



THE ECONOMIC REFORM
AGENDA OF THE 8TH
NATIONAL ASSEMBLY

MASTER PLAN

Kingsley Amaku

A large, solid yellow graphic element that starts as a wide vertical bar on the left side of the page and tapers to a thin diagonal line that extends towards the top right corner.

MASTER PLAN

**THE ECONOMIC REFORM AGENDA
OF THE 8TH NATIONAL ASSEMBLY**



ACKNOWLEDGEMENTS

This book has been a product of great staff collaboration and even outstanding partnerships. Getting here has been the result of close leadership observation, participation and information gathering all of which has been made possible by the remarkably exceptional capacity of (Dr.) Abubakar Bukola Saraki's to lead with clarity and vision both as the Chairman of the National Assembly and as the President of the Senate.

I am immensely opportuned to have participated from the conceptualisation of the vision to the implementation of the resultant collaboration with the organised private sector, the identification of the Legislative Agenda objectives and the various legislation that were then observed to form the compendium for delivering the objective of the economic reforms as encapsulated in the Legislative Agenda. It has been a rare privilege to be part of the technical capacity of the Office of the Senate President in the delivery of the Legislative Agenda from the technical angle of the process. My deepest thanks must go to the President of the Senate (Dr.) Abubakar Bukola Saraki for his magnanimity and grace.

Our office specially thanks my former Chief of Staff Senator Isa Galaudu for being instrumental in giving the office stability and direction from the on-set as well as in setting our office on the right path on this project. My current Chief of Staff, Dr. Hakeem Baba Ahmed OON deserves a hall of fame accolade for his exceptional guidance. To these great leaders I owe immense gratitude. Also my colleague, Olu Onemola, for his brilliant organisational skills without which this book would not have been possible. I recognise my good and dependable ally Nnanna Udeh for providing a compass throughout the engagement with the private sector and especially for his

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However, this book would have remained incomplete and not near as good as it may have become without the immense contributions of Molar Wood, our 'word scientist', Benigna Ejimba, Onyinye Akunna, Motolani Shoda, Yusuph Olaniyonu, Bamikole Omisore, Eniola Shitta, Rotimi Oke and Tope Brown.

Ogechukwu Nwankwoh and Comfort B. Gbaraneh also deserve special recognition for their research throughout this entire process.

My deepest gratitude must go to my wife Chika Amaku for her enduring faith and support through my tenure at the office and this project.

The greatest contributors deserving of the highest tribute (too numerous to mention) have been all those in the National Assembly and the private sector who with spirit and zeal ensured that all the set goals of the reform agenda of the 8th National Assembly came to fruition.

Kingsley Amaku
*Senior Special Assistant to the Senate
President Legislative Matters & Strategy*

Content

00
PAGE 06

FOREWORD

01
PAGE 10

CHAPTER 1
POLITICAL AND ECONOMIC REALITIES AT THE DAWN OF THE 8TH NATIONAL ASSEMBLY

02
PAGE 15

CHAPTER 2
LAYING THE FOUNDATIONS FOR ECONOMIC GROWTH THROUGH LEGISLATIVE ACTION: THE CHALLENGE OF JOB CREATION AND DOING BUSINESS

03
PAGE 18

CHAPTER 3
THE FORMATION OF A LEGISLATIVE MASTERPLAN

04
PAGE 22

CHAPTER 4
THE GOOSE THAT LAYS THE GOLDEN EGGS IS IN PERIL: REFORMING NIGERIA'S PETROLEUM INDUSTRY

05
PAGE 28

CHAPTER 5
A JOB CREATION AND SME DEVELOPMENT STRATEGY

06
PAGE 40

CHAPTER 6
THE LEGISLATIVE AGENDA FOR INFRASTRUCTURE MARKET DEVELOPMENT, EXPANSION, MODERNISATION AND DEPLOYMENT FOR EASE OF DOING BUSINESS

07
PAGE 48

CHAPTER 7
THE LEGISLATIVE MASTERPLAN FOR AGRICULTURE AND VALUE-CHAIN DEVELOPMENT IN THE SECTOR

08
PAGE 50

CHAPTER 8
THE LEGISLATIVE AGENDA FOR SECURITY REFORM

9
PAGE 54

CHAPTER 9
POLITICAL AND ECONOMIC REALITIES AT THE DAWN OF THE 8TH NATIONAL ASSEMBLY

10
PAGE 60

CHAPTER 10
A LEGISLATIVE AGENDA FOR CONSTITUTION REVIEW TO ENHANCE THE MANAGEMENT OF THE ECONOMY

11
PAGE 62

CHAPTER 11
MOTIONS, RESOLUTIONS, INVESTIGATIONS AND PETITIONS

00
PAGE 66

CONCLUSION

FOREWORD



The economic legislative agenda of the 8th National Assembly was a reformative masterplan designed to correct factors and anomalies impeding growth and development in the Nigerian economy. To successfully tackle the issues and power the economy through the legislative instrument, we had to first identify and diagnose the problems and the limiting circumstances as we found them after the inauguration of the legislature in 2015. Having first determined the nature and specifics of the issues affecting Nigerians and the economy, and concerning which they needed our interventions, we then had to devise ways of systematically handling the issues through targeted and specially crafted legislation.

This book is an exposition of the deep and involved process of creating a masterplan comprising a complex of legislation to reform the economy, and to bring about a marked improvement of the living conditions of the people. This involved innovative and unprecedented collaboration with stakeholders especially the private sector, international development partners and the law sector. We then embarked on a comprehensive review of all legislative instruments and regulations to identify those that had become obsolete or in need of corrective update.

