Commerce Commission as a result of the specific limitation in the International Cooperation Administration (ICA) to transportation within the United States.[37]Admiralty transportation between the USA and other countries is under the control of the Federal Maritime Commission in all of its phases within the United States ports on the high seas and, most recently, within the borders of other adjoining countries like the Canada and Mexico.[38]

In the USA, the Maritime sector generates over seven hundred and fifty billion dollars ($750) of the country's GDP, and in addition, the maritime space in the USA takes care of 95% of all the trade from other nations of the world.[39] The maritime transport system of the US helps in

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[32] *Krauss Lumber Co. v. Dimon S.S. Co*., 1933 A. M. C. 1578, 290 U. S. 117.

[33] Adedoyin Afun and Michael Abilba, 'Revolutionizing Admiralty Practice in Nigeria: Analysis of The Novel Provisions of The Admiralty Jurisdiction Procedure Rules 2023' (2023) *Bloomfield* 1.

[34] A. Falase-Aluko, 'New Developments in the Admiralty Jurisdiction of the Federal High Court in Nigeria' (2009) (39) (1) *Journal of Africa law* 64.

[35] Chimezie and others, 'Spotlighting the Key Innovations and Changes in the Admiralty Jurisdiction Procedure Rules 2023'

[36] L. James, 'Some Current Developments in United States Control of International Shipping' (2018) (7) (3) International Lawyer 541.

[37] Interstate Commerce Act, 49 U.S.C. S.1(2).

[38] Leonard James, 541.

[39] American Association of Port Authorities. America's Ports: Gateways to Global Trade. <http://www.aapaports.org/industryinfo/americasports.htm> accessed on May 30, 2024.

projecting its military presence across the world; on top of this, it creates jobs that support its national economies, provides a source of recreation for all foreign nationals and Americans; and the country's economic and military security are connected to the healthy and functionality of the maritime transport system of the USA.[40]

Nigeria is one of the largest economies in the African continent with a Gross Domestic Product of $432 Billion US dollars[41] with the maritime sector contributing about 29.1% to the Nigeria GDP.[42]

Developments in international maritime transport affecting trade of developing countries: UNCTAD

The United Nations Conference on Trade and Development has recently noted the nascent developments in Maritime trade at the international spaces. As a result, the UNCTAD in summary noted in its Fifth Session in Geneva by the Trade and Development Commission reproduced hereunder *verbatim* that:[43]

> A number of trends are currently reshaping international maritime transport and trade. By altering costs, prices, logistics structures, supply chains and comparative advantages, these trends are also defining countries' trade competitiveness and level of integration into the global transport and trading networks. Two overarching trends are arising as particularly important, especially for developing countries. First, developing countries have, over recent years, been increasingly fueling global economic growth, merchandise trade and demand for maritime transport services. Second, increased specialization in the supply of maritime transport services has gathered traction as developing countries continue to gain greater market share in maritime business. Reflecting these trends and growing demand and supply as well as the expansion of trade in manufactured goods, parts and components, liner shipping connectivity is characterized by increasing

[40] Interagency Task Force on Coast Guard Roles and Missions. A Coast Guard for the Twenty First Century: Report of the Interagency Task Force on U.S. Coast Guard Roles and Missions 1999.

[41] World Bank, "GDP (Current US$) - Nigeria," 2020 https://data.worldbank.org/indicator/NY.GDP.MKTP.CD?end=2020&lo cations=NG&start=2020 &view=bar. accessed 30 May 2024.

[42] Kehinde Peter Oyeduntan and Kayode Oshinubi, 'Statistical Analysis of the Impact of Maritime Transport Gross Domestic Product on Nigeria's Economy' (2024) (18) (3) International Journal of Economics and Management Engineering 182.

[43] United Nations Conference on Trade and Development, Geneva, 17–21 June (2013) 1.

[48]A.W.Knauth, 'Characteristics of United States Maritime Law' (2023) (13) (1) *Maryland Law Review* 11.

