

Supplement to Official Gazette Extraordinary No. 24 Vol. 74, 1st May,
1987—Part A

TRADE UNIONS (DISQUALIFICATION OF CERTAIN PERSONS)
(REPEAL) DECREE 1987



Decree No. 9

[30th April 1987]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

- | | |
|---|---------------------------|
| 1. The Trade Unions (Disqualification of Certain Persons) Act 1977 is hereby repealed | Repeal of
1977 No. 15. |
| 2. This Decree may be cited as the Trade Unions (Disqualification of Certain Persons) (Repeal) Decree 1987. | Citation. |

MADE at Lagos this 30th day of April 1987.

MAJOR-GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree but is
intended to explain its purport)*

The Decree repeals the Trade Unions (Disqualification of Certain Persons) Act 1977 so that persons proscribed from belonging to or holding office in any trade union and from participating in the management of the affairs of any trade union could now do so.

NATIONAL SHIPPING POLICY DECREE 1987



ARRANGEMENT OF SECTIONS

Section

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| 2. Composition of the Authority. | 14. Exports and imports. |
| 3. Aims and objects of the Authority. | 15. Shipping services, etc. |
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| 7. Conditions for granting of national carrier status to shipping companies. | 19. Revocation of national carrier status. |
| 8. Use of chartered vessels. | 20. Establishment of a Joint Booking Office. |
| 9. Carriage of cargo. | 21. Establishment of Booking Centres. |
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| 11. Foreign exchange to defray cost incurred in evacuating export produce. | 23. Fund of the Authority. |
| 12. Maintenance of national carrier vessel and other Nigerian flag ships. | 24. Annual estimates, accounts and audit. |
| | 25. Annual reports. |
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| | 27. Power to make regulations. |
| | 28. Interpretation. |
| | 29. Citation. |

Decree No. 10

[30th April 1987]

Commence-
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There is hereby established a body to be known as the National Maritime Authority (hereinafter in this Decree referred to as “the Authority”).

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be able to sue and be sued in its corporate name.

(3) The Authority shall exercise such functions and achieve such objectives as may be conferred upon it by this Decree.

Establish-
ment of the
National
Maritime
Authority.

Composition
of the
Authority.

2.—(1) The Authority shall consist of—

- (a) a Chairman and 5 other members with wide experience in shipping and commercial matters to be appointed by the President, Commander-in-Chief of the Armed Forces on the recommendation of the Minister ;
- (b) a representative of the Federal Ministry of Transport and Aviation ;
- (c) a representative of the Federal Ministry of Finance ;
- (d) a representative of the Federal Ministry of Justice ;
- (e) a representative of the Federal Ministry of Trade ; and
- (f) a representative of the Nigerian Navy.

(2) The provisions of the Schedule to this Decree shall have effect with respect to the matters therein mentioned.

Aims and
objects of
the Authority.

3. It shall be the objective of the Authority to—

(a) correct any imbalance in the Nigerian shipping trade for the purpose of implementing the provisions of the UNCTAD Code of Conduct for Liner Conference, especially to observe the ratio of 40 : 40: 20 in respect of carriage of goods to Nigerian ports ;

(b) improve Nigeria's balance of payments position by enhancing the earning and conservation of foreign exchange from the shipping industry ;

(c) use the national shipping policy as instrument of promoting the export trade of Nigeria and thus accelerate the rate of growth of the national economy ;

(d) ensure the greater participation of indigenous shipping lines in liner conferences thereby influencing the decision making processes of such liner conferences serving Nigerian international sea-borne trade ;

(e) promote the acquisition of shipping technology by creating and diversifying employment opportunities in the shipping industry, through the stimulation and protection of indigenous shipping companies ;

(f) assist in the economic integration of the West African sub-region ;

(g) offer protection to Nigerian vessels flying the nation's flag on the high seas and world seaports ;

(h) increase the participation by indigenous Nigerian shipping lines in ocean shipping through the application of the provisions of the UNCTAD Code on General Cargo and by entering into bilateral agreements, or other suitable arrangements ;

(i) encourage the increase of ownership of ships and the achievement of indigenous skills in maritime transport technology ;

(j) achieve a systematic control of the mechanics of sea transportation ; and

(k) promote the training of Nigerians in maritime transport technology and as seafarers.

