

Tackling Corruption in the Nigerian Ports

A story of collective action highs, lows, and wins

CENTER FOR INTERNATIONAL PRIVATE ENTERPRISE

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MACN
Maritime Anti-Corruption Network



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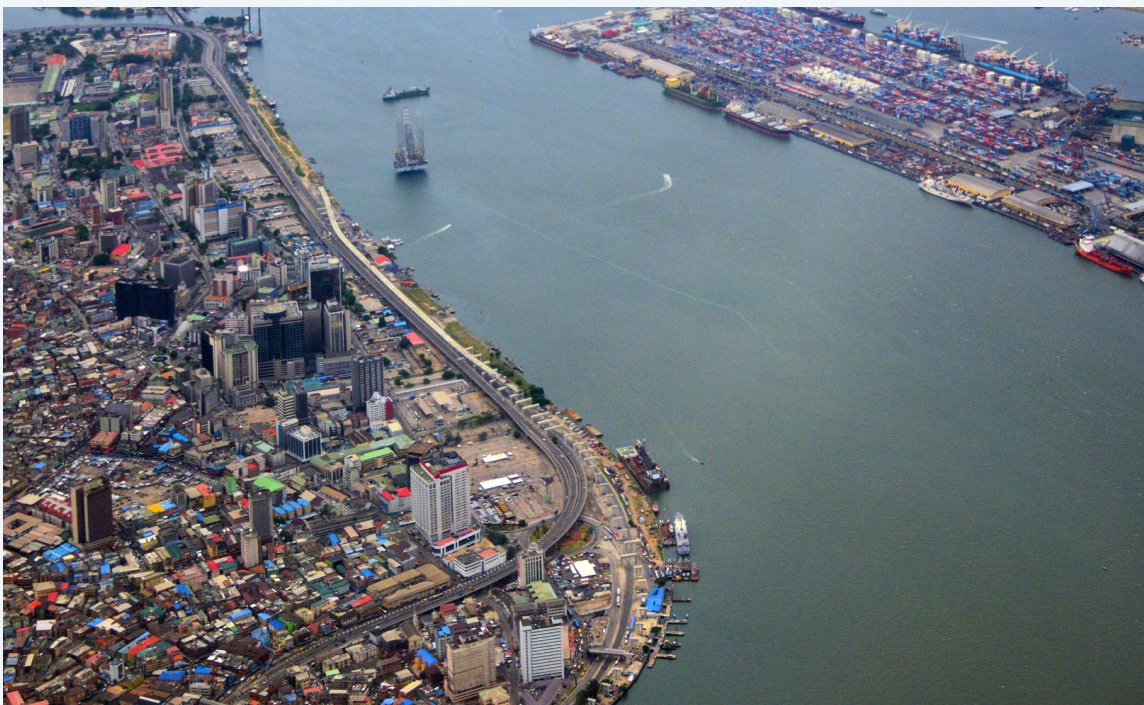


Photo of Lagos Island, Victoria Island and Port of Lagos (Apapa Port, container terminal), Nigeria

ACRONYMS

ARM – Accountability and Resolution Mechanism

BPP – Bureau of Public Procurement

CBI – Convention on Business Integrity

EFCC – Economic Financial Crimes Commission

GRM – Grievance Reporting Mechanism

HLRM – High-Level Reporting Mechanism

ICPC – Independent Corrupt Practices and other Related Offences Commission

MACN – Maritime Anti-Corruption Network

NPA – Nigerian Ports Authority

NSC – Nigerian Shippers' Council

OECD – Organization for Economic Co-operation and Development

PSSP – Port Service Support Portal

SERVICOM – Service Compact

SOPs – Standard Operating Procedures

TUGAR – Technical Unit on Governance and Anti-Corruption Reform

UNDP – United Nations Development Program

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The study reflects the insights gained by the teams at CBI, MACN, and the NSC during the last seven years of research, innovation, intervention, advocacy, and support. Extensive and insightful guidance was received from Lola Adekanye, Business, integrity and Anti-Corruption Program Lead for Africa, CIPE and Ryan Musser, Program Officer, Africa, CIPE.

All research conducted for this report concluded in November 2019.



"Nigeria loses up to \$1.95 billion USD in government revenue and \$8.15 billion USD in private sector revenue annually due to corruption in Nigerian ports."

- Port Strategy News ¹

EXECUTIVE SUMMARY

Nigeria loses up to \$1.95 billion USD in government revenue and \$8.15 billion USD in private sector revenue annually due to corruption at the Nigerian ports¹. Money lost because of illicit financial flows at ports weighs very heavily on the economy of a country that as of May 2020 projects to borrow more than \$14.1 billion USD to finance the 2020 budget². These losses severely constrict government programs and the capacity to develop and improve much-needed public infrastructure. At the same time, corruption at the ports can operate as a major deterrent to sustainable returns on foreign direct investment.

In an effort to explore solutions to the highly corrupt business environment, stakeholders including the Technical Unit on Governance and Anti-Corruption Reform (TUGAR), the

United Nations Development Program (UNDP), the Bureau of Public Procurement (BPP), the Independent Corrupt Practices and other Related Offences Commission (ICPC), the Nigerian Ports Authority (NPA), the Nigerian Shippers' Council (NSC), and the Maritime Anti-Corruption Network (MACN) carried out a corruption risk assessment with a particular focus on maritime operations. The risk assessment identified major areas where corruption was a prevalent risk in the business ecosystem, which MACN addressed through collective action efforts in collaboration with the NSC and all government agencies operating in the maritime sector.

Among other initiatives, the collaboration resulted in the introduction of Standard Operating Procedures (SOPs) for port

The Port Services Support Portal (PSSP) and surrounding initiative has a project steering committee made up of the Nigeria Shippers' Council (NSC), the Nigeria Ports Authority (NPA), the Nigerian Maritime Administration and Safety Agency (NIMASA), the Nigeria Immigration Service (NIS), the Port Health Services (PHS), the Nigeria Customs Service (NCS), the National Drug Law Enforcement Agency (NDLEA), the Nigeria Agricultural Quarantine Service (NAQS), the Council for the Regulation of Freight Forwarding in Nigeria (CRFFN), the Technical Unit on Government and Anti Corruption Reforms (TUGAR), the Federal Ministry of Transportation, the Independent Corrupt Practices and Other Related Offences Commission (ICPC), and the Bureau of Public Procurement (BPP).

operators and a Grievance Reporting Mechanism (GRM) to uphold the standards set by the SOPs. Following the establishment of the GRM, the Port Service Support Portal (PSSP) was created as a web portal to administer the complaint collection and communication process under the management and coordination of the NSC. The web portal was created as a one stop shop to resolve complaints in the port industry professionally, confidentially, and efficiently and to increase the levels of accountability of port officials in their adherence to the SOPs. Throughout this report, when authors refer to the PSSP web portal, they are referring to the web portal of the Port Service Support Portal (PSSP) and are not referencing any other reporting channels.

This report set out to evaluate the effectiveness of the web portal as a monitoring and tracking tool to support the GRM in reducing corruption and enhancing efficiency in the complaint resolution process. However, web portal data is not available online and was not made accessible to stakeholders within the timeframe of this report. After several weeks of unsuccessful attempts to access data from the web portal, the focus of the study shifted to the initiative's background and potential for success when implemented effectively. This report examines data from MACN's internal

reporting mechanism and records of walk-in complaints filed with the NSC, two complaint mechanisms separate from the web portal itself. The authors of this report were provided only a high-level summary of the PSSP web portal's data indicating the total number of complaints logged per year from 2017-2019. In light of the absence of detailed information, the authors were unable to fully evaluate the effectiveness of the PSSP web portal as an accountability and resolution mechanism for reinforcing the SOPs.

