

SANITISING NIGERIA'S BUSINESS ENVIRONMENT FOR  
DIRECT FOREIGN INVESTMENT

BY

NUHU RIBADU, ESQ.

EXECUTIVE CHAIRMAN, ECONOMIC AND FINANCIAL  
CRIMES COMMISSION (EFCC), NIGERIA

BEIGN A PAPER PRESENTED AT THE ANNUAL PATRIOTS'  
CLUB OF NIGERIA LUNCHEON IN JOHANNESBURG, SOUTH  
AFRICA, ON THURSDAY, FEBRUARY 24, 2005.

# SANITISING NIGERIA'S BUSINESS ENVIRONMENT FOR DIRECT FOREIGN INVESTMENT

## **PROTOCOL**

### **1. INTRODUCTION**

I must thank this very important forum for giving me the honour and privilege to make a submission on a very vital subject matter that is presently receiving deserved attention. Indeed your initiative is also meant to be one of the catalysts for enhanced foreign investment in Nigeria which is critical to the speedy process of economic advancement.

Nigeria has been an independent country for 44 years now. We had seven military and three civilian administrations. We fought a bloody civil war from 1967 to 1970 that cost over a million lives. Nigeria also discovered oil in large quantities in the 1970s which apparently became a curse rather than a blessing. Nigeria is not different from other African countries. Following the stupendous oil wealth, came corruption, mismanagement and incompetence in government. Corruption brought instability, insecurity and failure of institutions. Both the military and civilian administrations did not fair any better than each other. Military interventions were always predicated on corruption against the civilian administrations. They instead plundered the country's resources to an unprecedented level especially during the Abacha era. Over the years,

corruption became entrenched in government and the society.

The present administration of President Obasanjo made war against corruption its focal point from inception in 1999. He warned that the status quo where politicians and public servants see government as a way of becoming rich overnight had to change. Hitherto politicians steal money, rig elections and get back into government to steal more money.

In order to appreciate the government's efforts in fighting corruption, we have to put the war against corruption in proper perspective. It is a known fact the world over that corruption is the major problem of Nigeria. Corruption hinders good governance, democracy, human rights, security and government's ability to provide basic amenities. Corruption is the major cause of wide spread poverty as it diverts funds intended for development into the pockets of a few individuals thereby creating waves of social unrest. It is a major hindrance to poverty alleviation initiatives, foreign investments and development aids.

Now the trend is being reversed although the forces that want to maintain the status quo are fighting the forces of reform vehemently. The beneficiaries of corruption, the enemies of the people, are fighting back with their massive illicit resources. This is no surprise because as John Kenneth Galbraith (the great American economist and thinker) puts it:

“...Almost any manifestation of power will induce an opposite manifestation of power. Any effort to bend people to the will of others will encounter in some form an effort to resist that submission... as so often happens in the exercise of power, the resort to countervailing power is automatic”.

In 2003, not only that the present Nigerian administration established the EFCC, but also brought in technocrats who are not politicians in government who are in charge of some of the most important organs of government like Prof. Charles Soludo (CBN Governor), Dr. Ngozi Okonjo-Iweala (Minister of Finance), Mallam Nasir el- Rufai (Minister of the Federal Capital), Dr. Oby Ezekwesile (Head of Due Process office of the President), etc. In taking the risks and making the sacrifices these people are fighting for the public good and not for self aggrandizement. They have not been reported to convert public or recovered funds to their public use. No one has accused them of working for personal benefits. Most of them are earning far less than what they were earning in their previous jobs. This alone is an incredible thing that has not

happened in Nigeria before.

## **2. STATE OF THE ECONOMY**

Nigeria is presumably the second largest economy in Africa with a population of over 120 million, 37 governments, 776 local governments and perhaps the most entrepreneurial economy. Oil revenue accounts for 90% of the foreign exchange earnings. Apart from large untapped potentials of solid minerals and agriculture, the tourism sector is being positioned as a great foreign exchange earner for the nation. The Capital Market is one of the most profitable in the world with about 105% Rate of Return (ROI) and market capitalization of about \$4 billion. The banking sector has about 89 banks with over 3,000 branches nationwide. The telecommunications sector is no doubt the fastest growing in the world's emerging markets and the manufacturing sector has also recorded marginal increase of sustainable growth within the past 2 years. From the foregoing, it is indisputable that the nation's economy looks promising than any country in Africa in terms of resources and opportunities required for growth and sustainable development. Unfortunately, economic mismanagement, corruption and lack of accountability and transparency by previous administrations have been the main reasons for the poor economic performance and rising poverty. Despite the country's relative oil wealth, Nigeria's basic social indicators place it among the 20 poorest countries in the world.