Functions
of the
Authority.

4. The functions of the Authority shall be—

- (a) to co-ordinate the implementation of the national policy on shipping as may be formulated from time to time by the Federal Military Government ;

(b) to ensure that Nigerian national carriers exercise fully, Nigeria's carrying rights of at least 40 *per cent* of the freight in revenue and volume of the total trade to and from Nigeria ;

(c) to grant national carrier status to indigenous shipping lines ;

(d) to monitor the activities of vessels of the companies granted national carrier status ;

(e) to grant assistance to indigenous companies for fleet expansion and ship ownership ;

(f) to regulate liner conferences and national carriers ; and

(g) to perform such other functions as may be required to achieve the aims and objects of this Decree or any national shipping policy as may be formulated by the Federal Military Government pursuant to this Decree.

5.—(1) The Authority shall investigate, determine and keep current records of—

Special
functions of
the Authority.

(a) ocean services, routes and lines from Nigerian ports to foreign markets as may be determined by the Minister to be essential for the promotion, development, expansion and maintenance of the foreign commerce of Nigeria ;

(b) bulk cargo carrying services for the purposes of promotion, development, expansion and maintenance of the foreign commerce of Nigeria, the national defence and other national requirements provided by Nigerian flag vessel whether or not operating on a particular ocean service, route or line ;

(c) the type, size, speed, method of propulsion and other requirements of vessels which should be employed—

(i) in such services or on such routes or lines and the frequency and regularity of the sailings of such vessels, with a view to furnishing adequate, regular, certain and permanent service ; or

(ii) to provide the bulk cargo carrying services necessary for the promotion, maintenance and expansion of foreign commerce of the Federal Republic of Nigeria and its national defence or other national requirements whether or not such vessel operates on a particular service, route or line ;

(d) the relative cost of construction of comparable vessels in Nigeria and in foreign countries ;

(e) the relative cost of managing the commercial aspects of the shipping industry such as scheduling, chartering in or chartering out of vessels, allotment of cargo space, cargo pricing and cargo soliciting, marine insurance, maintenance, repairs, wages and subsistence of officers and crew, and all other items of expense, in the operation of comparable vessels under the laws, rules and regulations of Nigeria and under those foreign countries whose vessels are substantially competitors of any such Nigerian vessels ;

(f) the extent and character of aid and subsidies granted by foreign governments to their merchant marine ;

(g) the number, location and efficiency of shipyards existing on the date of the promulgation of this Decree or thereafter built in Nigeria ;

(k) new designs, methods of construction and types of equipment for vessels ;

(i) the possibilities of promoting the carrying of the foreign trade of Nigeria in Nigerian vessels ; and

(j) inland water transportation including their relation to transportation by land and air.

(2) The Authority shall for the purposes of subsection 1 (a) of this section consider and give due weight to—

(a) the cost of maintaining the ocean lines ;

(b) the probability that the ocean lines cannot be maintained except at a heavy loss disproportionate to the benefit accruing to foreign trade ;

(c) the numbers of sailings and the types of vessels that should be employed in the ocean lines ;

(d) the benefit the maintenance of the ocean line may afford to the foreign trade of Nigeria ; and

(e) any other facts or conditions which the Authority may from time to time determine as necessary.

Appointment
of Director-
General and
other staff of
the Authori-
ty.

6.—(1) There shall be for the Authority a Director-General who shall be the Chief Executive and who shall be appointed by the President, Commander-in-Chief of the Armed Forces.

(2) The Director-General shall be responsible for the day to day administration of the Authority.

(3) The Authority shall appoint a Secretary to the Authority who shall keep the records and conduct the correspondence of the Authority and perform such other duties as the Authority or the Director-General may from time to time assign to him.

(4) Without prejudice to the generality of subsection (1) of this section, the Authority shall have power—

(a) to appoint such other staff as it may determine ;

(b) to pay its staff such remuneration and allowances as it may, with the approval of the Minister, determine ;

(c) to pay in respect of any staff such pensions and gratuities as are payable to persons of equivalent grade in the civil service of the Federation and

(d) to give loans to its staff for purposes approved by the Minister.