Despite a lack of direct data from the web portal, research conducted for this report clearly indicates that the web portal when evaluated on its own, is currently unable to achieve its goals of reducing corruption and increasing efficiency. By outlining the history and context of the initiative and examining recommended frameworks for similar mechanisms in other regions, this report shines light on several critical improvement opportunities for the PSSP web portal. As the primary tool for monitoring the consistent and appropriate use of the SOPs, it is imperative that the GRM and PSSP web portal become a trusted and effective complaint management system in order to realize the goals of minimizing the risks and opportunities for corruption and restoring confidence and trust among port users.



BACKGROUND

Nigeria is a key player within the West African maritime sector and the world's 8th largest oil-exporting country³. With product imports worth \$44.6 billion (USD) a year, Nigeria is the 2nd largest consumer economy in all of Africa⁴. However, the Nigerian ports are plagued with high levels of corruption, which is a major hinderance to growth and development in the country⁵.

Corruption is broadly defined by Transparency International as "the abuse of entrusted power for private gain"⁶ which by extension is now understood to include the concept of waste and mismanagement of public funds. Public records and surveys of port users around the world affirm the fact that abuse of power is a common occurrence in the seaport environment. These abuses have acute implications for the Nigerian ports, where the port call processes are sparsely automated, involve high levels of interaction with multiple government officials, and have weak accountability

mechanisms. Port inefficiencies provide ample opportunity for inappropriate behavior by port officials, such as excessive and unjustified delay in inspecting vessels or paperwork with the intention of extorting vessel captains and demanding entertainment and gifts during inspections.

The inefficiency in the cycle of port calls, cargo clearance, and port operations creates an appeal for a greater percentage of business users and vessel operators to rationalize that offering gifts, meals, drinks, supplies, or cash bribes to avoid these delays would be easier than attempting to ignore them. The inherent risk in such a weak system is that illicit actors can use such weaknesses in the system as a subterfuge to smuggle contraband goods, unauthorized weapons, and other illegal materials through the ports. The mutually beneficial nature of this form of corruption is not only a major hindrance to the growth

of private businesses and foreign direct investment, but also has severe implications for government revenue generation needed to upgrade port infrastructure and national security. Additionally, corrupt behaviors have a depleting effect on the morale of people operating in the ports⁷. Current estimates of customs revenue loss due to inefficiency and corruption at the Nigerian ports stand at over \$1.5 billion (USD) each year⁸.

Noting that corruption is transactional and involves two sides – the demand side (the actor who makes the corrupt demand) and the supply side (the actor that obliges the corrupt request) – the dynamics of this illicit relationship at the Nigerian ports was explored in an undercover investigation carried out by a reporter from The Cable News Nigeria in 2015⁹. Throughout the undercover investigation, the reporter encountered countless scenarios where port users had no problem with paying bribes because doing so expedited port clearance or other lengthy processes at a lower cost than the official amounts. The reporter's investigation found that port officials frequently requested bribes amounting to one-third (1/3) of the normal official fee for a service, fine, or tax. Due to diversions of this nature, the Nigerian economy and government potentially loses billions of dollars in funds that could otherwise be

diverted to infrastructural improvements at the ports.

Multiple factors contribute to the ports' high susceptibility to bribery. One of the most significant factors is the glaring inefficiency in the port administration system. ***Based on past MACN reports In July 2018, clearing cargo in Nigerian ports requires as many as 140 signatures and can take as long as three to five working days***¹⁰. Due to the minimal level of automation in the port infrastructure, public officers and business users have multiple extended interactions over the processing of paperwork and inspections. This landscape affords individual port officials significant discretionary power and judgement during port inspections and processing, limiting the capacity for port users to objectively evaluate and deny demands or requests for bribes. Not only does it benefit the port user in most cases to oblige the port official, but users often feel short of options due to the large numbers of officials involved in port processes and the likelihood that they will be retaliated against during future port calls. For example, in the SOP of the National Drug Law Enforcement Agency (NDLEA), officials have the prerogative to board any vessel calling port and to inspect a vessel if an officer merely suspects that there are illegal goods on board¹¹.

The National Association of Government-Approved Freight Forwarders found that major actions prone to corrupt conduct include manual customs examination of cargo, value assessment, and further inspection of already inspected goods by the gatekeepers even after the clearance of the goods. Such conduct has also contributed to the intense gridlock on roadways surrounding major Nigerian ports like the Apapa port, further undermining efficiency of the goods clearance process. These gridlocks make trucking goods in and out of ports a costly and time-consuming process.

Addressing the root causes of port corruption is critical in order to reduce inefficiencies in the Nigerian port processes and ease the extra financial burden they place on businesses and the national economy. Because corruption at the ports affects both domestic and foreign entities that do business in Nigeria, it presents opportunities for both local and international stakeholders to contribute to anti-corruption efforts through collective action measures.



COLLECTIVE ACTION INITIATIVE TO TACKLE CORRUPTION IN THE NIGERIAN PORTS

When private sector businesses and public sector or civil society organizations work together, they are much more powerful and effective in achieving equitable and sustainable developmental outcomes. In business environments with high levels of inefficiency and rampant corruption like those of the Nigerian ports, collective action can be an effective means to improve the operating environment. Business collective action unleashes the combined strength of a coalition of like-minded actors who share the common goal of building a more welcoming and efficient business environment. Business collective action against corruption has immense potential to be successful if it includes public sector stakeholders who share a common vision and can marshal political and institutional will and capacity to achieve the objectives of the coalition. This collaboration requires delicate management of the critical dynamics of politics, perception, and reality to introduce change into a system with established cultures of entitlement and expectations of bribery and extortion. The increased scrutiny on global business operations requiring stricter compliance with Anti-Bribery and Corruption (ABAC) laws that

have extraterritorial implications such as the US Foreign Corrupt Practices Act (FCPA) and the United Kingdom Bribery Act (UKBA) increased the pressure on international vessel owning companies. MACN and CBI were able to leverage this increased pressure to encourage government to strengthen internal controls and ABAC management systems in this highly prone sector.



The collective action project undertaken to address Nigerian port corruption started in 2012 with a comprehensive corruption risk assessment (CRA) of operations in Nigeria's six major ports guided by a United Nations Development Program (UNDP) methodology: Apapa and Tin Can ports located in the South-West region of Nigeria, and the Warri, Onne, Port Harcourt, and

Calabar ports located in the South-South region of Nigeria. Public and private sector stakeholders combined efforts to provide data for the risk assessment. The CRA, published in 2013 and co-financed by UNDP and MACN, was set up under the leadership of the Independent Corrupt Practices Commission (ICPC), the Nigerian Technical Unit on Governance and Anti-Corruption Reforms (TUGAR), and the Bureau for Public Procurement (BPP) with the assistance of the Economic and Financial Crimes Commission in Nigeria. The CRA identified the main drivers of corruption in the port operations, as well as specific measures to address such drivers. As outlined in the MACN's 2014 Collective Actions Program Brief¹², the findings of the CRA were organized into three categories for short-term action: environmental, organizational, and personnel. Main challenges identified by the CRA include:

- Weak internal ethics infrastructure in port agencies (such as the lack of codes of conduct);
- Weak enforcement practices, and underdeveloped systems for investigating complaints of demands for bribes or facilitation payments, including no effective system for handling grievances and protecting whistle-blowers;
- Multiple, often overlapping procedures

ill-defined standard operating procedures, and a lack of coordination among the agencies.