Some of the areas we looked into in order to increase productivity, boost the environment for Small and Medium Enterprises (SMEs), create jobs for Nigerians and enhance the ease of doing business to attract investment are here outlined in this book. These include: Bills to reform and revitalize the petroleum industry, boost agriculture and governance reform.

The evolution of priority economic bills of the 8th National Assembly are set out for the fuller understanding of readers. What was the situation a given piece of legislation was designed to address? How was the bill fashioned to effectively tackle the issues, enable progress or facilitate improvement? What are the specific provisions of each bills? This book provides useful backgrounds and explanations to these and more.

The intention behind these landmark bills and the determined commitment of legislators to make an indelible impact on people's lives cannot be in doubt after this exposition. This book further demystifies the legislative process as a methodical, fact-based exercise primarily driven by the needs of Nigerians. This way, our people can read and see that their elected representatives were working for them.

A good many of the most important bills are discussed, including: the Petroleum Industry Bills in their four-part rendition in the 8th Assembly; the Secure Transactions in Movable Assets; Companies and Allied Matters Act (CAMA) and the Credit Reporting Bill. Major Infrastructure bills and those targeted at boosting the agriculture sector for growth, job creation and food security are also treated.

In all, this book is a valuable record of the priority bills and the process of their creation, thus going a good way to answer the oft-posed

question of what Nigerian legislators did for the country in the 8th National Assembly. It will also be seen that these were bills drafted by a visionary Assembly that sought to use the law to create a future Nigeria of inclusive and sustainable growth and development. If all these bills were rightly concluded as envisioned and duly assented, the benefits for the Nigerian economic environment would have been most remarkable indeed. As things stand, those that have been passed and signed into law will bequeath massive positive impacts for the country going forward. As shown on these pages, these would be impacts made possible by the reformist economic agenda of 8th National Assembly.

As much as MASTERPLAN is a book about legislative solutions, it is also a book about setting institutional goals and actualizing them to safeguard the interests of the Nigerian people. It is my hope that the 9th National Assembly and subsequent assemblies would seek out this text and use it as a guide to extend the conceptual reach and exhaustive implementation of the reform agenda.

The book offers scholars, academics, policy makers, legislators and the general public an insight into how laws can be used as a primer of development and why we need to deepen our engagement with legislature may be very crucial to our sustainable development as a nation.

Senator (Dr.) Abubakar Bukola Saraki
President of the Senate and Chairman of the 8th National Assembly

“Every generation of Senators will face its peculiar challenges. The task we set for ourselves and our understanding of our roles as Senators must, therefore, reflect a robust understanding of the challenges that we face as a law-making body at this time in our history.”¹

¹ The President of the Senate, (Dr.) Abubakar Bukola Saraki Special Address on the First Anniversary of the 8th Senate of the National Assembly - JUNE 9, 2016.

CHAPTER 1

01

POLITICAL AND ECONOMIC REALITIES AT THE DAWN OF THE 8TH NATIONAL ASSEMBLY

In this chapter, we shall explore the politico-economic fundamentals that dominated and made imperative a new and visionary lawmaking policy from the 8th National Assembly. We shall also elaborate on the methodology then adopted by the National Assembly to pursue a prioritized lawmaking agenda, and how economic reforms were then adopted as the central agenda on which every other distilled into.

INTRODUCTION

In several ways the 8th National Assembly was different. It adopted an approach of resolving problems in a rather methodical manner. It also set out clear and assessable performance objectives, for which the overarching goal was to grow the economy, create jobs and promote the Nigerian economy for investment.

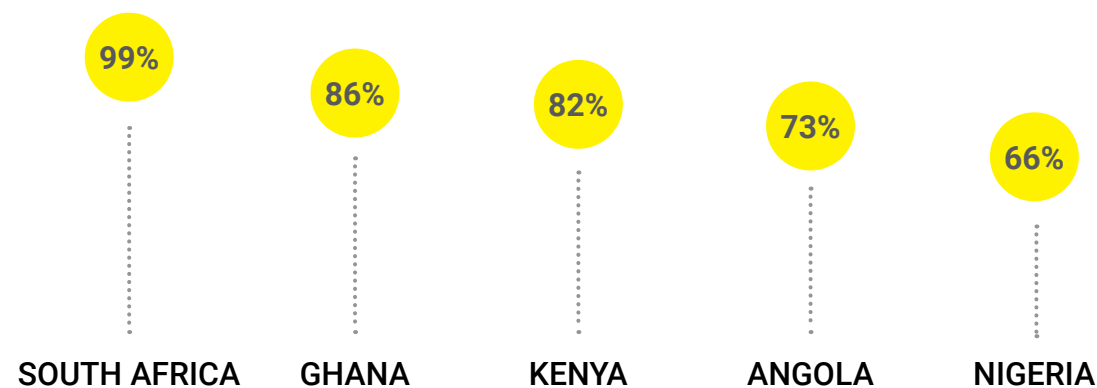
As a result of the drastic fall in crude oil prices between 2014 and 2015, at a time the new administration assumed the responsibility of managing the affairs of the country, the Nigerian economy was thrown into severe stress and the prognosis was weak. There was a massive loss of jobs and industries where relocating from Nigeria to other more favourable climes, even in West Africa. This led to high levels of economic uncertainty that was made worse by growing insecurity across the country especially in the North East.

It became an imperative to identify new sources of employment for our teeming and energetic (especially young) population, create more revenues and diversify the economy for greater prosperity. It was also important as well to reduce our infrastructure gap which was obviously growing beyond and outstripping the capacity of the country's annual budget capacity: a World Bank Report released at the time estimated that Nigeria will need to invest about \$100 billion every year to address this deficit. The government had nowhere else to go but to find new capital to invest in the country's infrastructure.

