



Nigeria - South Africa
Chamber of Commerce



Jackson, Etti & Edu

**KEY TAKEAWAYS FROM
THE BREAKFAST SESSION**

Foreign Investment: Thriving Through The Nigerian Clime

ORGANIZED BY THE **NIGERIA-SOUTH AFRICA CHAMBER OF COMMERCE**
IN COLLABORATION WITH **JACKSON, ETTI & EDU**

THURSDAY, 28TH APRIL 2022



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EXECUTIVE SUMMARY

Nigeria is the giant of Africa with a population of over 215 million people. The Country is said to have the combined size of France and Italy and is endowed with natural resources. Given, the size and resources in Nigeria, the Country should be an attractive and lucrative location for business establishment and dealings. However, Nigeria was ranked 131st out of 190 countries in the World Bank's 2020 Ease of Doing Business Survey.

The Nigeria-South Africa Chamber of Commerce in collaboration with our Firm, Jackson, Etti & Edu organized a breakfast session themed **'Foreign Investment: Thriving Through The Nigerian Clime'** which was held on Thursday, 28th April 2022.

The breakfast session was designed to discuss how foreign investors (in-country or interested in investing) can navigate the Nigerian business and economic market despite the prominent challenges such as unfavourable regulatory policies, unavailability of foreign exchange, poor infrastructure, corruption, insecurity and others. The organizers of the event brought together representatives from diverse sectors of the economy including representatives of the Federal Government of Nigeria to ensure a holistic and informed conversation on the subject.

The event commenced with a keynote speech by Dr. Jumoke Oduwole, Special Adviser to the President on the Ease of Doing Business in Nigeria and followed by a robust panel discussion amongst seasoned professionals, Sam Ocheho (Global Market Nigeria. GM, Stanbic IBTC Bank Plc.), Emeka Offor (Acting Executive Secretary & CEO, Nigeria Investment Promotion Council), Peter Ajakaiye (Manufacturing Director, Cadbury WA) and Ag. ACG Bede Anyanwu (Assistant Comptroller-General, Strategic Research and Policy, Nigerian Customs Service) moderated by Ajibola Olomola (Vice-Chairman, Nigeria-South Africa Chamber of Commerce) and Yeye Nwidaa (Head, Business Regulatory & Advisory, Jackson, Etti & Edu).

This document provides a summary and highlights the key takeaways and measures to thrive in the Nigerian business climate.



KEYNOTE ADDRESS

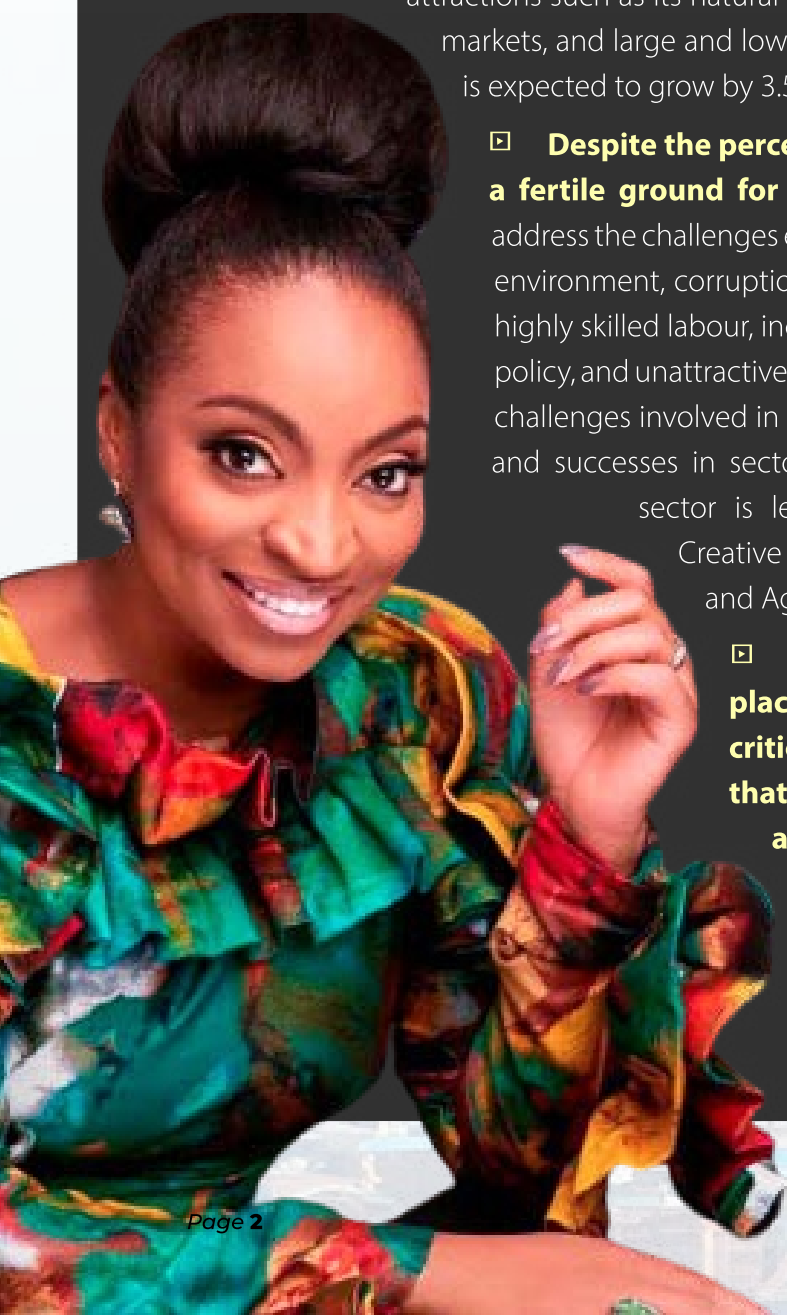
The keynote address was delivered by Dr. Jumoke Oduwole, Special Adviser to the President on the Ease of Doing Business in Nigeria. Dr. Oduwole was enthused about the Nigerian economy which makes the Country a fertile ground for investment. She emphasized the measures and activities the Federal Government has put in place to eliminate bottlenecks associated with doing business in Nigeria.

