

IMPLICATION OF ECONOMIC AND FINANCIAL CRIMES ON THE NATION'S ECONOMY

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PROTOCOL

INTRODUCTION:

I thank you for the honour and privilege of addressing you. I thank you for your patriotism and dedication to the fatherland. The choice of this topic for discussion is a demonstration of your commitment to the well being of the country. In the recent past, these matters were not even discussed. Thanks to democracy that they are today. As defense advisers, your advice will not be informed without an appraisal of the economic indicators some of which would usually raise security concerns.

Furthermore, the successful defense of the territorial integrity of a country is closely associated with the domestic situation. A nation riddled with economic and financial crimes with their attendant economic and social consequences cannot be well positioned to defend its integrity. And so, when you choose to address this issue at this seminar, you do so in order to appraise one of the critical considerations in your defense strategy for the country.

I have without your leave slightly modified the chosen topic to read "Implication of Economic and Financial Crimes on the National Economy". This is necessary to give a broader view of the issues under discourse. Secondly, financial crimes can be subsumed under economic crimes even though it has some distinctive features as we shall notice shortly. Before doing so, it is necessary to examine albeit, briefly the state of the Nigerian economy. This is to enable us at the end of the paper to see whether that state of affairs has any bearing with the type of crimes being examined.

THE STATE OF AFFAIRS

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 stood at about \$45 billion in 2001 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.

A lot of critical public infrastructure is in the decay and suffer from waste. Unemployment and inflation are in the double digits. Corruption continues to pose a major challenge to good governance. The fight against other crimes has not fared any better. Perhaps that justified the recent assertion by Jeffrey Robinson in his recent book titled “The Sink” that ‘there is no country on the planet earth to compare corruption and criminality as in Nigeria’. Although I do not accept the generalization, it is a fact that corruption and criminality of few has rubbed on the other Nigerians.

It is however important to acknowledge the bold step taken by the present administration to change the 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 for a 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 was in furtherance of that objective.

WHAT CONSTITUTE ECONOMIC AND FINANCIAL CRIMES

Section 46 of the EFCC Act 2004 defines “*Economic and Financial Crimes to mean the non – violent criminal and illicit activity committed with the objective of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing economic activities of Government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting, and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractice including counterfeiting currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods e.t.c*”.

The implications of economic and financial crimes on the nation’s economy invariably involve a discussion of the above offences as spelt out in Sec 46 of EFCC Act 2004. On account of time, we will treat a few.

SECTORIAL ANALYSIS OF ECONOMIC & FINANCIAL CRIMES

I) THE OIL & GAS SECTOR

The oil and gas sector is the biggest target for economic crime perpetrators. Billions of naira is being lost by the Federal Government every day due to the activities of illegal oil bunkerers, pipeline vandalization and saboteurs. Only yesterday, the Chief of Naval Staff disclosed that the nation was until recently losing on the average \$5million per day to crude oil thieves. He said that crude theft has been reduced to about 40 – 50 thousand barrels per day.

Indeed the CNS was in fact corroborating the admission of the GMD, NNPC, during his recent visit to the EFCC for assisting to curb vandalization by vigorously prosecuting culprits, a thing that had not happened in the past.

II) THE MANUFACTURING SECTOR

Economic and Financial crimes such as money laundering and trade malpractices are the twin enemies of the manufacturing sector. In countries transitioning to industrialization like Nigeria, the criminal influence on the financial system could undermine the transition to industrial and technological revolution and subsequently keep the country under perpetual imports slavery. Hence, money laundering and trade malpractices are the basic economic and financial crimes that we shall understudy.

a) Money Laundering

Money Laundering is a process by which criminals attempt to hide and disguise the true origin and ownership of the proceeds of their criminal activities thereby avoiding prosecution, conviction and confiscation of criminal funds. As a derivative, it flows from the following crimes amongst others; “illegal arms sales, smuggling, activities of organized crime, including for example drug trafficking and prostitution rings, embezzlement, insider trading, bribery and computer fraud schemes.”. Funds acquired from these sources that cannot be pushed through banks and other financial institutions by eluding financial regulators and law enforcement agencies around the world are laundered through trade malpractices such as; massive importation of all kinds of goods like; spare parts, pharmaceutical products, chemicals, automobiles etc. Since the

motive of importing the goods is NOT PROFIT MAKING BUT TO LEGITIMIZE THE CRIMINAL PROCEEDS invariably, the imported items are quickly sold at give away prices in Nigeria. The effect of money laundered through imports is to undermine the genuine efforts of local manufacturers who share, compete and operate in same business environment with the launderers. The imported goods which most of the times are produced at cheap cost and higher quality abroad unfairly compete with local goods produced at perhaps high cost and lower quality in Nigeria. Hence, causing prices to crash and massive losses occasioned by large stock of unsold products for lack of patronage and eventual collapse of industries. Figures released recently indicate that Nigeria's foreign exchange figures of imports from China stood at about USD 797 million in 2003 while figures from other international sources for the same year puts it at USD 1.787 billion. This disparity is associated with trade malpractices wherein goods which are most probably sub-standard, and for which appropriate import duty may not have been paid were brought into the country. This assertion was buttressed by the recent disclosure by the president of the Manufacturers Association of Nigeria, that 55% of imports for last year circumvented import procedures. He singled out Chinese companies for this disturbing revelation. Another report also claimed that close to 40% of imports into Nigeria in 2003 come in under **“Not Valid for Foreign Exchange”**. It is alleged that the goods were paid by criminal proceeds of money laundered.

b) Trade Malpractices

Trade malpractices constitute a dent on Nigeria's image. They diminish the respect and regard Nigeria commands internationally and contribute to the loss of confidence in the nation by foreign investors and international development partners. The nature of trade malpractices in Nigeria has multivariate dimensions. However, the following trade malpractices are prevalent;

- a) Direct copying of local brands by manufactures.
- b) Importation of fake / counterfeit and substandard products.
- c) Diversion of “trans-shipped” goods.
- d) False Declaration of goods.
- e) Recycling of CRI and Custody Duty Receipts.
- f) Smuggling.