In October 2015, The World Bank released an annual survey of the business enabling environment in almost every country of the world in its 2016 Doing Business Report -. Out of 189 countries covered by the Report, Nigeria was ranked 169th. Within a short time, the country slipped into a recession, the first in .

With the size of the Nigerian economy and its potential for growth, it is puzzling that we still have one of the highest rates of unemployment in the sub-region and certainly the highest level in our history since 2010.

In spite of strong economic growths in the past, Nigeria's social indicators remain very weak. As an example, youth literacy level of 15-24 year olds has been put at 66% by the World Bank, compared to 73% for Angola, 86% for Ghana, 82% in Kenya, and 99% in South Africa.



Nigeria's performance is in fact below the Sub-Saharan Africa average of 70%.



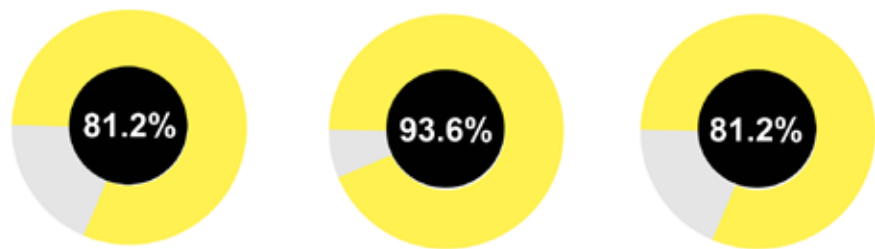
Similarly, Nigeria's infant mortality rate of 78 per 1,000 live births is worse than Ghana, Kenya and South Africa with 49, 49 and 33 respectively, and also worse than the sub-Saharan average of 64. Only 39% of Nigerian births are attended by skilled health workers versus 47% in Angola, 68% in Ghana, 44% in Kenya and 91% in South Africa.

The Sub-Saharan Africa average is 46%. All these point to the inherent institutional and structural imperfections that may be at the belly of the problem and a further indication of the fact that the government alone is incapable of providing the adequate solution to getting the economic back on track.

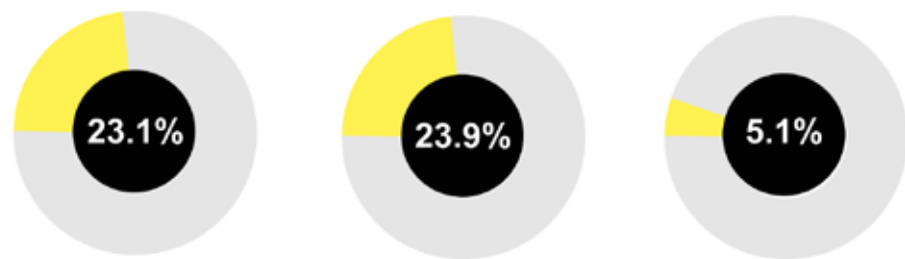
It is sobering that the World Bank describes Nigeria's economy as characterized by "high growth but high poverty."

In 2018, Nigeria was declared as the poverty capital of the world, with over 86 million Nigerians in extreme poverty. The grim statistics below also reflect the fact that our economy is not expanding enough, and many Nigerians are either unemployed or they are not benefitting from the potential opportunities in the economy. This has led to the high levels of insecurity across the country today.

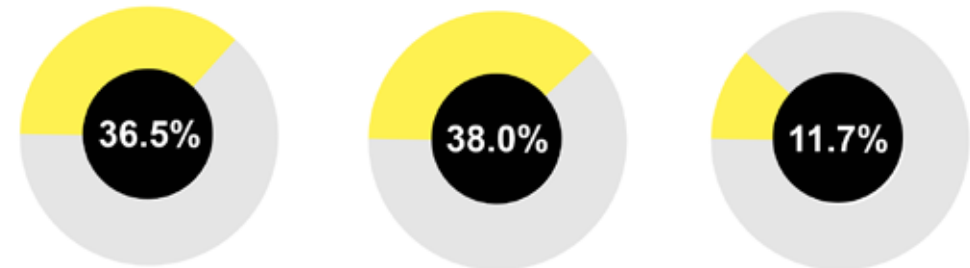
NIGERIA'S ECONOMIC WELLBEING INDICATORS



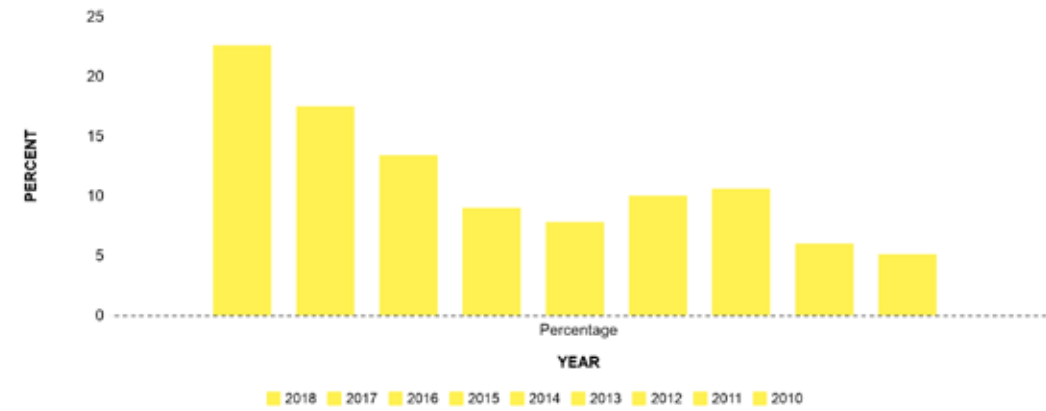
EMPLOYMENT RATE IN NIGERIA (CURRENT, HIGHEST & LOWEST)