49 Arnold Whitman Knauth, 11.

container ship sizes and a reduction in the number of carriers per country. While this pattern could benefit shippers and translate into lower freight costs, it could also squeeze out smaller players and result in an oligopolistic market structure which may drive up costs. Another potentially gamechanging trend relates to rising sustainability imperatives and climate change concerns moving to the centre stage of global policy agenda.

These factors have already been shaping transport policies and strategies of the future. For developing countries, implementing sustainable freight transport systems will be crucial to reduce the sector's high dependency on oil, minimize exposure to high transport costs, limit environmental degradation, and leapfrog to a sustainable lowcarbon development path. Mainstreaming sustainability criteria into freight transportation planning, design and implementation will also help address persistent challenges posed by freight transport infrastructure deficit and inadequate transport services that often hinder effective integration into global transport and trading network.

A reflection on the United Nations Laws of the Sea (UNCLOS)

The 40th anniversary of UNCLOS was marked in 2022, and it is usually referred to as the 'constitution for the oceans, 'it is universally accepted and applicable to global oceans and oceanic activities.[47]Article 234 of (UNCLOS)[48] was negotiated by Canada, the United States, and the USSR, during the 3rdUnited Nations Conference on the Law of the Sea, the (UNCLOS III).[49]In its major achievements, UNCLOS has been able to standardise states' parties claims to maritime zones and the resources within them; in addition, UNCLOS has been able to provide states with mechanisms for settling disputes when they arise.

These key achievements can be supported by the fact that many maritime boundaries have been agreed on by neighboring states and there have been few formal disputes, leading to a wide support for UNCLOS by states.[50]

It is however noted that, the provisions of UNCLOS are most of the time not complied with in practice, regardless of its adoption by over 168 states.[44]To this end, enforcing its provisions

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[50] K. Zou and A.Telesetsky, 'UNCLOS and its contributions to the development of international law: An editorial note' (2023) (155) Marine Policy 105703.

[51]United Nations Convention on the Law of the Sea (adopted 10 December 1982, entered into force 16 November 1994), 1833 UNTS 3 UNCLOS, Art 234.

[52]J.J.Solski, 'The Genesis of Article 234 of the UNCLOS'(2021)(52) (1) Ocean Development and International Law 1-19.

become a huge challenge.[45]Enforcements of rights and provisions is one of the weakest points of all international law;[46] and this weakness is widely pronounced and challenging in the maritime space because the law of the sea insists upon the two central principles of the freedom of the high seas[47] and the exclusive jurisdiction of the flag state.[48] The challenge in enforcement and lack of compliance with the UNCLOS provisions have made scholars and practitioners in the maritime sector to call on the governments of ratifying states to commit to tackling this problem with a view to tackling the implications for maritime security and the protection of human rights at sea.[49]

Conclusions and recommendations

The paper has successfully examined the current trends of Maritime practice in the USA and Nigeria. The paper notes that the maritime sector in Nigeria over the years has grown, there are however more compelling causes to continually develop the maritime sector by the Nigerian government. Maritime practice in Nigeria currently affects its economic performance and Nigeria, being a major exporter of oil and its trade with other nations of the world, it is imperative for the Nigerian authorities to support and

show more interest in the affairs of maritime practice like other nations across the globe.[50]

The challenges confronting maritime practice in both countries were also dissected. It was observed that until the governments of the USA and Nigeria become aware of how those challenges affect the national economy, maritime practice cannot properly actualize and function to its highest dimension and capacity. To this end, in order to have a robust and boost maritime practice in both jurisdictions, there is need for proper and adequate implementation of the various laws examined in the paper. Proper and adequate attention has to be given to

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[53]House of Lords, 'UNCLOS: the law of the sea in the 21st century' (2022) International Relations and Defense Committee HL Paper 159 2nd Report of Session 2021–22, 3.

[54] UNCLOS has been ratified by 168 parties. These include 164 United Nations Member States, a United Nations Observer State (Palestine), the European Union, the Cook Islands and Niue. One of the most significant State that has neither signed nor ratified UNCLOS is the United States of America. Nigeria signed the UNCLOS on July 10, 1982.