HIGHLIGHTS OF THE KEYNOTE ADDRESS

☐ **Nigeria has a wide and attractive business economy:** Nigeria is the largest economy in Africa with a projected market size of 402 million people and the world's 3rd largest population by the year 2050. Nigeria was named one of the 10 most improved economies in the World Bank Doing Business report released on October 24, 2019. Nigeria has many investment attractions such as its natural resources, high economic growth, large domestic markets, and large and low-cost labour force. In 2022, the Nigerian economy is expected to grow by 3.5% (IMF projection).

☐ **Despite the perceived barriers to investment, Nigeria remains a fertile ground for investment:** The government will continue to address the challenges experienced by investors (such as unstable political environment, corruption, weak security, poor basic infrastructure, lack of highly skilled labour, inconsistency and lack of transparency in regulatory policy, and unattractive tax policies and financial incentives). Despite these challenges involved in doing business, the Country has recorded growth and successes in sectors such as technology (the Nigeria technology sector is leading in the continent), Light Manufacturing, Creative Sector, Decentralized Power, Transport & Logistics and Agribusiness.

☐ **The Federal Government has set in place business climate interventions to remove critical bottlenecks and bureaucratic constraints that have long afflicted commercial/business activities in Nigeria:** The Federal Government of Nigeria remains relentless in its goal of removing the obstacles and roadblocks that affect the ease of doing business in Nigeria.



In 2016, the Federal Government of Nigeria established the Presidential Enabling Business Environment Council ('PEBEC') to oversee Nigeria's business environment reform mandate. The Economic Recovery & Growth ('ERGP') Plan 2017-2020 was implemented to restore growth in Nigeria, invest in the people and build a competitive economy. After the ERGP, the Federal Government introduced the National Development Plan ('NDP') 2021 – 2025. The objectives of the NDP are to establish a strong foundation for a diversified economy, invest in critical infrastructure, strengthen security and good governance, and enable a vibrant, educated and healthy populace. The implication of the NDP is that (i) there is a capital expenditure plan to boost more private sector and government partnerships, create more employment opportunities and spur economic growth; (ii) remove administrative bottlenecks in the documentation and create transparencies within the system; (iii) establish a favourable business environment which will lead to increasing MSMEs activity and create more demand and growth; (iv) provide more investment opportunities resulting in increased earning potentials for sector players.