The overall consequences of the above trade malpractices have damaging effects on the industrial sector. Apart from excessive revenue losses to

government, they contribute to low capacity utilization, unemployment, pressure on the naira and general mass poverty.

III) ADVANCE FEE FRAUD

Frankly speaking, the indulgence by few Nigerians in advance fee fraud (419) has destroyed the reputation and credibility of the country all over the world. This has made it unnecessarily difficult for majority of innocent Nigerians to transact business both locally and internationally. You will agree with me that in this country today because of the activities of 419 ***“nobody trusts anybody, and everybody suspects everyone.”*** This phenomenon is so widespread that, if you are not a victim, you will probably know someone who is a victim. Nigeria and several reputable Nigerians suffer a number of damages including being treated as cheats and the erosion of trust in our domestic and international spheres.

For instance, **in the U.S there is a special law enacted by the Congress against the Nigerian fraud.** Moreover, there are several cases where reputable Nigerians have been treated with great humiliation, mainly because of our records in the global comity of nations. It is noteworthy to mention that discriminatory treatment based on gross suspicion is meted to Nigerians by the following agencies abroad, which have a special desk for Nigerian fraudsters.

- Interpol has a special desk for Nigeria.
- Interpol organizes annual conference on Nigeria Fraudsters.
- Metropolitan Police London, Special Fraud Office (SFO)
- U.S - FBI, Scotland Yard Police, U.K, European Union, South Africa, Ghana and Cote d’voire.

However, apart from the humiliation suffered abroad, retaliatory measures are being taken against us by victims and their countries. Some of the unfortunate practical consequences are:

- An enraged 419 victim killed a Nigerian diplomat in Czechoslovakia Republic;
- Killing of Nigerians in Sierra Leone, killing of Nigerians at Eriterea; suspected 419 Kingpin was murdered in South Africa by an alleged victim; & Several other attacks on innocent citizens.

Overall, it is an indisputable fact that, both at home and abroad, the opportunities required for growth and development have been eroded by lack of trust and confidence in business relationships with Nigerians. This sends a negative message to foreign investors, particularly providers of financial products and services such as credit cards, e-commerce, online transactions (purchases and sales) and other modern financial services.

IV) THE FINANCIAL SECTOR

Financial institutions can be involved in financial crime in three ways: *as victim, as perpetrator, or as an instrument*. Under the *first category*, financial institutions can be subject to the different types of fraud including, e.g., misrepresentation of financial information, embezzlement, check and credit card fraud, securities fraud, insurance fraud, and pension fraud. Under the *second (less common) category*, financial institutions can commit different types of fraud on others, including, e.g., the sale of fraudulent financial products, self dealing and misappropriation of client funds. In the *third category* are instances where financial institutions are used to keep or transfer funds, either wittingly or unwittingly, that are themselves the profits or proceeds of a crime, regardless of whether the crime is itself financial in nature. One of the most important examples of this third category is money laundering.

Financial frauds have led to the collapse of many banks in the country. Frauds have equally led to the loss of confidence in our banks not only local but also the international business community. Letters of credit from the Nigeria are held in suspect and in many cases disregarded out rightly. The Know Your Customer and Business (KYC[B]) principle is observed more in breach than compliance. There is hardly any Customer Due Diligence (CDD) before transactions are undertaken. This amounted for the “investment” of over \$9 million stolen funds by a single individual in a first generation bank.

GOVERNMENT EFFORTS IN CURBING FINANCIAL AND ECONOMIC CRIMES IN NIGERIA

Previous efforts by past administrations to curb economic and financial crimes in Nigeria were 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 aimed at providing a legal framework to combat these crimes. The steps taken so far include;

- The National Drug Law Enforcement Agency Act (NDLEA).
- Money laundering Act of 1995.
- Advance Fee Fraud (otherwise known as 419) and Related Offences Act of 1995.
- Failed Bank (Recovery of Debts) and Financial Malpractices in Banks Act of 1996.
- Banks and other Financial Institutions Act of 1991
- Miscellaneous Offences, Act 1985
- Foreign Exchange Act of 1995.

In spite of these enabling laws and the relevant institutions to administer them, fraudulent activities still thrived 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.
- Creation of the Due Process Office in the Presidency.
- Corrupt Practices and Related Offences Act of 2000.
- 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 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 N85 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 & 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.
- Advance Fee Fraud (otherwise known as 419) and other Related Offences Act of 1995.
- Failed Bank (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 terrorism and terrorist financing.

5. WHAT IS NEW AND DIFFERENT ABOUT EFCC IN THE PAST ONE YEAR

- *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 high courts in the country.*
- *It is presently prosecuting over 100 cases in Court and investigating over 300 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 role in the government reform programmes, e.g. restructuring of the Nigerian Custom Service.*
- *Recovered billions to government in respect of failed government contracts.*
- *It has curbed illegal 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 30 thousand barrels. It is presently prosecuting over 80 persons involved in vandalization of oil pipelines.*
- *It has also curbed smuggling activities in the seaports and land boarders.*
- *Its activities have sanitized the banking sector. The Know Your Customer 'KYC' principle is now substantially applied. Bank staff including a Managing Director is standing trial for frauds, etc.*
- *Wage campaign against economic and financial crimes, which has brought relative stability in the financial industry.*

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 of creating an enabling environment. But remember, an enabling environment flows naturally from good governance. 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.

Thank you.

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