Following the CRA, the MACN collective action team set out to achieve the following outcomes through a series of three activities:

1. **Standardize port calls process to increase professionalism and reduce opportunities for abuse of authority by public officers**
2. **Build consensus of public officers to apply SOPs and mitigate corruption in the port operations**
3. **Implement an accountability and monitoring mechanism to grant recourse to port users and encourage port officers to apply SOPs during port calls**

1. STANDARDIZE PORT CALL PROCESSES

To standardize the process of port calls and operations in the government agencies, Standard Operating Procedures (SOPs) were introduced. SOPs are a guide for personnel of port regulatory agencies, terminal operators, shipping companies, freight forwarders, and other operators and users of services in the Nigerian ports. SOPs contain rules and procedures that are meant to govern port processes, improve efficiency, and limit corruption. The SOPs

were created to address major problem areas in the risk assessment, including weak internal ethics infrastructure and a lack of codes of conduct for officers. Development of the SOPs was the result of consultation between major actors in the collective action initiative and involved all nine government agencies and the nineteen private terminal operators actively operating at the ports. This cooperation was a necessary and noteworthy accomplishment as all of the port operators that participated have developed and established SOPs and are currently implementing them.

Procedures detailed in each SOP are tailored to the work of each entity and all port operators must adhere to them. Procedures range from anti-corruption measures to timelines for operations. Previously, vessel-owning companies and vessel captains have had little choice or means for recourse when faced with persistent illicit demands in the form of cash as high as \$50,000 (USD)¹³ or in the form of cigarettes and alcohol. At the same time, port officials had few tools to effectively deter other port officials from making corrupt demands. To limit discretionary powers of government officials, SOPs are meant to provide clarity on port procedures to assist port users to prepare adequately prior to port calls. Inefficiency and rampant corruption, as previously discussed, are largely a result of disarray

in port processes. Therefore, SOPs were created and implemented as a remedy to this problem with the aim of instilling a culture of compliance with the transparent standards by port officials and improving the morale of everyone involved in port processes.

2. CAPACITY BUILDING AND ORIENTATION

SOP implementation was strengthened through a rigorous training and reorientation program implemented by CBI and MACN. Considered a large success of collective action in Nigerian ports, this program trained over 1,000 public and private sector port operators on value, purpose, and content of the SOPs, ethics, and port governance frameworks. This training was both value and rules-based and prepared its participants to move forward and train others in the industry, maximizing the program's overall effectiveness and sustainability. An in-person interview with the project team of CBI noted that the further training of port officials by the 1,000 officers who were part of the initial training stalled for lack of a clear driver within the sector but remains a viable method to implement mass training provided there is adequate support through a network of trained trainers represented in each agency.

Although SOPs set up a framework for efficient and lower risk port processes, existing recourse channels for port users

who have experienced SOP violations were not providing a sufficient mechanism to hold port officials and operators accountable and committed to the SOPs and ethical guidelines.

In relation to marine-side operations that are prone to exploitation due to the time-sensitive schedule of vessel calls, a mechanism with the capacity to resolve complaints involving port calls was of particular importance. Considering the increased risk of liability from corruption arising from international regulations and national laws with extraterritorial implications that most MACN members faced, this recourse became an essential prevention mechanism.

While land-side port operators are mostly local business owners without significant risk of liability for engaging in corrupt activity due to the low level of local enforcement of national Anti-Corruption laws, it is essential to build trust in the system by providing a credible alternative to giving in to demands for bribes when port officials violate SOPs. Otherwise, it would render the process ineffective in changing behavior and perception. International companies with land-side port operations including large manufacturing, power, and oil companies are also impacted by high levels of corruption risk at the ports.

It became clear that the situation necessitated the implementation of the Grievance Reporting Mechanism (GRM) to enforce SOPs, empower stakeholders to hold port operators accountable, and provide port users with a channel that would resolve their grievances in a timely and confidential manner.

3. THE GRIEVANCE REPORTING MECHANISM (GRM)

The GRM is based on operating principles and standards enshrined in the SOPs and service agreements agreed to by the project stakeholders which is in compliance and relies on the authority of Executive Order 01 on the Ease of Doing Business. The GRM is the product of extensive consultations between the nine government agencies operating at the Nigerian ports, MACN, the Nigerian Ports Authority (NPA), NSC, UNDP, and three key public sector stakeholders, TUGAR, ICPC, and BPP. When functioning properly, the GRM would enable stakeholders to hold port operators and officials accountable in their adherence to the SOPs. At the same time, it would enable marine-side port users, who are prime targets of bribery and extortion, to resolve vessel clearance problems speedily and transparently.

To manage and track the complaints and resolution process in execution of the

GRM's objective, the Port Service Support Portal (PSSP) was established as a web-based portal. Through the administration of the PSSP web portal, the GRM would enable stakeholders to hold port operators accountable and provide port users recourse for the resolution of administrative problems that create opportunities for corruption and allows demands for bribes to go unreported.

The PSSP web portal was set up on June 23, 2016 by the Port Reform Steering Committee with Nigerian Shippers' Council (NSC) as the host of the system, in collaboration with MACN, UNDP, TUGAR, and nine of the maritime regulatory agencies. As of November 2019, NSC records showed that the PSSP web portal has received a total of 288 complaints between 2017 and November 2019 with over 80% (230) resolved with satisfactory outcomes to the complainants according to information from the NSC. While the resolution rate is commendable, the details of the resolution of complaints filed through the PSSP web portal remains inaccessible to both stakeholders and the public.

The NSC reports some success stories related to these non-public cases about

complaint resolutions involving expedited resolution that shortened the delay of a vessel, the return of seized documents, and the abolition of unsubstantiated fees. However, no identifiable or verifiable records are publicly available nor confidentially available to stakeholders however, they were available for inspection in physical files at the NSC's offices.

This volume of complaints and resolutions is a promising step forward in the challenge of addressing corruption problems in the port. Prior to the implementation of the PSSP web portal, there was no easily accessible channel or e-Governance platform (although there were those who walked-in or called up the NSC for help) for port users to report issues and no way for major problems like unsubstantiated fines, unjustifiable delays of a vessel, or illicit seizure of documents to be solved across the system. Now, port users have an avenue to address these problems in a way that can hold port officials responsible, substantiate their claims, and resolve the problems judiciously, having a deterrent effect in future cases and offering vessel owners and port users alike a solution that improves the overall business environment.

The Port Services Support Portal (PSSP) and surrounding initiative has a project steering committee made up of the Nigeria Shippers' Council (NSC), the Nigeria Ports Authority (NPA), the Nigerian Maritime Administration and Safety Agency (NIMASA), the Nigeria Immigration Service (NIS), the Port Health Services (PHS), the Nigeria Customs Service (NCS), the National Drug Law Enforcement Agency (NDLEA), the Nigeria Agricultural Quarantine Service (NAQS), the Council for the Regulation of Freight Forwarding in Nigeria (CRFFN), the Technical Unit on Government and Anti Corruption Reforms (TUGAR), the Federal Ministry of Transportation, the Independent Corrupt Practices and Other Related Offences Commission (ICPC), and the Bureau of Public Procurement (BPP).

HOW DOES THE PSSP WEB PORTAL WORK?

Prior to the establishment of the PSSP web portal, port users, especially land-side users who are predominantly locally owned businesses and large international companies, would submit complaints manually by sending written complaints to the Nigerian Shippers' Council (NSC). This function is still available but mostly used by land-side port users to report a diverse array of complaints often directly related to commercial disputes, not corrupt activity.