[55] K.Vaangal, 'Reexamining the UNCLOS: a Lack of Compliance and Enforceability' (2022)
(8) (1) Lex Portus 20.

[56] P. P.Imiera, 'Considering State Reparation for Victims of Gross Human Rights Violations in Africa: Challenges in the Effective Enforcement and Implementation of Victims' Rights' (2023) (VII) (X) International Journal of Latest Technology in Engineering, Management & Applied Science 80.

[57] Stockton Center for International Law, 'General Principles of the Law of the Sea' (2021) (97) International Law Studies 21.

[58] N. Hosanee, 'A Critical Analysis of Flag State Duties as Laid Down Under Article 94 of the 1982 United Nations Convention on The Law of The Sea' (2009) The United NationsNippon Foundation Fellowship Programme 2009 – 2010, ii.

[59] Babatunde and Abdulsalam, 'Towards Maintaining Peacefulness of the Sea: Legal Regime Governing Maritime Safety and Security in Nigeria' (2021) (12) Beijing Law Review 529-559.

[60] A. E. Faith, 'The Maritime Industry of Nigeria: Challenges and Sustainable Prospects.<https://dj.univdanubius.ro › index.php › DWP › article>. accessed on May 30, 2024.

maritime practice to boost the economy and to provide adequate funding, training of personnel and man-power has to be improved upon.

In order to align with the current trends in maritime practice in Nigeria and the USA, the paper suggests the underlisted recommendations involving the adoption of functional, legal, institutional, maritime safety and security threats in the USA and Nigerian maritime spaces and support the maximization of maritime resources to facilitate development in both jurisdictions.[51]

Nigeria:

1. **Enhance Security:** Strengthen the Nigerian Navy and maritime security agencies to combat piracy and criminal activities;
2. **Improve Infrastructure:** Develop and modernize ports, terminals, and shipping facilities to increase efficiency and reduce congestion;
3. **Strengthen Regulations:** Enforce and update maritime laws and regulations to align with international standards;
4. **Invest in Technology:** Adopt digital solutions, such as automation and data analytics, to enhance operational efficiency and safety;
5. **Capacity Building:** Provide training and development programs for maritime professionals to improve skills and knowledge;
6. **Collaborate with International Community:** Foster partnerships with other nations and international organizations to share best practices and address global maritime challenges; and;
7. Government should ensure targeted capacity building at policy, institutional, legal, and technical levels of developing coastal states that results in effective exploration and mining, leading to the sustainable management of marine resources.[52]

United States of America:[53]

1. **Enhance Cybersecurity:** Implement robust cybersecurity measures to protect against growing cyber threats;
2. **Invest in Infrastructure:** Modernize and expand ports, waterways, and shipping infrastructure to accommodate growing trade volumes;
3. **Promote Sustainability:** Encourage environmentally friendly practices and technologies to reduce the maritime industry's carbon footprint;

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[51] Ekundayo Oluwaremilekun Babatunde and Mutiat Mobolanle Abdulsalam, 'Towards Maintaining Peacefulness of the Sea: Legal Regime Governing Maritime Safety and Security in Nigeria' (2021) (12) Beijing Law Review 529.

[52] M. E. Ateme, 'Developing marine and coastal resources in Nigeria: Prospects and challenges' (2021) (3) (4) Maritime Technology and Research 346.

[53] C. Bentzel, 'Recommendations on the Maritime Transportation Data System Requirements' (2023) Federal Maritime Commission Washington DC 3.

4. **Strengthen Maritime Domain Awareness:** Continue to improve maritime intelligence and surveillance capabilities to prevent illegal activities;
5. **Foster International Cooperation:** Collaborate with international partners to address shared maritime challenges and promote global maritime security; and;
6. **Support Maritime Education and Training:** Provide resources and programs to develop the skills and knowledge of maritime professionals.

These recommendations aim to address specific challenges and opportunities in each country, focusing on security, infrastructure, regulations, technology, capacity building, and international cooperation. Governments of both countries should ensure that capacity building at policy, institutional, legal, and technical levels are targeted for effective sustainable management of marine resources.