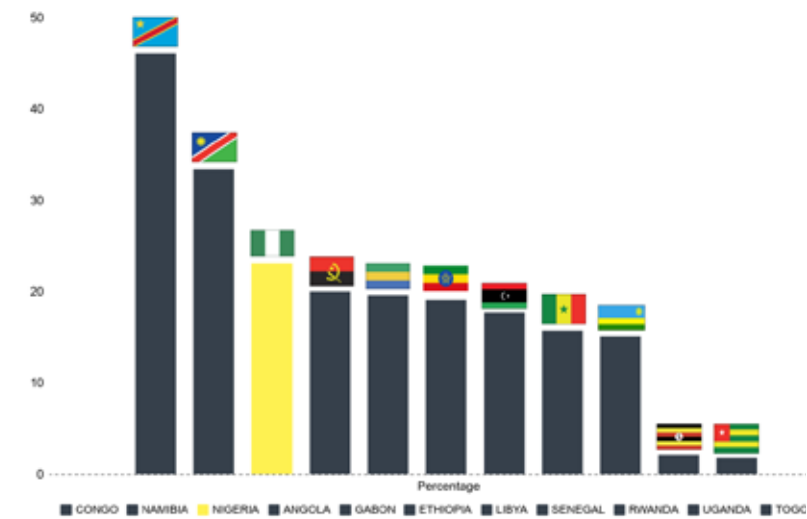
UNEMPLOYMENT RATE IN NIGERIA (CURRENT, HIGHEST & LOWEST)



YOUTH UNEMPLOYMENT RATE IN NIGERIA (CURRENT, HIGHEST & LOWEST)



UNEMPLOYMENT RATES IN NIGERIA SINCE 2010



UNEMPLOYMENT RATES OF SELECTED AFRICAN COUNTRIES WITH THE HIGH RATES OF UNEMPLOYMENT

“The federal government has raised the alarm that the country’s unemployment rate would reach 33.5 per cent by 2020.

The high unemployment rate of 23.1 per cent, and underemployment of 16.6 per cent by the (NBS) of 2019 report is worrisome.

It is a worrisome status as the global poverty capital (World Bank, 2018); and concomitant high prevalence rate of crimes and criminality, including mass murders, insurgency, militancy, armed robbery, kidnappings and drug abuse, among others.”

CHAPTER 2

LAYING THE FOUNDATIONS FOR ECONOMIC GROWTH THROUGH LEGISLATIVE ACTION: THE CHALLENGE OF JOB CREATION AND DOING BUSINESS

02

The challenge of youth unemployment has confronted the handlers of the Nigerian economy since the commencement of the Fourth Republic in 1999. The 8th National Assembly explored and put forward legislative proposals to bring about a holistic structural remodelling to aid access to capital, development of Small and Medium Enterprises (SMEs) and the provision of infrastructure to reduce unemployment and drive enterprise development.

In designing the framework for the tackling these issues through the legislature, the focus of the 8th National Assembly was to present legislative proposals that will

1. Get The Over 84 Million Smes In Nigeria Working Prosperously;
2. Expand Opportunities For Employment For Our Teeming Population To Reduce Delinquency And Improve Family Income;
3. Make Nigeria A Preferred Investment Location Again;
4. Achieve Economic Diversification; And
5. Expand And Modernize Our Infrastructure Base For Ease Of Doing Business And Growth.

It was these core set of imperatives that agitated the minds of the leadership of the 8th National Assembly right from the outset, and formed the overarching objective upon which it set forth.

A team of legal experts led by Prof. Idiornigie, SAN were identified and inaugurated by the President of the Senate Dr. Abubakar Bukola Saraki, to provide the National Assembly with a contextual framework for a comprehensive review of the various legislative, legal, regulatory and institutional deficiencies that had negatively impacted the ability of the Nigerian private sector to play its role as the driver of the economy, main employer of labour and a solid partner in the provision and development of infrastructure.

The team concluded their work and submitted a Report on the March 26, 2016. Interestingly, their findings chimed with those of the survey of the National Bureau of Statistics (NBS) and the Small and Medium Enterprises Development Agency of Nigeria (SMEDAN) in 2010. The following indices converged with the findings of the team

- The initial start-up capital of micro enterprises were predominantly less than fifty thousand Naira, while small and medium enterprises were predominantly less than ten million Naira.
- The main challenges confronting the operations of MSMEs in Nigeria are access to finance and poor infrastructure.
- The total number of persons employed by the MSME sector as at December 2010 stood at 32,414,884.
- The ownership structure by age showed that the age bracket of 24 – 50 dominates. Hence youth entrepreneurs are dominant.



- The three priority areas of assistance to MSMEs are access to finance, provision of infrastructure and regular supply of power and water.

This enabled the National Assembly to methodically conceptualize and produce the necessary legislative instruments that would enhance the ability of our small businesses to access credit and thrive.

The National Assembly was now set to put in place laws that would enable local investment, enhance infrastructure development, ease the cost of doing business in Nigeria, improve the performance and development of our private sector especially as a job creating market and broaden our base for economic opportunities.

To further achieve this, the National Assembly in collaboration with the United Kingdom's Department for International Development (DFID), World Bank, Nigerian organised private sector (through the Nigerian Economic Summit Group), professional bodies (such as the Nigerian Bar Association, the academia and others, created a broader platform to review the state of our laws as they affected businesses. Their assignment was to help the National Assembly identify existing laws that needed to be reviewed and amended to bring them up to international best practice standards or be repealed and new legislations that should be enacted, all aimed at growing the economy.