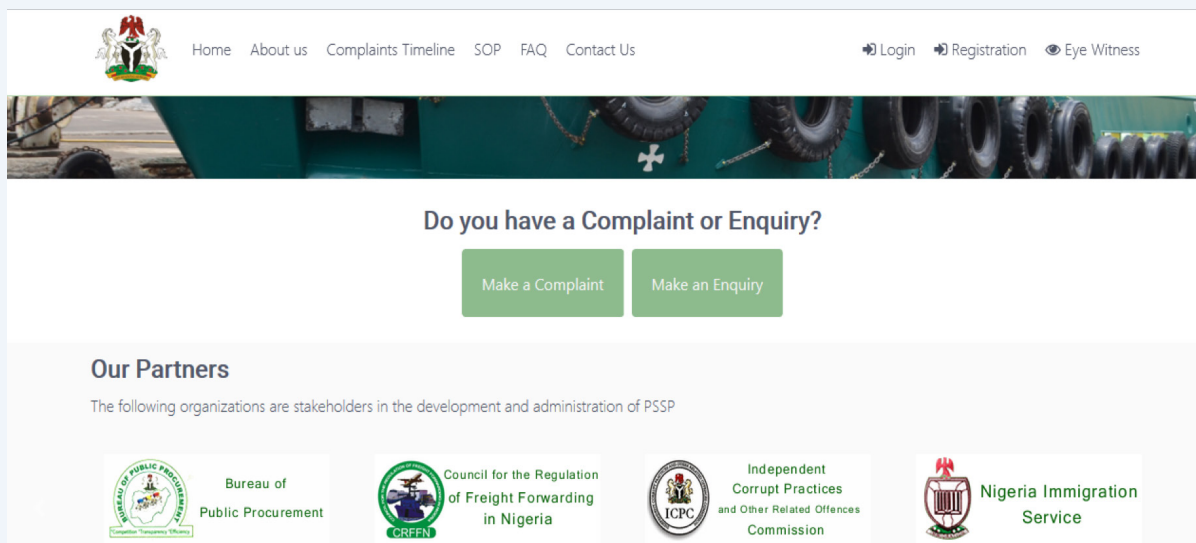
The PSSP web portal receives complaints electronically, and all complaints are either recorded directly by the complainant or by an NSC official receiving the complaint via telephone, text message, or in writing. A first-time user of the portal must create an account by clicking on the "Make a Complaint" button on the home page.

The portal has three registration types for complainants:

- Individuals representing themselves;
- Companies;
- Individuals representing companies.

For individuals representing companies, the details of the company represented must first be registered under the 'companies' section before registration of the individual can be completed. It is also significant to note that the portal has a special section for eyewitnesses to make complaints of any incident observed at the ports.

A complainant must complete the 'complaints' form by providing the necessary information and attaching relevant documents (if available) to substantiate the allegation.



This platform is now available to speedily handle complaints specifically related to the violation of SOPs hinging on bribery and corrupt practices. Unlike the pre-existing NSC complaint system, the PSSP web portal does not handle complaints related to commercial or other disputes. Compared to the existing NSC reporting systems, the PSSP web portal is focused on increasing the timeliness of complaint resolution, has a specified subject matter related to corruption, and provides the ability to report officials from multiple government agencies.

COMPLAINTS HANDLING TIMELINE

the table indicates established timeline

COMPLAINTS HANDLING ACTIVITY	ESTABLISHED TIMELINE	REMARK
Acknowledgement	Generated instantly after submission of complaints	Complaints not requiring investigation are resolved within 24 hours
Investigation	2-5 working days	
Claims / Mediation	Within 21 days	
Unresolved complaints after 21 days	After 21 days the complaints may be subject to litigation	

THE ROLE OF THE COORDINATING AGENCY

While the role of the coordinating agency and organization in each stakeholder group is critical to the success of a multi-stakeholder collective action effort such as the GRM and PSSP, the role of the coordinating public sector agency is especially significant and fragile. The PSSP web portal as a fundamental part of the GRM is administered by the NSC playing the role of the coordinating agency. The NSC collaborates with its counterparts in the eight

other regulatory agencies in the maritime sector to resolve complaints received through the PSSP web portal. While CBi and MACN have contributed extensively to the effort of building consensus between government agencies and organized businesses towards the objective of minimizing corruption in the port, the NSC has provided significant leverage to ensure the effectiveness of the PSSP web portal to support these efforts. Because the role of the coordinator of the PSSP web portal is so critical, it requires an organization with a great deal of credibility and reputational equity. Therefore, it is imperative that the NSC maintains high standards of professionalism, transparency, and accountability to retain the trust and credibility that is essential to support such a delicate multi-agency initiative. Through its efforts over the last five years, the NSC has safeguarded the mechanism of accountability for its counterpart government agencies and port operators through the PSSP web portal.



PSSP WEB PORTAL COMPLAINTS: ANALYSIS & FINDINGS

To compile this study, the research team collected data from three sources to evaluate the effectiveness of the PSSP web portal as tool for supporting the GRM's accountability and resolution process for corruption-related complaints. The first source of data comes from the MACN's reporting desk, the second comes from the record of walk-in complaints made to the NSC, and the third comes from the NSC's summary logs of PSSP records.

REVIEW OF MACN REPORTS

The MACN reports are confidential and electronically logged by MACN members' vessel captains and operators. This group enters information about unofficial or illicit compensations in cash or in-kind made to public officers at the Nigerian ports. The data from MACN included 667 reports from January 2011 – June 2019. Trends recognized in MACN's data include:

65%

65% of complaints involved incidents that occurred at Apapa Port, which gets significantly more traffic than other ports.

27%

27% of complaints involved requests for "large cash demands" (greater than \$150 USD).

15.56%

15.56% of complaints were against customs officials.

15.29%

15.29% of complaints were against immigration officials.

10%

Of the complaints with comments from the reporter, 10% involved alleged irregularities in documentation.



REVIEW OF NSC WALK-IN COMPLAINTS

The research team manually review filed complaints collected from walk-ins, which includes those received by text messages, phone calls, and written letters to the NSC, which are referred to as “walk-in complaints” in this report. These complaints are not to be confused with the PSSP web portal complaints as they are processed as part of the pre-existing complaint system that the NSC operated prior to the establishment of the PSSP web portal. Even before the inception of the PSSP web portal, the NSC provided this complaint resolution function to port users addressing a broad range of issues often not directly related to corruption. This explains why the complaint data provided by the NSC from walk-in complaints gives no insight into the effectiveness of the PSSP web portal as an accountability and resolution mechanism for reinforcing the SOPs. The complaint

record did not always indicate the detailed nature of the complaints, such as whether a complaint was surrounding corrupt demands by a port official, non-compliance with an SOP, or general port inefficiency that creates an opportunity for corruption. Where the report was related to corrupt activity or non-compliance with the SOPs, the resolution and improvement measures recommended were not recorded in the file.

A large part of the management system was based on non-centralized paper filing. This paper-based method of intaking complaints and filing updates increases the risk of errors and critical omissions, such as the date of the complaint, resolution agreement and date, follow up, and closing. Manual filing systems not housed in a central, easily accessible location generally create significant challenges to the accurate, timely, and regular reporting necessary to reassure users and stakeholders efficiency and transparency.