- ▣ **PEBEC has a vehicle for ensuring a positive business climate:** PEBEC has been in existence for the past 6 years and continues to drive its mandate of removing bureaucratic bottlenecks in Nigeria's business environment. PEBEC has been able to successfully amend the key business legislation in Nigeria, that is the Companies and Allied Matters Act, to ensure the ease of doing business. PEBEC has also worked with the judiciary on the institution of the small claims court and electronic access to judgment for easy and speedy dispute resolution for investors. The council has also worked closely with 54 Ministries, Departments and Agencies (MDAs) of the Federal Government to implement the Executive Order 001 (EO1) to ensure transparency and efficiency in the public service delivery. The government is prepared to implement AfCFTA through the National Action Committee to promote trade.



PEBEC in conjunction with stakeholders and seasoned professionals has amended outdated business-related laws and institutionalized business climate reforms through a legislation titled the Business Facilitation (Miscellaneous Provisions) Bill, otherwise known as the 'Omnibus Bill'. The Bill has been passed by the National Assembly and PEBEC is working closely on ensuring that the Bill is assented by the President.

- ▣ **Nigeria has a selection of investment incentives:** Nigeria has several incentives to encourage investment in the Country. This includes pioneer status incentive for companies in industries recognized as 'pioneer', investment tax relief for companies who have not enjoyed the pioneer status, deduction for research and development (20% tax credit), post-shipment incentive for non-oil exports, rural investment allowance for companies 20km away from government amenities and incur capital expenditure for electricity, water, tarred road, etc, export processing zones incentives which allows 100% capital allowance, rent-free land during construction, full holiday from federal, state and local government taxes.

PEBEC is a moving target to make Nigeria a progressively easier place to do business. PEBEC is focused on building the Federal Government Agencies' capacity to deliver services and sustain improvement on an ongoing basis - Dr. Jumoke Oduwole, Special Adviser to the President on the Ease of Doing Business in Nigeria



PANEL SESSION — TAKEAWAYS

Government's action to reduce divestment

- ▣ The Nigerian Business Environment promotes free entry and exit of investment in Nigeria. The regulation governing investment in Nigeria are very liberalized to encourage trade.
- ▣ The government is very concerned about the recent rate of divestment and has placed a high premium on improving the ease of doing business in Nigeria through the activities of the PEBEC (as highlighted during the keynote address) and the Nigerian Investment Promotion Council ('NIPC' or 'Council').
- ▣ The Central Bank of Nigeria ('CBN') also has established certain intervention measures to address the Foreign Exchange ('FX') issue caused by the low supply of FX. This intervention includes the NGN65 rebates to exporters who sell through the importers and exporters (I&E) window.
- ▣ Investors' competition for capital is global and it is not usual for investors to change location. The Federal Government's wish is that investors change location in favour of Nigeria.

- ▣ The NIPC has a One-Stop Investment Centre ('OSIC') for the resolution of investment disputes. NIPC encourages investors to report issues they experience to the Council for guidance and dispute resolution.
- ▣ NIPC is in a good position to advise the government on how to promote the ease of doing business and NIPC is happy to handhold investors and assist them to navigate the Nigerian business climate.

The Federal Government of Nigeria is very concerned about the recent rate of divestment in the Country and has placed a high premium on improving the ease of doing business in Nigeria.

— **Emeka Offor (Acting Executive Secretary & CEO, NIPC)**



Operational Bottlenecks in Nigeria and how they can be manoeuvred

- ▣ Globally, there have been a lot of challenges relating to logistics (container shortage, longer vessel time) due to the pandemic, as we navigate through the business tides, we foresee that operations will be better. Locally, the bottlenecks faced by manufacturers include poor infrastructure, port administration/congestions (transshipment), FX scarcity/exposure, regulatory challenges, and policy somersaults.
- ▣ To remain in business, manufacturers must deliver value and quality to encourage sales and continuous patronage. It is also important to build inventory for cash elasticity and patronize local vendors.



Despite the bottlenecks, delivering value and quality to customers promotes and encourages sales.

— **Peter Ajakaiye (Manufacturing Director, Cadbury WA)**

Access to Foreign Exchange in Nigeria

- ▣ The two major avenues for access to Foreign Exchange ('FX') to investors and importers are the CBN Window & Inter-bank (IEFX) window.
- ▣ The CBN Window includes retail secondary market intervention sales (SMIS), dedicated sales to foreign investors and dedicated sales to some Nigerian corporate (particularly companies with backward integration or companies that have manufacturing hubs).