The Report identified 54 laws that require immediate attention in order to achieve the purpose of making it easy for investors to establish and operate businesses. The Report went through another peer review process and thereafter to a debate and analysis in a business roundtable dialogue with stakeholders in the public and private sectors.

The Report of the legal team set out a menu of proposals to address legal and regulatory problems confronting micro, small and

medium sized businesses in Nigeria. It outlined necessary reforms to guide government operations to support businesses in achieving growth and prosperity.

The Report reaffirmed small businesses as the engine of job creation in Nigeria. With so much emphasis on Government as panacea to our economic and other difficulties, small businesses are often underestimated because they are, in fact, small. However, it is clear that there is nothing small about the impact they have on the Nigerian economy. According to SMEDAN and the NBS, Nigeria's Micro, Small and Medium Enterprises (MSMEs) account for over 83m of all Nigerian jobs.

MSMEs are at the heart of our communities and form the backbone of the Nigerian economy. Together, they make up approximately 96% of all businesses in Nigeria. They employ 57.74 million individuals, representing 84.02% of the Nigerian workforce, and contribute almost 50% to Nigeria's Nominal Gross Domestic Product (GDP).



Senate President - through its Coordinating Office) under the Office of the Senior Special Assistant to the Senate President on Legislative Matters & Strategy - partnered with DFID, through its programmes Enhancing Nigeria Advocacy for a Better Business Environment (ENABLE2) and Growth & Employment in States (GEMS3) to undertake a detailed review of existing Nigerian Federal Legislation affecting businesses in the country.

The Senate on 17th of November 2015, by a unanimous decision adopted the detailed plan, a Legislative Agenda for economic development, job creation, infrastructure renewal and economic diversification. A scorecard of this agenda will be discussed in the next chapter.



CHAPTER 3

03

THE FORMATION OF A LEGISLATIVE MASTERPLAN

“For decades we have talked about the need to diversify our economy. But we have failed to take the necessary steps in policy and legislations that would set us on the path to developing the kind of economy that we desire. The Ease of Doing Business Report that ranks our country 167 out of 189 countries is not likely to attract business into our economy. This Senate understands this. With the support from our international development partners, the organised private sector, we commissioned an expert report which identified 54 extant laws that must be reviewed and brought in line with international best practices in order to open up our economy up for private investments and business.”²

We will try a de-copulation of the various and specific legislative propositions that formed part of the various baskets of sectoral reform initiatives to help re-engineer the various institutions and the creation of new ones to drive a modern Nigerian market. In this wise, we will x-ray the priority bills with their ultimate aims and objectives. This would help start us on a subsequent deep dive observation of the expected specific policy shifts inbuilt in the legislative proposals to enable free enterprise, open market, job creation, infrastructure modernization and expansion and the expansion of opportunity across the length and breadth of our economy.

The 8th National Assembly had a clear Agenda to:

- Prioritize and pursue necessary legislative reviews that would help eliminate obsolete regulatory laws that have held businesses down;
- Enact laws that provide adequate legal institutional and regulatory mechanisms to drive a new and modern nigerian economy;
- Develop new legislative instruments that will open up vistas of opportunity for investment security, improve commercial fair practices; and
- Provide incentives towards greater access to credit facilities - and in doing so, generate employment opportunities for the generality of nigerians.

The enriching impact of this arrangement was immediate, as bills instantly gained currency and ownership among the people and consensus building became much easily achieved.

The Assembly wisely determined that the best approach to success would be to incorporate the participation, consultation, engagement and partnership of the private sector and other stakeholders on a long-haul basis. It is this thinking that gave birth to the body today known as the National Assembly Business Environment Roundtable (NASSBER), a platform for the legislature and the private sector to engage on ways to improve Nigeria’s business environment through a review of relevant legislation and provisions of the Constitution.

The Technical Advisory Committees that emanated therefrom, advised the relevant National Assembly committees and worked closely with them through the Office of the Senate President on the prioritized economic bills. This has since transmuted into a veritable platform for inclusive legislative participation in which the Executive, private sector experts, the academia as well as other stakeholders collaborate and remained engaged with the legislature in addition to the age-long practice of Public Hearings on bills going through the legislative process. The enriching impact of this arrangement was immediate, as bills instantly gained currency and ownership among the people and consensus building became much easily achieved.

The following formed the core of the priority bills and areas of intervention the National Assembly concentrated upon.

² Senator (Dr.) Abubakar Bukola Saraki; First Anniversary of the 8th Senate of the National Assembly

PRIORITY REFORM BILLS OF THE 8TH NATIONAL ASSEMBLY

01

The following are the Bills framed by the 8th Senate aimed at reforming the Petroleum industry to make it competitive, efficient, globally relevant, fair and equitable to all:

- I. The Petroleum Industry Governance Bill (PIGB)
- II. The Petroleum Fiscal Framework Bill
- III. The Petroleum Host Community Bill
- IV. The Petroleum Administration Bill

02

The following are the Bills framed by the 8th Senate to boost the fortunes of SMEs, job creation and capital formation for business growth:

- I. The Public Procurement Act (Amendment) Bill
- II. Investment and Securities Act (Repeal and Re-enactment) Bill
- III. The Nigeria Independent Warehouse Regulatory Agency Bill
- IV. The Franchise Bill
- V. Credit Reporting Bill
- VI. Companies and Allied Matters Act (Repeal & Re-enactment) Bill (CAMA)
- VII. The Secure Transaction in Movable Assets
- VIII. Electronic Transactions Bill

03

The following are the Bills framed by the 8th Senate for increasing infrastructure development, modernization, employment creation and private sector expansion.