A total of 105 case documents were reviewed for this study and related to complaints collected between 2016 and 2019. Of the 105 cases provided, only 36 included information about the complaint's resolution date. The following observations were made from the provided data:

WHO	COMPLAINTS SUBJECT & CHANNEL	RESOLUTION
<ul style="list-style-type: none"> 91% of complaints were made by clearing agents and cargo owners 75% of complaints were made against private sector companies (shippers, carriers, and port services entities) 25% were made about government agencies and terminal operators 	<ul style="list-style-type: none"> Excess demurrage (when a vessel is prevented from loading or discharging cargo within an agreed time period) Non-refund of container depositors Unreleased containers Over 95% of complaints were made by walk-in, the rest were made by phone call and text messaging 	<ul style="list-style-type: none"> In most cases, NSC has a tripartite settlement discussion and resolution agreement with the parties 64% of complainants sent feedback to the NSC in the form of letters of appreciation demonstrating satisfaction with the resolution No records of follow-up to indicate how the resolution agreement was implemented or how to improve the process and system

The nature of the walk-in complaints revealed the broad effect of corruption on business processes in the ports. As clearing agents and cargo owners face challenges to clear their goods, they are often negotiating with their business counterparts, while vessel owners are negotiating with government agencies and port officials to conclude a port call. Both vessel owners that are large international companies and cargo owners/clearing agents, often

small, mid-sized local firms, suffer the impact of inefficiency in the port call process which exacerbates the risk of corruption for both at different levels.

REVIEW OF PSSP WEB PORTAL COMPLAINTS

The record of complaints made through the PSSP web portal was more difficult to obtain than the previous two sources but from the high-level summary provided by the NSC, it appears to have had some impact to the extent that 288 reports have been filed between June 2016 and 2019 with 58 outstanding. Due to the lack of availability of the full report, it is not clear what the average resolution duration is for each complaint logged on the PSSP web portal, or what the feedback on the resolutions has been.

WEB PORTAL COMPLAINTS FILED BETWEEN JUNE 2016- JUNE 2019

PERIOD	2017	2018	2019	TOTAL
Complaints Received	97	86	105	288
Complaints Resolved	82	61	87	230
Outstanding	15	25	18	58

ANALYSIS

Comparing PSSP web portal complaints with MACN corporate complaints

Volume of Complaints

The volume of complaints received from MACN members by the NSC via the PSSP web portal is far less than the volume of complaints reported by MACN members to the MACN's internal reporting mechanism– the PSSP web portal received a total of 288 reports filed between 2017 and 2019 while the MACN's internal reporting mechanism reflects 667 reports from January

2011 to June 2019. When comparing within the same time period of 2017 to 2019, the PSSP web portal data includes 288 reports compared with the MACN's 439 during that same period (this set of MACN reports cover from January 2017 to June 2019; monthly data was unavailable in the PSSP web portal report). When comparing the volume of reports made to MACN with those made to the NSC via the PSSP web portal in the same period, the team found that there is far less use and limited awareness of the PSSP web portal complaint channels by MACN members when compared to the MACN's own complaints channel. From key informational interviews, it is apparent that while some MACN members were aware of the PSSP web portal, the lack of publicly available information was a major concern, raising apprehensions about the transparency and effectiveness of the resolution process

MACN Member Exposure

Alleged irregularities in documents tendered by vessel captains was a common corporate complaint by MACN members. From a review of data obtained from the MACN, it was determined that certain documents submitted by vessel owners did not conform with the requirements or formats acceptable by Nigerian port officials. For example, some complaints indicated that officials threatened to delay vessels due to alleged irregularities between crewmembers'

contracts and seamen's identification and record books. Most times these irregularities are related to inoffensive omissions such as using otherwise internationally recognized formatting conventions to list birthdates creating an opportunity for the port official to exercise discretion resulting in a demand for an unofficial payment, in effect a bribe, to overlook the minor irregularity.

In such circumstances, the captain of a vessel is inclined to capitulate into paying the bribe rather than to dispute the alleged irregularity for fear of unexpected, undefined, and unclear consequences of disputing the query or in other cases because the opportunity arose from the vessel company's negligence. This form of corruption can be mitigated by MACN members if they comply with all standards governing the form and content of documents required by government agencies in Nigeria, except when the query is based on mischief by the port official, in which case the recourse for MACN members is making a report to the PSSP web portal.

PSSP Web Portal Confidentiality Concerns

The current process of PSSP web portal complaint handling allows government officials access to complaints made by port users to the NSC, including the identity of complainants, to facilitate resolution. While

the complainant's information is required to verify and validate reports, it has the potential to expose the complainant to undue attention from the reported port officials and their colleagues at the agency who may consider the report to be malicious or done in bad faith, regardless of the circumstance. The final resolution of such a complaint, if it involves punishment to the officer(s), further complicates the matter for the vessel captains and their colleagues from the same company.

The tendency for retaliation against a whistleblower (or in this case, a complainant) is not new in the context of prevention, and as confirmed from key informant interviews, hinders MACN members. It is interesting to note that for non-MACN members, the cost of making complaints was also too high, as evidenced by a combined review of local news media and informant interviews. Many of these individuals reported that they would rather maintain the mutually beneficial corrupt status quo than upset the proverbial apple cart by activating a new initiative. This is because such an initiative would not have been tested and proven to resolve corruption problems without repercussion for the user.

Communication of PSSP Web Portal Data

Public access to non-confidential report data is a crucial aspect of maintaining the

accountability and public support of the PSSP web portal as a legitimate channel for recourse. During the research process, the team requested non-confidential data about complaints logged on the PSSP web portal but was unable to access it until the conclusion of the research period. While researchers elected not to submit a FOIA request for the information, key project stakeholders requested the web portal data and were still unable to access it. Since the implementation of the PSSP web portal, there has been no comprehensive report published or circulated to the stakeholders about the progress of reports, the trends, or the achievements. In the absence of these reports and easily publicly accessible non-confidential data, the successes of the PSSP web portal and its demonstrated level of accountability as a reporting mechanism are not translated adequately to stakeholders.