Conditions
for granting
of national
carrier status
to shipping
companies.

7. The Authority may grant national carrier status to a shipping company if—

(a) Nigerian individuals or enterprises fully owned by Nigerian individuals have at least 60 *per cent* of its equity shares and the company is registered in Nigeria ;

(b) the vessels owned by the company operate on the deep sea and not on the Nigerian coastal or inland waterways ;

(c) the head office of the company is located in Nigeria and its management and control is directed from its Nigerian head office ;

(d) the company owns at least one ocean-going vessel of not less than 5,000 net registered tonnage ;

(e) the terms and conditions of the employment of seafarers engaged by the company are in conformity with Nigerian laws and accepted international rules and standards ;

(f) the vessels of the company are registered in the Nigerian Register of Ships and the vessels satisfy all conditions stipulated in the Nigerian Merchant Shipping Act 1962 as amended ; and

(g) 100 *per cent* of the crew and at least 75 *per cent* of the shipboard officers including captain and chief officer and wherever possible chief engineers, are Nigerians.

1962 No. 30

8.—(1) The Authority may allow national carriers to use chartered vessels when vessels belonging to the national carriers are insufficient for the cargo available.

Use of
chartered
vessels.

(2) Nigerian operators wishing to charter vessels shall make national carriers operating National flag vessels their first choice and consider other vessels only when vessels are not available as stipulated in subsection (1) of this section.

9.—(1) Subject to subsection (2) of this section, and in addition to cargo as defined under the UNCTAD Code of Conduct for Liner Conference, national carriers shall have the right to participate in the carriage of bulk cargo (dry or wet).

Carriage of
cargo.

(2) The participation of national carriers in the carriage of bulk cargoes to and from Nigeria shall be subject to carriage right of not less than 50 *per cent* of such cargoes.

(3) All other cargo to and from Nigeria outside the jurisdiction of liner conferences shall be subject to the same principles of cargo sharing as stipulated in subsection (2) of this section and subject to such exceptions as the Federal Military Government may from time to time determine.

(4) Cargo sharing shall cover the totality of available trade including bulk dry and wet cargo and shall not be limited to the UNCTAD 40 : 40 : 20 formula.

(5) Ships owned or hired by Nigerian national carriers shall carry at least 50 *per cent* of the cargoes generated through technical assistance or international aid.

(6) The Authority shall determine ways and means of involving national carriers in the carriage of crude petroleum in Nigerian vessels.

10.—(1) All payments for services offered and rendered to foreign vessels at Nigerian seaports shall be paid for in foreign exchange transferred into Nigeria through the Central Bank of Nigeria.

Payments
for services
rendered in
Nigerian
seaports.

(2) It shall be mandatory on the companies operating foreign vessels to show evidence of transfer of the funds at the point of entry.

(3) Nothing in subsection (1) of this section shall be construed as compelling national carriers to make payments for services offered and rendered to national carriers vessels at Nigerian seaports in foreign exchange.

11. Nigerian shipping companies may apply to the Authority for approval for the foreign exchange component to defray the cost legitimately incurred by them in the evacuation of export produce.

Foreign
exchange to
defray cost
incurred in
evacuating
export
produce.

Maintenance
of national
carrier vessel
and other
Nigerian
flag ships.

12.—(1) All national carrier vessels and other Nigerian flag ships shall be serviced, repaired and maintained, where practicable, in Nigeria.

(2) Where it is not practicable for a national carrier vessel or any other Nigerian flag ship to be serviced, repaired or maintained in Nigeria, the owners of such vessel shall obtain a certificate to that effect from the Authority.

(3) Foreign ships participating in the carriage of Nigerian trade may avail themselves of the Nigerian facilities in the maintenance and repairs of their vessels.

Ship acqui-
sition and
shipbuilding.

13.—(1) There is hereby established a fund to be known as the Ship Acquisition and Building Fund (hereafter referred to as "the Fund").

(2) The Fund shall be administered by a committee composed of members of the Authority.

(3) The fund shall be applied to assist Nigerians in the development and expansion of a national fleet.

(4) The Minister shall lay down the general procedure and guidelines for the administration and the carrying into effect the purposes of the Fund.

Exports and
imports.