- I. The Federal Road Authority Bill
- II. The National Roads Fund Bill
- III. The Nigerian Railway Authority Bill
- IV. The Port and Harbour Bill
- V. The National Transport Commission Bill
- VI. The National Inland Waterways Authority Bill

04

The following are the Bills framed by the 8th Senate to boost agriculture, employment and diversification of the economy:

- I. The National Seeds Council Bill
- II. The Fertilizer bill
- III. Commercial Agriculture Credit Guarantee Scheme
- IV. The Food Security Bill
- V. The Climate Change Bill
- VI. Agricultural Credit Guarantee Scheme Act Amendment Bill

05

The following are the Bills framed by the 8th Senate for enterprise development, market modernization and innovation:

- I. Digital Rights Protection Bill
- II. The Foreign Exchange Act (Repeal and Re-enactment) Bill
- III. The National Payment Systems Bill
- IV. Federal Competition Commission Bill

06

The following are the Bills framed by the 8th Senate for security of lives and property as well as social re-engineering:

- I. The Police Reform Bill 2018
- II. The Compulsory Treatment of Gunshot Wound Victims Bill
- III. The Prisons Reform Bill
- IV. Sexual Harassment in tertiary institutions Prohibition Bill
- V. North East Development Commission Bill

07


Bills and relevant areas of intervention for governance reform and deepening democracy:

- I. The Federal Audit Service Commission Bill 2017
- II. The Electoral Act (Amendment) Bill 2018

04

CHAPTER 4

THE GOOSE THAT LAYS THE GOLDEN EGGS IS IN PERIL:
REFORMING NIGERIA'S PETROLEUM INDUSTRY



Nigeria's Petroleum industry is plagued by a myriad of challenges. Aside from the high and growing level of leakages and lack of accountability in the industry, it is uncontested that the existing legal regulatory and institutional structures are antiquated and need to be updated, especially as they are severely skewed to oil without much consideration for the new frontiers in gas. The fiscal frameworks have become problematic, ambiguous and no longer relevant to the essentials of today.

Also, the market structure for the downstream petroleum remains over-regulated and not fit for market competition, which is the bulwark for innovation and growth. Even more importantly, due to the weakness in these structures, the industry has become the main feeder of corruption politics in Nigeria. It became highly imperative to restructure the sector to inject transparency and accountability as well as recreate a model that affords Nigerians the opportunity to take a viable stake in the industry than is presently obtainable.

The National Assembly curated a cocktail of solutions with the entire raft of stakeholders—within the industry, including the Executive to engineer the state reforms. The process was designed to produce outcomes that will make the petroleum industry competitive, efficient,

globally relevant, fair and equitable to all. In the end, four Bills were proposed to dimension the reforms along critical components of the petroleum industry:

- The Petroleum Industry Governance Bill
- The Petroleum Industry Fiscal Framework Bill
- The Petroleum Host Community Bill
- The Petroleum Administration Bill

The idea of breaking the bills into a manageable bundle of four was borne out of the need to ensure that the process is managed politically in such a way that the outcome is guaranteed and incremental. This was considered important because of the lessons of the past that point to a system that collapses on all fours upon the failure of one. With this arrangement, the less sensitive is dealt with first and the others in batches. An added advantage is that the implementation is also staggered and moderated to fit into new and emerging realities.

PETROLEUM INDUSTRY GOVERNANCE BILL 2017

The Petroleum Industry Governance Bill (PIGB) provides for the governance and institutional framework for the Nigeria Petroleum Industry and creates clear separation of responsibilities between the policy, regulatory and commercial institutions.

The Bill checks the governance lapses in the Oil and Gas sector which had been plagued with lack of clarity of roles, self-regulation, conflicts and unnecessary overlaps. PIGB creates efficient and effective governing institutions with clear and separate roles for the Petroleum Industry and is intended to promote transparency in the administration of the petroleum resources of Nigeria.

One of its key highlights is the creation of a Commission that would essentially take over the regulatory powers of the Petroleum Industry. Members are appointed by the President keeping in mind a stringent chain

“For too long the fiscal superstructure of the industry has remained an ambivalent channel with very dark alleys.”

of competencies that cannot be overlooked. PIGB generated a lot of positive excitement and industry stakeholders came to a conclusion that Nigeria would have one of the most modern and forward looking petroleum laws in the world that incorporates the best international practice from a large number of countries.

Restructuring NNPC

The Nigerian National Petroleum Corporation (NNPC) is the state-owned enterprise that operates as the behemoth of the industry. A key provision of the Petroleum Industry Governance B is to restructure NNPC into a self-financing and self-governing National Oil Company of Nigeria Limited (NOC), incorporated under the Companies and Allied Matters Act and will no longer be dependent on tax payers' contributions leading to a drastic reduction in the impact of political influence on the Corporation. It is envisaged that this new Corporation can compete globally and adapt easily in a manner that ensures the rise of public value and government revenues.

THE PETROLEUM INDUSTRY FISCAL FRAMEWORK BILL 2017

It is generally known that Nigeria has not fundamentally changed its petroleum legislative framework in the last 45 years. Consequently, the country is yet to effect a meaningful change in the fiscal framework so our government is unable to derive greater value from this resource. As a result, the

current Nigerian petroleum legislation is in dire need of a replacement and many other countries have done so much earlier and more frequently than Nigeria.

