

THE NATIONAL SINGLE WINDOW SYSTEM: CHALLENGES AND PROSPECTS

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Nigeria, despite its enormous social and economic challenges, is a big player in the international trade arena, both on the import and export platforms. In recognition of this, and in a bid to simplify the mode and manner in which cross-border trade is conducted, in line with global best practices, the Nigeria Customs Service (NCS) has initiated the setting up of the Single Window System to make the clearing of goods more efficient, cheaper, and quicker. The NCS presently operates the Automated System for Customs Data (ASYCUDA) but recognizes the limitations of the system in the present regime of international trade. ASYCUDA still requires submission of documents and the obtaining of approvals from sundry governmental agencies; hence, the resolve to upgrade the existing system to what is presently obtainable in many countries in the World's largest economies. Several world organizations such as the United Nations Economic Commission for Europe and its Centre for Trade Facilitation & Electronic Business and the World Customs Organization recognise and promote the Single Window.

Single Window has been defined as "a facility that allows parties involved in trade and transport to lodge standardized information and documents with a single entry point to fulfill all import, export and transit-related regulatory requirements. If information is electronic, then individual data elements should be submitted once." As such, the implementation of Single Window enables international (cross-border) traders to submit regulatory documents at a single location to a single entity. Such documents are typically customs declarations, applications for import/export permits, and other supporting documents such as certificates of origin, processed payment transfer documentation ("Form M") and trading invoices.

The main advantage of having Single Window in a country or economy is to increase efficiency through time and cost savings for traders in their bid to obtain relevant clearance permits from government authorities for moving cargo across national or economic borders. In times past, traders have had to contend with visits to, and dealings with multiple government agencies in multiple locations to obtain the necessary papers, permits, and clearances to complete their import or export processes.

The designated agency for the implementation of Single Window in Nigeria is the NCS, being the agency saddled with the responsibility of regulating Imports and Exports and ensuring that appropriate fees are collected on behalf of the Federal Government.

The roll-out of Single Window in Nigeria is presently fraught with challenges, which have been identified to include the following:

- Lack of an adequate legal regime that recognizes e-commerce and its attendant duties, obligations and liabilities;
- The state of existing laws in Nigeria, most of which are out of date with present day realities, especially on e-commerce, electronic signatures and admissibility of computer generated documents;
- The present quandary on the ideal agency to implement Single Window; NCS or an entirely new entity set up for that purpose, as it obtains in some jurisdictions;
- The current inadequate IT infrastructure; and
- Protection of information amongst the disparate public and private sector parties involved in international trade.

There have been steps taken by the Government to address the issues set out above, which also affect other facets of the economy, apart from international trade. Some of the laws of the Federation have recently been reviewed in line with this innovation. Several Bills designed to align Nigeria with international best practices are pending at the National Assembly.

Sections 84 and 258 of the Evidence Act 2011 provide for the admissibility of computer-generated documents generally and the Nigeria Customs Service Bill of 2012 provides for explicit and detailed use of IT, e-documents, and the sharing of documentation.

The Ministry of Communications has also set up the Ministerial Committee on ICT Policy Harmonization with a view to review, harmonize and enact laws that will promote the development of ICT sector for national growth. Recommendations of the committee include:

- enact legislation to ensure protection of physical ICT infrastructure, address cyber security and safeguard national security;
- prevent the occurrence of multiple regulation, which is a disincentive to investors; and
- Review, harmonize and enact laws that promote the development of ICT sector for national growth.

