



World Investment Forum 2014: Investing in Sustainable Development

IIA Conference - 16 October 2014

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Your Excellences;

Distinguished Ladies and Gentlemen,

The Government of Nigeria is truly honored to participate in this Conference on International Investment Agreements (IIAs) organized by UNCTAD, which is coming at a crucial time when we are considering various critical reforms to our Investment Promotion and Protection Agreements (IPPAs), concluded with 26 countries, cutting across various continents.

As you may be aware, Nigeria was ranked the highest recipient of Foreign Direct Investment (FDI) inflows into Africa in 2013 by UNCTAD. In addition, only recently, we were ranked the largest economy in Africa in 2014 going by the rebasing of our Gross Domestic Product (GDP) data. Interestingly, the non-oil sector accounted for a significant portion of this ranking.

Given these developments, it has become imperative for us to sustain the current momentum in our economic development, part of which borders on holistic reforms to our IPPAs. This is despite the fact that there has so far been no established correlation between concluded IPPAs and the increased FDI inflow into Nigeria. However, we realize that IIAs definitely provide some comfort for investors in various sectors and that realization alongside other factors, prominent among which is the growing number of investor- State disputes has prompted our ongoing efforts at re-modeling our model IPPA.

In light of the foregoing, we sought for and obtained technical assistance from UNCTAD in terms of comments on our subsisting model BIT as well as regional training courses to build the technical capacity of our IPPA Team (comprising Officers from relevant Ministries, Departments and Agencies, whose mandates have some kind of bearing on investments) required to review our model BIT. In this regard, UNCTAD's Investment Policy Framework for Sustainable Development (IPFSD) has been immensely beneficial in guiding our consideration of specific clauses for review.

The reform has become necessary in order to proactively prepare the country to address salient issues such as the difficulty in preserving States right to regulate in public interest and to preserve public policy objectives over and above economic losses to investors. Other issues of concern being considered are the inclusion of investment and sustainable development strategies as well as investment regulation and

promotion. Additional attention is also being given to investment protection, which in any case, has been a pivotal part of our IPPAs.

In addition to the foregoing, we are concerned about the increasing exposure of States to ISDS cases despite attendant challenges including the expensive ISDS process, multiple claims as well as seeming lack of transparency, precedents and appeals in ISDS cases. Fortunately, these challenges are not prevalent in Nigeria given the fact that we have so far had 3 ISDS cases and only one case is ongoing as reflected below:

- **Guadalupe Gas Products Corporation v. Nigeria** (ICSID Case No. ARB/78/1)- Settlement agreed by parties in form of an award and rendered on July 22, 1980.
- **Shell Nigeria Ultra Deep Limited v. Federal Republic of Nigeria** (ICSID Case No. ARB/07/18)- Discontinued on August 1, 2011.
- **Interocean Oil Development Company and Interocean Oil Exploration Company v. Federal Republic of Nigeria** (ICSID Case No. ARB/13/20)

Notwithstanding the rarity of ISDS cases in Nigeria, we are considering the introduction of some level of Alternative Dispute Resolution in the new model BIT with the proposed creation of a Joint Implementation Committee under each IPPA, which will among other things, be entrusted with the responsibility of providing preliminary mediation of disputes.

It is my hope that this Conference will provide an opportunity to exchange ideas and galvanize our thoughts on a plethora of challenges with a view to addressing these issues.

Your Excellences, distinguished Ladies and Gentlemen;

Let me seize this opportunity to express our profound appreciation and gratitude to UNCTAD for its relentless efforts and availability in assisting countries on IIA issues. Going forward, I wish to state that we are counting on UNCTAD's continued assistance and guidance in the reform of our model BIT. Given the 'Big brother' role already being played by UNCTAD on IIA issues, we hope that UNCTAD would be willing to serve as a multilateral focal point and platform to provide the institutional support to develop a roadmap for comprehensive IIA reforms globally.

We look forward to an enriching session that would broaden the scope of our exposure and impact positively in the reform of our IIA regime in no small measure.

Thank you.