For too long the fiscal superstructure of the industry has remained an ambivalent channel with very dark alleys. The Petroleum Industry Fiscal Framework Bill (PIFFB) therefore sought to establish a progressive fiscal framework that encourages substantial and progressive investment in the petroleum industry, balancing rewards with risk and enhancing



revenues to the Federal Government of Nigeria.

The core intentions of the Bill are to institute a forward-looking fiscal framework that is based on core principles of clarity, dynamism, neutrality, open access and fiscal rules of general applications; provide clear distinction between legislative aspects of the fiscal regime and negotiable aspects of contractual obligation; establish a fiscal framework that expands the revenue base for the government while ensuring a fair return for investors;

(A) Simplify The Administration Of Petroleum Tax; And

(B) Promote Equity And Transparency In The Fiscal System.

The bill sets out to advance the safe and efficient operation of the transportation and distribution infrastructure for the industry as well as provide the framework for developing third party access arrangements to petroleum infrastructure.

More importantly, the proposed PIFFB creates a fair, stable and predictable fiscal terms that caters to the concerns of the entire industry. It seeks to establish an efficient and progressive royalty, taxes and fees regime with performance incentives that would boost production, investment and participation. In simple terms, when enacted and operational, it would deliver a system that is alive to our growing need for transparency and accountability.

By the provisions of the proposed Bill, the administration and collection of government revenue in the petroleum industry becomes the responsibility of the Federal Inland Revenue Service and Nigerian Petroleum Regulatory Commission as follows:

The FIRS is made responsible for the assessment and collection of Petroleum Income Tax including the responsibility for the assessment and collection of the Companies Income tax. It is also proposed to determine and collect rents and royalties.

The PIFFB also clarifies allowing deductibles and unallowable deductibles and creates clarity on tax assessment and the framework for assessment of tax.

These are just a few highlights of the bill.

1) THE PETROLEUM HOST COMMUNITY BILL 2017

Aside the incorporated provisions under the Petroleum Industry Bill 2009, this is the first bill designed solely to provide a comprehensive institutional framework for incorporating Host Communities as stakeholders in the petroleum industry. The Petroleum Host Community Bill creates a framework for the governance of host communities' development, with emphasis on participation and stakeholder-ship.

The essence is to provide direct economic benefits from petroleum operations to host communities and to enhance peaceful and harmonious co-existence between settlers and host communities as well as evolve a culture of co-ownership. The timeframe for incorporation of the Petroleum Host Communities Development Trust is provided:

- A. For existing oil mining leases, the petroleum host communities development trust shall be incorporated within twelve months of the commencement of this act; and
- B. For existing designated midstream and downstream, assets, the petroleum host.

2) THE PETROLEUM ADMINISTRATION BILL

The Petroleum Industry Administration Bill (PAIB) is designed to promote the exploration and exploitation of petroleum resources in Nigeria in order to expand the benefit derivable by the Nigerian people. It seeks to promote the efficient and sustainable development of the operation of the Petroleum Industry.

PIAB sets out to advance the safe and efficient operation of the transportation and distribution infrastructure for the industry as well as provide the framework for developing third party access arrangements to petroleum infrastructure. The provisions would encourage and facilitate both local and foreign investment in the Petroleum Industry and promote good governance through greater transparency and accountability in the administration of petroleum resources in the country. The Bill brings clarity to the process of bidding and processing of bid rounds which is an essential process of entry and exit of the market. It clearly sets out the process of licensing assignment, transfers and relinquishing of revoking the license.

The framework is also designed to develop, where appropriate, competitive markets for the sale and distribution of Petroleum and Petroleum Products. It would promote safe and affordable access to Petroleum and Petroleum Products in Nigeria and create a conducive business environment for operations in the Petroleum Industry.

More than the other bills in the bouquet, the Petroleum Industry Administration Bill will

promote the liberalization of the downstream Petroleum Industry; establish an orderly, fair and competitive system; and ensure that Petroleum Operations are conducted in a manner that protects the health and safety of persons and the environment. The issues of right of way, right of participation, environmental regulations, gas flaring regulations etc. are fully determined by this Bill, which creates a best practices structure for the administration of the petroleum industry.

The framework is also designed to develop, where appropriate, competitive markets for the sale and distribution of Petroleum and Petroleum Products. It would promote safe and affordable access to Petroleum and Petroleum Products in Nigeria and create a conducive business environment for operations in the Petroleum Industry.



Democracy as a system of government has been restored in Nigeria for over a decade now, and for it to be stabilized and entrenched, all the stakeholders must be involved. Youths represent a very important stakeholder in any society. They are not only the future of Nigeria, but also a major stakeholder and useful resource in the nation building. For the youths to become useful resource in the Nigerian project, they must be gainful employed. However, available data show that youth unemployment is very prevalent in Nigeria with far reaching implications for stability of democracy.

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A JOB CREATION AND SME DEVELOPMENT STRATEGY

As stated in Chapter the Small and Median Enterprises Development Agency of Nigeria (SMEDAN) and the National Bureau of Statistics (NBS), Nigeria's Micro, Small and Medium Enterprises (MSMEs) account for over 83m of all Nigerian jobs.

Also, SMEDAN and NBS concludes that:

- The initial start-up capital of micro enterprises were predominantly less than fifty thousand Naira, while small and medium enterprises were predominantly less than ten million Naira.
- The main challenges confronting the operations of MSMEs in Nigeria are access to finance and poor infrastructure.
- The total number of persons employed by the MSME sector as at December 2010 stood at 32,414,884.
- The ownership structure by age showed that the age bracket of 24 – 50 dominates. Hence youth entrepreneurs are dominant.
- The three priority areas of assistance to MSMEs are access to finance, provision of infrastructure and regular supply of power and water.