This development led to the sponsorship of some Bills presently pending before the National Assembly that will address the dearth of legislation in the area of e-commerce. The Bills include the *E-Commerce Bill*, which gives wide, specific and general recognition of

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The basic operation of Single Window is the single entrance for the submission of data, either physical or electronic, and handling of all data and documents related to the release and clearance of an international transaction. This single entrance point is managed by a designated agency that informs other associated agencies and controls their operations in the execution of their duties in the international trade realm. Such associated agencies include financial institutions like Banks and Insurance Companies, Transport Agencies, Chambers of Commerce and Health and Quarantine Authorities.

the use of IT, e-documents and sharing of documentation and the validity of electronic messages, digital signatures and seals; the *Cyber Security and Information Protection Bill*; *Cyber Security and Data Protection Agency (Establishment) Bill*; and the *Electronic Transactions Protection Bill*.

The awareness by the present administration of the importance of passing the Bills mentioned above is a welcome development, as it will bring International Trade in Nigeria into the realm of global best practices, with the foundation laid as far back as 2001 by the UNCITRAL Model Law on Electronic Signature (2001).¹The ICT Policy also formulated by the Ministry of Communications has gone a long way to promote, regulate, and create innovation in the ICT Sector. Nigeria has witnessed steady growth in e-commerce, with most banking institutions encouraging their customers to perform more transactions on their internet platforms, as against cash transactions. Customers now make everyday purchases on the internet, exchanging vast sums of money with the use of online payment systems. Indeed, the Central Bank of Nigeria sometime in 2012 commenced the transfer of large sums of money via online systems, with Lagos State being the pilot case, in the “cashless Lagos” scheme.

- National Drug Law Enforcement Agency Act
- Nigeria Agricultural Quarantine Service Act
- Standards Organisation of Nigeria Act
- Banks and other Financial Institutions Act

Indeed, the *Nigeria Customs Service Bill*, and the *Computer Security and Critical Information Infrastructure Protection Bill* both seek to provide for this even more abundantly.

Current legislation for the sharing of data in a Single Window structure does not fully meet international best practice, as there are inadequate provisions on safeguards “for the reckless use of information” as provided for by the Data Protection Act(1998) of the United Kingdom . For the success of the Single Window, these matters should be addressed, to boost Stakeholders’ confidence in the system.

Even if new detailed legislation is introduced, there should be confidentiality agreements amongst all government agencies that will be involved in the dissemination of information and an agreement with customers. This would allow for the detailed and

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The current structure of the NCS makes it the appropriate vehicle for implementation of Single Window, as it already has in place existing infrastructure, which only needs to upgrade. This is as opposed to some jurisdictions that have opted for either the Limited Liability Company Model or the Private-Public Partnership format and would have to embark on the creation of the IT infrastructure for Single Window at considerable cost.

Some governmental agencies set up by the laws set out below are statutorily empowered to share data, in line with government policy and in pursuance of an agreement between the said agencies for carrying out their statutory functions:

- Customs and Excise Management Act
- National Agency for Food and Drug Administration and Control Act

specific addressing of any issues that all stakeholders deem important on terms that satisfy them, especially in relation to issues of the retention of information, confidentiality, redistribution and sharing of the information.

E-commerce has come to stay, both in domestic commercial activity and International Trade. Nigeria cannot afford to be left behind in ensuring it adopts global best practices in this regard. Commendable efforts have been made in bringing Nigeria up to the standards of the International Community by the policies of the Government and its agencies. However, the passing of the pending Bills at the National Assembly will go a long way to ensure the full roll-out of E-commerce and Single Window with the adequate security measures in place for any mishaps that may occur.

Editor’s Note

The tardiness of National Assembly in passing the Petroleum Industry Bill (PIB) continues to aid the apathy of the International Oil Companies (IOCs) in Nigeria. Conoco Phillips has disposed its assets in Nigeria to Oando Plc - an indigenous oil company, joining the league of disillusioned IOCs to divest from Nigeria. Electricity power supply continues to dwindle due to reasons associated with inadequate gas supply and uncertainty over the privatisation programme. The World Bank plan to restructure \$115m support credit to the Infrastructure Concession Regulatory Commission (ICRC) could boost infrastructure development in Nigeria and in turn the Nigerian economy generally.

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