Nigeria today, in spite of her oil and gas resources, is a *poor* country with 80-90 million Nigerians (of the estimated 130 million people) living in poverty. Only

India and China have more poor people. Her GDP stands at about \$45 billion and a *per capita* income of \$300. She has earned over \$300 billion from oil exports since the mid 70s but her current *per capita* income is about 20% less than the 1975 level. She suffers under an excruciating external debt burden of about \$33 billion, equivalent of 60% of the GDP.

It is however important to acknowledge the bold step taken by the present administration to change tide. *For* the first time in the history of our country, Government has stood up firmly to confront corruption from the top. Mr. President has in many public fora made it clear that he will fight corruption to a standstill. The establishment of the Independent Corrupt Practices (And other Related Offences) Commission (ICPC) and the EFCC is in furtherance of that resolve.

We reached a point when law enforcement and regulatory agencies seemed non-existent. But the stance of the present administration has started changing that.

### **3. WHAT CONSTITUTE ECONOMIC AND FINANCIAL CRIMES**

Economic and financial crimes are kindred offences with an extremely thin line separating them. All economic crimes are financial crimes but not all financial crimes are economic crimes.

Economic crimes are those crimes that have a damaging effect on the economic and political system of the country. Their damage to the international image of the country is more important than the direct financial loss. These include corruption, embezzlement of public funds, fake currency running, smuggling, drug trafficking, tax evasion, etc.

Section 46 of the Economic and Financial Crimes (Establishment) Act, 2004 defines Economic Crimes which include the non-violent criminal and illicit activity committed with objective of earning wealth illegally, any form of fraud, money laundering, illegal oil bunkering, tax evasion, dumping of toxic wastes, etc.

Financial Crimes on the hand are those committed not only with the intention of getting financial benefit but they are targeted directly on funds and financial instruments. These include advance fee fraud, currency trafficking and counterfeiting.

From the above, it can be seen that while all economic crimes are financial crimes, not all financial crimes need be economic crimes. Whatever form they take, the objective is to earn wealth illicitly.

#### **4. GOVERNMENT EFFORTS IN CURBING ECONOMIC AND FINANCIAL CRIMES IN NIGERIA**

A viable democracy will not grow let alone flourish in an environment where Economic and Financial Crimes are endemic.

Previous efforts by past administrations to curb economic and financial crimes in Nigeria are either strangled due to inadequate enabling laws and regulations or neglected for apparent lack of commitment on the part of stakeholders to fight the menace. However the following past government's effort to curb these crimes need to be noted and appreciated. The promulgation of the under-listed laws was aimed at providing a legal framework to combat these crimes.

- a. The National Drug Law Enforcement Agency (NDLEA) Act, 1989.
- b. The Money Laundering Act of 1995 (now repealed by MLPA, 2004).
- c. Advance Fee Fraud (otherwise known as 419) and Related Offences Act of 1995.
- d. Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act of 1996.
- e. Banks and other Financial Institutions Act of 1991.
- f. Miscellaneous Offences Act, 1985.
- g. Foreign Exchange (Miscellaneous) Offences Act of 1995.

In spite of these enabling laws and the relevant institutions to administer them,

fraudulent activities still thrive in the economy unabated. President Olusegun Obasanjo responded positively to the yearnings of Nigerians and the International community by taking the following proactive and responsive approach. They are:

- . Establishment of the Anti Corruption Commission under the Independent Corrupt Practices and Related Offences Act of 2000.
- . Creation of the Due Process Office in the Presidency.
- . Establishment of the EFCC in 2002.

(a) Establishment of the Anti Corruption Commission:

The establishment of the ICPC is one of the radical steps by this Government to combat corruption headlong. For the first time in this country, public officials were held accountable for their stewardship. Many are being prosecuted today in various courts.

(b) Creation of the Due Process Office in the Presidency:

The creation of this office is one of the greatest efforts displayed by the president to enthrone accountability and transparency in the public service. Since its creation, over ₦85 billion has been recovered by the office. Indeed, this is a clear mark of success by government to curb abuse of due process procedures for the award and discharge of government contracts.

(c) Economic and Financial Crimes Commission (EFCC):

The EFCC Act was a major departure from the past enabling laws for fighting economic and financial crimes in Nigeria, in terms of powers, functions and responsibilities. Besides, the EFCC enjoys collaborative assistance from international law enforcement agencies in the U.S and across Europe such as; INTERPOL, FBI, UNODC and FATF. The Economic and Financial Crimes Commission is charged with the following responsibilities among others;

- . Enforcement and administration of the Act in the overall context of preventing, detecting, investigating and Prosecuting all cases of economic and financial crimes in Nigeria.