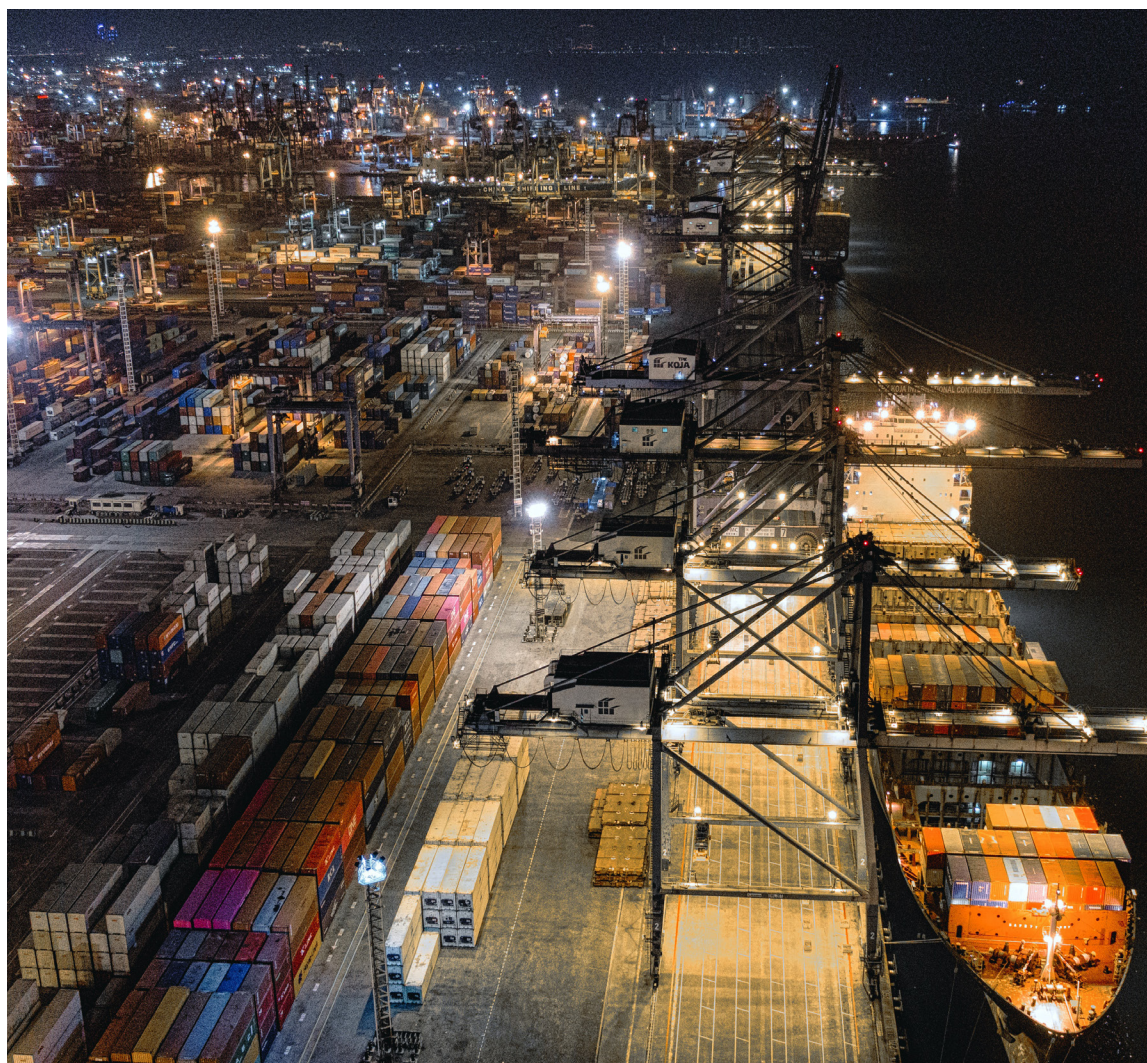
Resolution without Improvement or Accountability

The complaints resolution led by the NSC prioritizes and provides much needed complaint resolution with little emphasis on public reporting of documented post-resolution follow-up. Public accessibility of follow-up is of significant importance to ensure incremental improvement in the systems and mechanisms of accountability in the relevant organizations and in the port operation environment.

In cases where the conduct of port officials led to a resolution in favor of the complainant, the team found no publicly available record that the relevant organization(s) took significant measures to sanction the port official(s) involved or communicated such sanction within the organization to deter a recurrence of such conduct or a retaliation for such reprimand.

For example, in some reports reviewed, the NSC required the return of a complainant's seaman's identification books, passport,

and international vaccination cards without sanctioning the Immigration and Port Health officials who were the subject of the complaint. In other cases, the NSC stopped at ordering the release of a detained vessel and abolished an unauthorized charge levied against the complainant, with no public account of further action taken to reprimand or educate the individuals involved.



BENCHMARKING THE GRM AND PSSP WEB PORTAL AS AN ACCOUNTABILITY AND RESOLUTION MECHANISM (ARM)

The PSSP web portal recommended by the collective action initiative was primarily a tool to strengthen the GRM in enhancing compliance with the SOPs by creating a platform for reporting and resolving corrupt demands and refusal to work according to the SOPs by industry players and external stakeholders in a timely and transparent fashion. This research proposes that while the GRM has the potential to serve as an effective Accountability and Resolution Mechanism (ARM) that ensures compliance with SOPs and minimizes corruption in Nigeria's port operations, it is not currently functioning effectively in this capacity.

A High-Level Reporting Mechanism

(HLRM) is often individually tailored by its implementer to improve a business environment by creating a channel for recourse and resolution of complaints. The main purposes of a HLRM are to resolve issues of corruption or business malpractice, create accountability among government agencies, and provide policy recommendations to government agencies in order to establish change.

In order to satisfy OECD recommendations for an HLRM, the GRM and PSSP web portal must function in a way that fits the unique environment of Nigerian ports. The ideal features of the GRM are highlighted below as recommendations for ways to improve the implementation and management of the PSSP web portal:

1. **Accessibility and Convenience of the Complaint Medium:** For the reporting mechanism tool to be inclusive and efficient, it is important that complainants are able to file complaints through mediums that are most convenient for them. Therefore, the PSSP should have platforms for receiving complaints through phone-call, email, walk-ins, a web portal, and a user-friendly mobile phone application. Although complaints will be filed through different mediums, they should be processed on a centrally coordinated and organized platform to maximize efficiency.

Providing possible complainants with a plethora of easy to use complaint intake mediums will have an impact on the number of complaints filed. Knowing that complaints can be filed through a wide array of forms also makes government officials more likely to comply

with the rules as there is a higher probability they will be reported for malfeasances.

2. **Timeliness of Complaint Resolution and Depth of Complaint Resolution:** Quick and consistent responses and updates on ongoing investigations and process flow are vital to ensure transparency and enhance complaint investigation and resolution. The more lapse in time between the time of the complaint and the response, the more difficult it is to effectively validate the complaints and obtain complete and accurate supporting evidence and information for effective investigation and resolution. Initial resolutions should be mediated in no more than 24 hours and preferably within a six-hour timeframe, if possible. Nigerian ports are a unique business environment where a few hours of delay have the potential to incur large amounts of monetary loss, therefore timely complaint resolutions are central to the PSSP web portal's functioning to meet the objective of the GRM.

However, mediation and investigation of some complaints will understandably take longer. Complaints that require extensive mediation and/or investigation should offer a final resolution within a fixed number of days of the initial resolution, ideally not to exceed 14 days. The initial resolution differs from the final resolution as it happens quickly to address the problem at hand that is halting port proceedings. The final resolution stage is the part of complaint processing where disciplinary action or policy changes may be recommended.

In addition to resolution timeliness, it is extremely important that complainants are notified of every development relating to their complaint. Complainants should be notified through the medium that they used to file the complaint unless requests to the contrary are made.

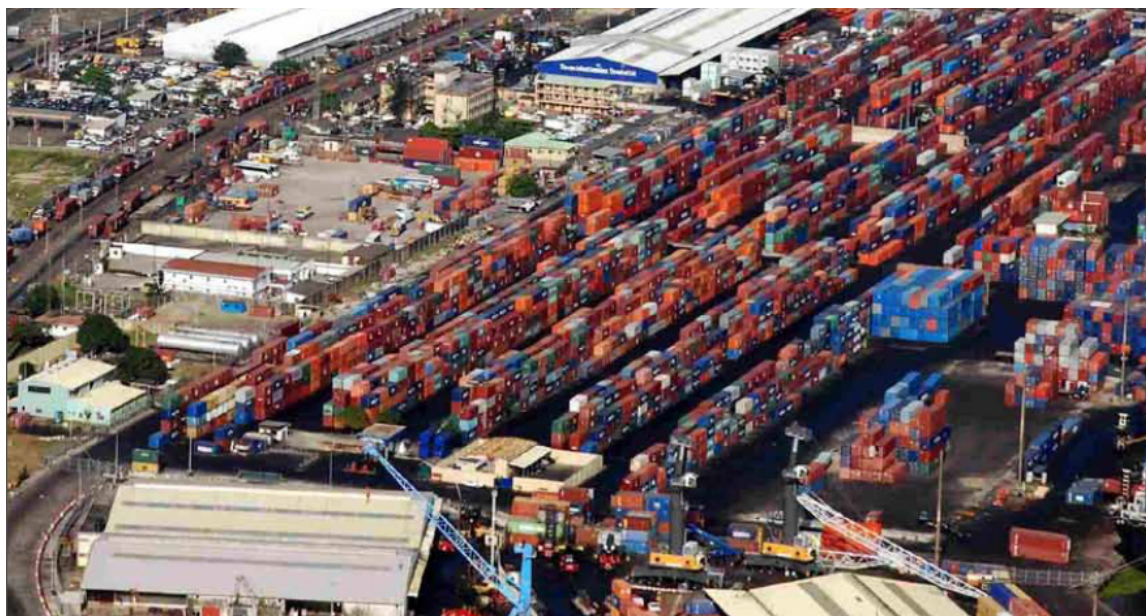
Quick acknowledgment, resolution, and investigation are extremely important for the GRM to be used effectively. Complainants will be more likely to use the mechanism again if their complaints are resolved in a timely manner. When resolutions occur quickly, the mechanism will build a reputation of being efficient and enhance buy-in from all stakeholders, as well as increase overall usage. Overall accountability will improve when port operators become aware that improper behaviors will be quickly dealt with in a way that cannot interfere with their career and daily operations.