□ The market with more liquidity from the CBN standpoint is the Retail SMIS, which is still not sufficient. This is because the CBN uses its reserves to support the currency. The CBN controls over 80% of the FX. Before now, the Country enjoyed a high supply of FX from foreign portfolio investors, inflows from foreign direct investors, and oil companies selling directly to the market, in addition to the CBN FX market. However, this is not the case today.

□ The CBN is currently the highest seller of FX in the market and that is not sustainable.

□ Under the IEFX window, the liquidity for banks is practically dried up. This can be attributed to the fact that the key players in

that market largely do not exist anymore. The Federal Government is trying its best to manage the FX situation, in terms of the CBN RT200 Initiative to ensure that exporters repatriate dollars into the country and sell through the IEFX window. However, this may take time to achieve.

□ Also, the current rate regimes cannot attract capital. Currently, the IEFX window shows US\$417 to NGN1 and the CBN retail SMIS which ranges from US\$403 – US\$460, which cannot be compared to the parallel market rate. There are too many rates hovering around and this may discourage investors from investing in the Country.

□ How can the FX issue be solved? Business operators and regulators tend to view business from different lenses. From an operator's standpoint, price should not be legislated. Deregulation, whether full or managed will resolve the FX issues. Market forces should determine the price of FX and the CBN should intervene to control the market. Many people think deregulation is synonymous with devaluation, which is not the case. Deregulation may also mean appreciation if the right structures are put in place. The demand is more than the supply, yet, the price is not moving. Investors do not think that Naira is priced at the right level because of the constant devaluation of Naira.

□ To resolve the FX issues, deregulation should be allowed, the Country should stop relying solely on oil as its revenue base and consider resolving the export situation. Deregulation is the way to solve our FX issues.

Deregulation may also mean appreciation but the right structures must be put in place to achieve appreciation... Investors are not bringing in investment (inflows) into the Country because they do not think Naira is priced at the right rate...

— Sam Ocheho (Global Market Nigeria. GM, Stanbic IBTC Bank Plc.)



Update on CBN Policy on the e-evaluation and e-invoicing for import and export

- ❑ The e-evaluation and e-invoicing for import and export in Nigeria introduced in February 2022 has been suspended to ensure adequate preparedness and sensitization for its implementation.

Amendment of Import Duties

- ❑ The Finance Act 2022 added excise charges on carbonated drinks (this is a re-introduction). On tariff on imported items, NCS has 5 tariff bands, 0% for essential medicaments, 5% duty on raw materials, 10% duty on intermediate products, 20% duty on finished products and 35% duty on luxury goods. For the protection of some industries in Nigeria, the importation of certain products (such as pharmaceutical and steel products) attract an additional levy for sector concession and competitiveness for the local vendors.

NCS activities to promote the ease of doing business in Nigeria

- ❑ The NCS is aware of the challenges at the port (and of getting raw materials) and to mitigate these challenges, the NCS is putting in place measures to ensure consignments are available to importers within the shortest possible time.
- ❑ The NCS has a programme called FastTrack which was dedicated to manufacturers and importers of single/homogeneous items. Currently, NCS is improving its system to bring about FastTrack 2.0, a digital platform to further accelerate custom services. The application to migrate to FastTrack 2.0 is automated and voluntary.
- ❑ The benefit of the FastTrack 2.0 is particularly for all manufacturers that import more than 50 containers and those that import high duty items. NCS through its risk management system has been able to categorize these companies who will be prioritized and enjoy an unhindered fast-track regime in the processing of their pre-arrival assessment report (PAAR). On arrival, the containers will be delivered directly to the owner's premises where the examination will be done by the NCS post-clearance audit.
- ❑ The NCS has a pre-assessment center that works 24 hours.

The NCS is improving its system to establish the Fast-track 2.0..., this new development will allow manufacturers that import 50 containers and above as well as importers of high-end products to enjoy unhindered fast-track regime in the processing of their pre-arrival assessment report (PAAR). On arrival, the containers will be delivered directly to the owner's premises where the examination will be done by the NCS post-clearance audit

— Ag. ACG Bede Anyanwu (Assistant Comptroller-General, Strategic Research and Policy, Nigerian Customs Service).