- . Charged with the responsibility of enforcing other laws and regulations relating to economic and financial crimes including;

- . Money Laundering Act of 1995 (now 2004).
- . Advance Fee Fraud (otherwise known as 419) and other Related Offences Act of 1995.
- . Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act of 1996.
- . Banks and other Financial Institutions Act of 1991.
- . Miscellaneous Offences Act, 1985.

. In addition, the Commission is the key agency of government responsible for fighting terrorist financing.

## **5. DETRIMENTAL EFFECTS OF CORRUPTION AND CRIMES**

Advance fee fraud became the international image of Nigeria. It destroyed the trust that the international community had and the credibility of both government and individuals. It discouraged genuine investors from coming to the country despite the abundant opportunities abound.

More than that, even local institutions have failed or collapsed, e.g. Nigeria Airways, refineries, etc., infrastructure has collapsed, e.g. roads, electricity, etc. Likewise industries like Peugeot automobile, Volkswagen, Steyr, etc, that hitherto were promising as Nigeria's launch pad for industrialization.

## **6. THE CHALLENGES**

The magnitude of the challenges is huge and one of the key challenges for the government and EFCC is changing the way business is done and how government is run with transparency and accountability.

EFCC has started making strides with modest successes. We are also working with other agencies like the judiciary in order to achieve the aims and objectives of establishing the Commission. We are constantly seeking to revise and improve the laws like miscellaneous offences, advance fee fraud, Evidence Act, regulation of cyber cafes, etc. You may have heard that we are even challenging the so-called immunity in the constitution that protects some public office holders from prosecution.

But the resources available to the Commission are inadequate.

## **7. THE SUCCESS STORY SO FAR**

The greatest success we are able to achieve is having started the process of cleansing the business environment, fighting corruption, ensuring accountability in government, sanitizing and stabilizing the banking sector through loan recoveries, etc. We hope and pray that we have started an irreversible process that will change Nigeria for the better forever. We have so far enjoyed a lot of cooperation from international agencies like INTERPOL and EUROPOL and governments like EU, US, South Africa, etc.

Others are:

. *Strong will and determination to bring all culprits to justice.*

- . *The Commission between May 2003 and June 2004 recovered money and assets derived from crime worth over \$700 million. It also recovered another £ 3 million from the British Government.*
- . *It arrested virtually all the notorious Advance fee fraud kingpins. It has over 500 suspects in custody and most of them are standing trial in the various courts in the country.*
- . *It is presently prosecuting over 100 cases in court and investigating over 500 cases at various stages.*
- . *It is presently prosecuting one of the biggest world fraud cases involving about \$242 million arising from a bank fraud in Brazil.*
- . *It has increased the revenue profile of the nation by about 20% due to its activities in the Federal Inland Revenue Service and the Seaports.*
- . *Recovered revenue of over N20 billion naira for government.*
- . *Played a key in the government reform programmes, e.g. restructuring of the Nigeria Customs Service.*
- . *Recovered billions to government in respect of failed government contracts.*
- . *It has curbed oil bunkering in the Niger Delta Region. The initial daily illegal bunkering of about 300,000 - 500,000 barrels has now substantially reduced to anything less than 50 thousand barrels. It is presently prosecuting over 20 persons involved in the vandalism of oil pipelines.*

## **6. CONCLUSION**

It must be emphasized that a nation does not change its ideals to suit those who refuse to conform. On the contrary, it is those who refuse to conform who must change their ways in order to meet the ideals of the nation.

Overall, the present administration of President Olusegun Obasanjo has demonstrated strong political will to fight corruption and other economic and financial crimes in Nigeria with a view to creating a conducive environment that will attract foreign direct investment to the country and foster a viable, virile and vibrant democracy. Foreign investment is a key compliment to national development especially in a third world economy like ours, which is always influenced adversely or favourably by the working mechanism of the developed economies of the world. Thus, unhindered foreign investment in Nigeria which is stimulated by sincerity of purpose and collaborative partnership is

what the EFCC is ultimately trying to promote by our determined effort to rid our country of advance fee fraudsters whose diabolical activities have continuously undermined the flow of foreign investments. I seize this opportunity to further reiterate that our nascent Commission will do all it can within its overwhelming powers to fight the scourge of financial crimes in order to pave way for uninhibited flow of foreign investments which is a panacea to the present excruciating economic predicament in the country.

But remember, an enabling environment flows naturally from good government. Good governance in turn is a product of honesty, integrity, objectivity, observance of the rule of law, transparency and accountability.

It is gratifying however that the present administration has taken concrete steps to address this problem. Perhaps, for the first time, we have begun to do things right and this is already manifesting in different aspects of our national economy and body politic.

You are critical stakeholders in this fight. I thank you for all for listening.