3. **Confidentiality, Management and Storage of Complaints:** Proper management and storage of complaints is crucial to the success of any ARM. For complaints to be resolved and investigated properly, it is necessary for complainants to provide detailed information on the incident and basic personal information for follow-up purposes. If complainants can trust that the content of their report as well as their personal information is secure and will not get into the hands of those they complained against and that there are effective measures to protect them from retaliatory actions, they will feel more comfortable using the mechanism. Therefore, the mechanism must have a protected database for storing details of complaints and complainants. Additionally, the body in charge of managing the complaints must demonstrate commitment and capacity to preserve and not disclose information received to another government agency or a third party, unless the complainant approves of the disclosure.

It is also important that complaints and information received from all mediums are centralized and organized in a single database. The organization of complaints is important for offering policy recommendations, determining trends, and for influencing further research. Centralizing all complaints increases the ability to identify trends that can be used to offer policy recommendations to create sustainable, long-term improvements in the business environment of the ports.

4. **Oversight:** For the GRM to be fully effective, the oversight and management institution(s) must demonstrate accountability to stakeholders. The administration of the PSSP web portal must show that complaints are resolved in a manner that demonstrates a high level of commitment to effective follow through on resolutions to evoke confidence and trust. Strong oversight ensures that the GRM is functioning as it should across all regulatory agencies, which can be evaluated on an ongoing basis by reviewing and analyzing the data collected on the PSSP web portal. An independent oversight body made up of a diverse group of stakeholders is also a vital aspect of ensuring that the PSSP web portal management does not become corrupted or influenced by political and business interests. To this end, the oversight body must be diverse and free from conflicting interests. The oversight body should support transparent management of complaints processes and provide regular reporting updates of progress and outcomes to stakeholders and users of the system.

5. **Clear Sanctions Regime for Violations and Retaliation:** To maximize accountability, the GRM must contain a strong sanctions regime. Sanctions for malfeasances must be clearly laid out so there is little room for discretion or arguments during investigations and resolutions. Clear sanctions increase accountability as officials who violate procedures will have an understanding that they will face punishment of a certain nature. Clear sanctions can also increase the use of the mechanism because port users will be more likely to file a complaint if they know that it will have an effect and they will be protected from retaliatory action.
6. **Transparency and Public Communication:** The distribution of periodic reports is an important aspect of an effective ARM such as the GRM. Reports designed to inform stakeholders on progress made by the mechanism including data from the PSSP web portal is a major trust-building factor and is another aspect of accountability for the coordination body itself, in this case the NSC. Stakeholders who are part of the GRM will be motivated to work much harder to abide by the established systems and measure if they know that their progress or lack thereof will be monitored and reported publicly. Regular publications will also have an effect on the mechanism's users, reassuring them that measures are being taken against corrupt behavior and to protect them from retaliation. Finally, these reports can be used as a monitoring and evaluation tool to improve future efforts and improvements to the GRM and PSSP web portal.



SPECIFIC RECOMMENDATIONS BASED ON STUDY FINDINGS

The recommendations below are specific to the findings of this study and include strategic and structural recommendations for the initiative. Building on the preceding section on benchmarking the GRM and the implementation of the PSSP web portal as an ARM, the recommendations below provide tangible and actionable improvements to the PSSP web portal and NSC Reporting Mechanisms as well as the business environment as a whole.

- 1. Strengthen Business Consensus:** An effort to build consensus between MACN members and local business operators on the objectives of this initiative would go a long way in understanding the nature, extent, and complexities of corruption problems in port operations. Attempting to address the problem of corruption in port operation can only scratch the surface of a complex and deeper-rooted problem when relying solely on the information collected through the available reporting channels. The efforts to diversify availability of information and strengthen business consensus should be coordinated by CBI and MACN in cooperation with the NSC. Before stakeholders initiate activities, a thorough understanding of these dynamics is necessary. Specific activities to achieve this outcome may include dialogue meetings, confidential situational surveys, campaigns and educational drives. An educational campaign coordinated by these stakeholders and focused on these efforts would improve preparation for a port call by MACN members, clearing agents, and cargo owners in Nigeria, incentivize usage of the PSSP web portal to build trust between the public and private sector, and increase the understanding of the unique conditions of Nigerian ports by MACN members.
- 2. Adopting an Organized System to Process Complaints:** A thoroughly organized filing and document management system creates a great deal of efficiency as it makes tracking, recording, reporting, and ensuring the visibility of costs more effective and less time consuming. Most importantly, it enables the organization to build their competences and strengthen trust in the system as it enables them to analyze information and share trends more broadly. If complaints are accurately labeled, recorded, and categorized, it is possible to analyze trends, interrogate assumptions, and proffer solutions. A numbering system would be helpful to organize complaints and make different kinds of complaints easily accessible. Additionally, an organized and preferably computerized complaint processing

system would allow the NSC to establish baselines of corruption and aid in the recognition of trends so that it can introduce and recommend preventive solutions to both public and private sector stakeholders. Establishing a method for determining trends could also lead the PSSP web portal to produce targeted and data-driven policy recommendations.

- 3. Establishment of a Transparent Oversight Body:** An oversight body that steers the department or unit in charge of handling the reporting mechanism is vital to ensuring continued best practices and limiting conflicts of interest that could corrupt the mechanism itself. The oversight body needs to be composed of stakeholders from across the industry that have a vested interest in improving the business environment. It is important to have an even mix of vetted and trusted stakeholders from the public and private sectors, as well as influential civil society actors. It is also important that the oversight body has its own group of experienced investigators and a credible leader who is strongly interested in anti-corruption measures and the efficiency of the reporting mechanism. It is vital to institutionalize the oversight body as well as the mechanism itself in order to enhance cross agency cooperation.
- 4. Regular Communication and Publication of Updates:** It is important for statistics on the number of complaints received, the number of complaints resolved, the average time spent, and the remedies provided to be published quarterly, and at a minimum annually, on the website. This will not only promote accountability, but it will engender more support for the PSSP web portal. Even in the absence of filed complaints, reports should still be published periodically to notify the public on the steps that stakeholders are taking to develop or improve the PSSP web portal and the business environment for port operators and users. Communication of these efforts and their impact is critical to deterring corruption and violations of the SOPs, which is the ultimate goal of these efforts to tackle corruption.
- 5. Institute a clear sanctions regime:** Port officials must know that they will face consequences for corrupt behavior. An understanding that they can receive complaints, combined with a strong possibility that they will face punishment for the complaints, will drive down the confidence of port officials when they consider performing corrupt activities. Clear sanctions need to be determined through prior inter-agency consultations and agreement between port users and government agencies. Most importantly, the sanctions must apply equally and consistently to all officers in all agencies.