14.—(1) National carriers shall have exclusive right to the freight belonging to the Federal, State and Local Governments including Federal and State owned companies and parastatals except where such freight is exempted by the Minister.

(2) The Federal Military Government shall from time to time issue guidelines on incentives to be granted to Nigerian shippers who use the national carrier vessels for the carriage of their cargoes.

(3) All public sector contracts for the importation and exportation of goods shall respectively be on F.O.B. and C and F basis.

(4) The Minister may from time to time grant exceptions on certain imports and exports from the operation of subsection (1) of this section.

(5) Shipping companies benefitting from the provisions of this Decree shall provide regular services on their respective route to ensure adequate coverage of Nigeria's export trade.

Shipping
services, etc.

15. The Authority may make recommendations to the Federal Military Government in respect of the ownership structure of vessels and other facilities for off-shore support services.

Foreign
exchange
earnings
from ships.

16.—(1) Notwithstanding anything to the contrary in any other enactment as from the commencement of this Decree, the Federal Military Government shall allow indigenous shipping companies to keep 25 per cent of their net foreign exchange earnings abroad to enable them off-set handling charges and any other costs incurred in respect of shipping services rendered by them.

(2) The remaining 75 per cent of the net foreign exchange earnings of indigenous shipping companies shall be remitted through the Central Bank of Nigeria.

Payment to
Federal
Military
Government
on earnings
from ships.

17.—(1) Every shipping company operating in Nigeria shall be liable to a charge at the rate of two per cent of gross earnings in respect of every outward or inward cargo carried by it.

(2) The charge referred to in subsection (1) of this section shall be collected by the Authority on behalf of the Federal Military Government.

(3) The Minister may, after consultation with the Minister of Finance, make regulations for the implementation of this section.

18.—(1) The Authority shall ensure that Nigerian vessels carry Nigeria's share of cargo in volume and earnings in accordance with the provisions of this Decree or any other form of cargo sharing arrangement entered or agreed to by the Authority or by the Federal Military Government.

Cargo control and sharing.

(2) For the purpose of cargo sharing, all Nigerian national carriers in a trade route shall be regarded as a single group of shipping lines.

(3) The choice of cargo control and sharing methods desired by this section shall be achieved by administrative arrangements.

19. The Minister on the recommendation of the Authority may suspend, or revoke the national carrier status of a company if the company fails to meet any of the conditions (including the training of Nigerian seafarers) or is inefficient and fails to correct the position within six months after receiving a notice in writing from the Authority.

Revocation of national carrier status.

20.—(1) The Authority shall establish a Joint Booking Office in any part of the world as the Authority may deem necessary for the purpose of co-ordinating the activities of the Authority abroad and to provide facilities for national carriers and other conference lines.

Establishment of a Joint Booking Office.

(2) Except otherwise directed by the Minister, the Authority shall appoint a Nigerian to be the administrative head of the Joint Booking Office.

(3) The administrative head of the Joint Booking Office shall be responsible to the Authority.

21. The Authority may establish such other Booking Centres abroad as may permit the effective coverage of the Authority's functions under this Decree.

Establishment of Booking Centres.

22. The Minister shall, from time to time, fix the commission payable to the Booking Centres established pursuant to section 21 of this Decree after consultation with the Authority.

Commission payable to Booking Centre.

23. The Authority shall establish a fund which shall consist of—

Fund of the Authority.

(a) such sums as may be provided to it by the Federal Military Government for the running expenses of the Authority and all other assets from time to time accruing to the Authority ;

(b) such sums as may from time to time be lent to the Authority by any person ; and

(c) such sums as may be collected or received by the Authority from other sources either in the execution of its functions or in respect of any property vested in the Authority or otherwise howsoever.

24.—(1) The Authority shall submit to the Minister not later than 30th June in each financial year an estimate of its expenditure and income during the next succeeding financial year.

Annual estimates, accounts and audit.

(2) The Authority shall keep proper accounts and proper records in relation thereto and shall prepare in respect of each financial year statement of accounts in such form as the Minister may direct.

(3) The Authority shall within 6 months after the end of the financial year to which the accounts relate cause its accounts to be audited by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

Annual
reports.