NIPC's advice to prospective or current Investors in Nigeria

- ▣ NIPC is key to investment facilitation and promotion in the Country. NIPC has a well coordinated facilitation system known as the One-Stop Investment Center ('OSIC') with over 27 agencies of the Federal and State Government. NIPC has the proper structure to handhold investors in navigating the Nigerian business climate. OSIC is also used to ensure that participating MDAs have their laws well streamlined and remove over-lap.
- ▣ NIPC worked with the Federal Ministry of Investment to develop a Nigerian Investment Policy. The Policy will set the framework for all the investment laws, procedures and administration in Nigeria. The Policy will synchronize all Nigerian investment laws. The Policy is expected to be passed by the Federal Executive Council before the end of the year.

'From a legal perspective, my view is that investors should seek proper guidance on entry requirements in doing business in Nigeria to ensure compliance. We note what the government is doing to reduce regulatory bottlenecks, by the implementation of the National Development Plan, the passage of the Business Facilitation Bill by the National Assembly which seeks to remove critical bottlenecks in doing business in Nigeria, etc. But we would like to encourage the government to continue providing measures that will not only promote the ease of doing business in Nigeria and but will allow continuity of business engagement by foreign investors'

Yeye Nwidaa, Head, Business Regulatory and Advisory, Jackson, Etti & Edu.



CLOSING REMARKS 1

The first closing remarks was given by Ms. Olusanya, Partner, Jackson, Etti & Edu. She thanked the keynote speakers and panellists for their insightful conversations on what the Government is doing to support businesses and how businesses can successfully thrive in the Nigerian Clime. She stated that investors require certainty, clarity and connection of regulations for their businesses to thrive.

She reiterated that her firm, Jackson, Etti & Edu does not consider regulation as a hindrance but as an enabler of businesses. We acknowledge that the Nigerian regulatory landscape can be challenging for a number of reasons (including outdated laws, divergence between the Federal and State governments, and overlap of laws by different agencies), however, as earlier discussed, the Government is making a conscious effort to improve the business environment.

Over the last 25 years, JEE has been able to guide its clients in responding to the numerous regulatory



issues through its sectors of focus. We help and support in different ways from the structuring of business entities to set up, regulatory compliance and engagement, advocacy and if the inevitable occurs, crisis management. We have an excellent record of putting our clients above the curve and that makes us stand out. In early 2000, we assisted one of our clients to devise a strategy for local content, long before the law was passed, as it was clear to us that the local issues will ultimately become law. We were able to get the client prepared in such a manner that all the compliance provisions were already in place in the company and this set the client ahead of its peers in that Sector.

The Nigeria economy remains one of great potential, and together the business challenges can be transformed into opportunities. She appreciated the keynote speaker, panelists, moderators and participants for being a part of this Breakfast Session.

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Fola Olusanya, Partner, Jackson, Etti & Edu



CLOSING REMARKS 2

Mr. Osayaba Giwa-Osagie (SAN) Chairman, Nigeria-South Africa Chamber of Commerce gave the second closing remarks. He thanked the Keynote speaker for an enlightening presentation discussing the economic climate in Nigeria, challenges and success stories. He stated that the introduction of the NDP from 2021 - 2015 is commendable and we expect that it will yield the desired result of diversifying the economy, and improving infrastructure amongst others. The introduction of the National Action Plan to boost the ease of doing business is also a welcome development.

He also appreciated the Panelists, Sponsors and participants.

He pontificated that “The Nigerian business environment is dynamic and competitive as already identified by the guest speaker. Nigeria’s fast-growing population, enormous resources and large market size have been a source of interest and attraction to investors locally and internationally. According to the World Bank Report 2020, Nigeria is the second-highest recipient of foreign investment in Africa between 2011 – 2020.

Our guest has spoken comprehensively about the efforts made by the government which include regulatory and other reforms, and she further alluded to the fact that there is still a lot of work to be done to stabilize the investment climates and tackle a lot of challenges inherent in our business environment.

The contribution from our panellist brings to the forefront the best measure to resolve the FX prices currently affecting investment. The CBN has introduced several measures but there is so much to be done. More importantly, investors are encouraged to engage experts with a firm understanding of the business environment in Nigeria before investing.

The Nigeria business environment is dynamic and competitive... Our guest has spoken comprehensively about the efforts made by the government which include regulatory and other reforms, and she further alluded to the fact that there is still a lot of work to be done to stabilize the investment climates and tackle a lot of challenges inherent in our business environment. Investors are encouraged to engage experts with firm understanding of the business environment in Nigeria before investing.

— Mr. Osayaba Giwa-Osagie (SAN), Chairman, Nigeria-South Africa Chamber of Commerce.