CONCLUSION

While the PSSP web portal and GRM hold massive potential to create meaningful change to the levels of corruption in Nigeria's ports, they are currently falling short on their commitments. A critical objective of any mechanism of this nature is to be able to constantly grow and develop into an increasingly efficient and accessible system that creates a culture of accountability and trust. The PSSP web portal's current lack of accessibility and transparency undermine its potential to serve the community in this capacity and further extenuate the lack of trust between the people and their government. In order to operate effectively within this context, the PSSP web portal and GRM will need to ensure that there are clear consequences for the shortcomings of public officials and support for a community that incentivizes good behavior.

Throughout this research process, it has become clear that the PSSP web portal holds immense potential to achieve its goals. When functioning properly, the PSSP web portal will provide the GRM and the port community the data, visibility, and transparency to incentivize and encourage ethical behavior, follow through on consequences to deter corrupt and unethical behavior, and in time, implement rehabilitative initiatives. As it

stands today, without that data, transparency, and presence as an oversight body, the PSSP web portal is losing a great opportunity its potential as an agent for change.

Although the PSSP web portal is not currently operating at its highest capacity, it is important to highlight the progress made under the collective action initiative and the GRM. Prior to the creation and adoption of the SOPs, there was ample opportunity for bribery through unofficial demands for payment that bordered on extortion. The introduction of the GRM has enabled port users to make confidential complaints about violations of the SOPs for vessel clearance by port officials during port calls and receive relatively prompt resolution of such complaints. Informant interviews also support the assertion that several companies have found success using the PSSP web portal in resolving their complaints. When managed through a transparent and coordinated platform such as the PSSP web portal, the GRM has the potential to strengthen the internal control system and reduce the opportunity for corruption in vessel clearance operations, creating an unprecedented level of accountability in the port system.

To enhance port efficiency and reduce corruption in the Nigerian ports, the PSSP web portal must function effectively and transparently to service the diverse stakeholder interests and needs for speed, confidentiality, transparency, and ultimately the rebuilding of trust. Once trust has been built and earned through increased

transparency and accountability, the opportunities for the GRM are limitless. As mentioned earlier in this report, the 288 reports have been logged through the PSSP web portal thus far with 230 resolutions recorded. While there is a long road ahead for the PSSP web portal, these reports and resolutions are a step in the right direction.



CONTRIBUTORS

MARITIME ANTI-CORRUPTION NETWORK (MACN)



MACN
Maritime Anti-Corruption Network

The Maritime Anti-Corruption Network (MACN) is the leading global business network in combatting maritime corruption. MACN's efforts are a classic example of

how the private sector can collaborate to respond to corruption problems through collective action, partnership, capacity building, and education. Founded in 2011, MACN is a global business network comprised of over 130 members across the maritime industry. MACN is facilitated by Business for Social Responsibility (BSR), an NGO focused on assisting the private sector in addressing global challenges. MACN is governed by a member-elected steering committee.

CONVENTION ON BUSINESS INTEGRITY (CBI)



THE CONVENTION ON BUSINESS INTEGRITY LTD. (GTE.)

The Convention on Business Integrity (CBI) is an anti-corruption advocacy organization based in Nigeria. Its mission is to promote ethical business practices, transparency, and fair competition in the public and private sectors of African countries. Since its

establishment in 1997, CBI has engaged with 23 organizations that have signed onto its Code of Business Integrity, aimed at binding private businesses and government agencies to ethical compliance in the conduct of their business. It has also provided Corporate Governance Ratings to over 100 listed companies in Nigeria.

In 2012, CBI partnered with the Maritime Anti-Corruption Network (MACN) to serve as the local implementing partner of the MACN's collective action project to reform Nigeria's ports. CBI trained 1,000 local port officials between 2015 and 2017, in order to create awareness of good practices and the need for a culture of integrity. The training program received high ratings from the participants. For example, in Calabar, 96% of the participants responded that the content of the training was relevant to their job, 95% responded that the workshop activities stimulated learning, and 93% indicated that they could use the lessons learned in their daily operations. CBI has also escalated issues to the local authorities in Nigeria to draw attention to the areas of port governance that require more government intervention.

NIGERIAN SHIPPERS' COUNCIL (NSC)



NIGERIAN SHIPPERS' COUNCIL

The Nigerian Shippers' Council was established in 1978 following a recommendation by the United Nations Conference on Trade and Development (UNCTAD) for developing and developed countries.

The Nigerian Shippers' Council was established to provide a platform for the protection of the interests of shippers (importers and exporters) on matters affecting the shipment of goods to and from Nigeria. The NSC advises the Federal Government on all matters relating to freight rates, terms of shipments, class and quality of vessels, port charges, availability, adequacy, accessibility and affordability of transport services, and generally on problems facing the shipping industry in Nigeria. The vision of the NSC is to be the foremost economic development agency, providing a regulatory system that fosters efficient, effective, and competitive service delivery in the transport sector. The NSC was designated as the port economic regulator by the federal government in February 2014. To this end, it is empowered to create a regulatory regime, controlling tariffs, rates, charges, and other economic services.

In addition to the established complaints mechanism of the NSC, the Council is also in charge of receiving and handling complaints made by port users regarding vessel clearance through the Port Service Support Portal (PSSP) web portal developed as part of the port efficiency project to provide speedy resolution of complaints. The PSSP web portal enables vessel owners and captains to activate the authority of the Grievance Reporting Mechanism (GRM) backed by the Executive Order 01 on the Ease of Doing Business¹⁴, and the Standard Operating Procedures (SOPs) agreed to by the various maritime regulatory agencies in holding port officials accountable to being efficient, transparent, and professional during vessel inspections and port calls. Vessel owners and captains can make complaints directly through the PSSP web portal, which is designed to provide a resolution to complains that do not require an investigation within 24 hours and where necessary, to conduct the relevant investigations within two to five business days.

CENTER FOR INTERNATIONAL PRIVATE ENTERPRISE (CIPE)



**CENTER FOR INTERNATIONAL
PRIVATE ENTERPRISE**

The Center for International Private Enterprise (CIPE) strengthens democracy around the globe

through private enterprise and market-oriented reform. CIPE is one of the four core institutes of the National Endowment for Democracy and a non-profit affiliate of the U.S. Chamber of Commerce. One of CIPE's strategic focus areas through its Africa Regional Anticorruption Initiative is to galvanize the private sector to combat corruption and advocate for transparency and accountability in order to promote inclusive growth and development.

One of CIPE's strategic focus areas through its Africa Regional Anticorruption Initiative is to galvanize the private sector to combat corruption and advocate for transparency and accountability in order to promote inclusive growth and development.

CIPE provided funding and support for independent research and evaluation of the port reform project that is being supported by the Maritime Anti-Corruption Network (MACN) and Convention on Business Integrity (CBI) in Nigeria. Since 1983, CIPE has been implementing business collective action projects to attain reforms like the reduction of corruption around the world. Therefore, authors of this report were able to leverage CIPE's expertise to evaluate the effectiveness of the PSSP web portal in executing and delivering on the expectations of the GRM and Executive Order 1.



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ENDNOTES

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