25. The Authority shall prepare and submit to the National Council of Ministers, through the Minister, not later than 30th September in each financial year a report in such form as he may direct on the activities of the Authority during the immediately preceding financial year, and shall include in such report a copy of the audited accounts of the Authority for that year and the auditor's report thereon.

Offence and
penalty.

26.—(1) It shall be an offence punishable under this Decree for any company to fail to comply with any provisions of this Decree.

(2) Any company which fails to comply with the provisions of this Decree shall be liable to a fine of not less than ₹50,000 or 15 per cent of the C.I.F. value of the freight transported or loaded, whichever is higher.

(3) Any fine imposed pursuant to this section shall be paid to the Federal Military Government.

Power to
make regula-
tions.

27. The Minister may make regulations for the effective implementation of this Decree.

Interpreta-
tion.

28. In this Decree, except the context otherwise requires—

“Authority” means the National Maritime Authority established pursuant to section 1 of this Decree ;

“Minister” means the Minister charged with responsibility for transport matters ;

“ship” means a sea-going vessel not less than 5,000 gross registered tonnage.

Citation.

29. This Decree may be cited as the National Shipping Policy Decree 1987.

SCHEDULE

Section 2 (2)

Tenure of Office

1.—(1) Subject to the provisions of this paragraph, a member of the Board, other than a public officer shall hold office for a period of three years from the date of his appointment and shall be eligible for re-appointment for a further period of three years ; thereafter he shall no longer be eligible for re-appointment.

(2) A member of the Board other than a public officer may resign his appointment by a letter addressed to the Minister and the resignation shall take effect from the date of the receipt of the letter by the Minister.

(3) The Minister may appoint any person who is a registered member of the relevant profession to be a temporary member during a long absence or the temporary incapacity from illness of any member ; and that person, may while the appointment subsists, exercise the functions of a member under this Decree.

(4) The foregoing provisions of this section shall be without prejudice to the provisions of section 11 of the Interpretation Act 1964.

Proceedings of the Authority

2. Subject to the provisions of this Decree and of section 26 of the Interpretation Act 1964, the Authority may make standing orders regulating the proceedings of the Authority or of any committee thereof.

3. The quorum of the Authority shall be three and quorum of any committee of the Authority shall be determined by the Authority.

4. At any time while the office of the Chairman is vacant or the Chairman is in the opinion of the Minister temporarily or permanently unable to perform the functions of his office, the Minister may appoint a member of the Authority to perform the function of the Chairman during his absence.

5.—(1) Subject to the provisions of any applicable standing orders the Authority shall meet whenever summoned by the Chairman ; and if the Chairman is required so to do by notice given to him by not less than four other members, he shall summon a meeting of the Authority to be held within twenty-one days from the date on which the notice is given.

(2) At any meeting of the Authority, the Chairman or, in his absence, the person appointed pursuant to paragraph 4 of this Schedule shall preside but if both are absent the members present at the meeting shall appoint one of their number to preside at that meeting.

(3) Where the Authority wishes to obtain the advice of any person on a particular matter, the Authority may co-opt him as a member for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Authority and shall not count towards a quorum.

(4) Notwithstanding anything to the contrary, the first meeting of the Authority shall be summoned by the Minister who may give such directions as to the procedure to be followed at that meeting as he may deem fit.

Committees

6.—(1) The Authority may appoint one or more committees to carry out, on behalf of the Authority, such of its functions as the Authority may determine.

(2) A committee appointed under this paragraph shall consist of the number of persons determined by the Authority and not more than one-third of those persons may be persons who are not members of the Authority ; and person other than a member of the Authority shall hold office on the committee in accordance with the terms of the instrument by which he is appointed.

(3) A decision of a committee of the Authority shall be of no effect until it is confirmed by the Authority.

Miscellaneous

7.—(1) The fixing of the seal of the Authority shall be authenticated by the signature of the Chairman or of some other member authorised generally or specially by the Authority to act for that purpose.

(2) Any contract or instrument which if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Authority by any person generally or specially authorised to act for that purpose by the Authority.

MADE at Lagos this 30th day of April 1987.

MAJOR-GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of the above Decree but is
intended to explain its purport)*

The Decree establishes a National Maritime Authority to, amongst other things, co-ordinate and implement Nigeria's national shipping policy.