The National Assembly articulated various instruments that evolved into actional tools to help the executive create the environment for jobs to grow, enterprise to prosper and reduce the burden of regulatory compliance.



These Bills and areas of intervention will deliver tangible outcomes that is aimed at boosting the fortunes of SMEs, job creation and access to credit for business growth. These include:

- The Public Procurement Act (Amendment) Bill
- Companies and Allied Matters Act (Repeal & Re-enactment) Bill (CAMA)
- Investment and Securities Act (Repeal and Re-enactment) Bill
- The Secure Transaction in Movable Assets
- The Nigeria Independent Warehouse Regulatory Agency Bill
- The Franchise Bill
- Credit Reporting Bill
- Electronic Transactions Bill
- Federal Competition Commission
- National Payment Systems

ECONOMIC IMPACT ANALYSIS OF BILLS TO IMPROVE ACCESS TO CREDIT

The Economic Impact Analysis for these National Assembly bills have already projected conservatively that removing constraints to MSME access to finance through the proposed legislative initiatives would result in a 50% increase in capital available to MSMEs as well as improvements in MSME productivity, employment and income. The impact of increased capital (based on the relationship between MSME capital and productivity in 2012-2013) will lead to an average of 1.57 million jobs yearly with income growing by an average of 5% per annum.

50%

INCREASE CAPITAL AVAILABLE TO MSMEs

1.57

MILLION INCREASE IN JOBS AVAILABLE YEARLY

5%

INCREASE IN AVERAGE INCOME GROWTH

Nigeria imports vast quantities of goods and services from abroad. Oil still dominates the economy and remains the main contributor to export earnings.



PUBLIC PROCUREMENT ACT (AMENDMENT) BILL 2016

Nigeria imports vast quantities of goods and services. Crude oil still dominates the economy and remains the main contributor to export earnings.

With a fall in oil prices on the international market, the need to stimulate the productive sector of the economy and diversify from excessive reliance on oil is at the core of the Made-in-Nigeria campaign which was initiated by the President of the Senate, Dr. Abubakar Bukola Saraki in September 2015. This underscores the idea that it is no longer sustainable for Nigeria to keep importing large quantities of basic foodstuff that we can grow and process locally. In the same vein, there is little justification for the importation of everyday items that our local manufacturers can process and are producing in good

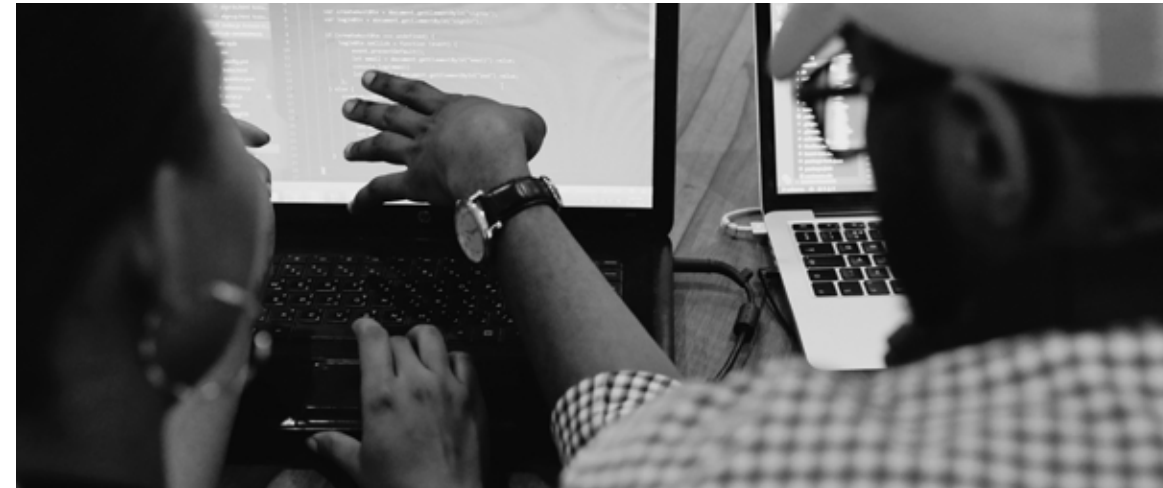
numbers including simple office equipment, textiles and processed food, and this offers opportunities to reduce imports and create employment for the majority of our people.

that the perception of many Nigerians is that most made in Nigeria goods are not produced to high quality and as such, these products are frequently unable to compete with imports. There are many reasons for this lack of competitiveness, including low levels of training in the workforce, difficulties in sourcing suitable material inputs and the poor state of the country's infrastructure.

In order to build a backbone to support Made-in-Nigeria, the 8th set its sight on the amendment of the Public Procurement Act as a veritable tool to demonstrate the demand-side commitment of the government. Although precise statistics are not available, unofficial

estimates put the proportion of imports in federal procurement at around 90%. This compares with figures of less than 5% for many large economies. The Bill seeks to amend the Act to provide for local content and timely completion of procurement process in Nigeria. The Bill will ultimately make procurement processes more transparent, increase efficiency and accountability, and promote local manufacturing in Nigeria.

The Amendment also allows preference for public procurement of locally certified goods and services from small and medium enterprises (SMEs) in the country. The impact of the Bill would lead to the creation of massive job opportunities as it makes it mandatory for priority to be given to local manufacturers and indigenous companies in government procurement of goods, works and services.



THE COMPANIES AND ALLIED MATTERS ACT 1990

The amendment of the Companies and Allied Matters Act (CAMA) 1990 is intended to strengthen the regulatory capacity of the Corporate Affairs Commission and improve the Nigerian business environment by encouraging the stimulation of economic activities. The amendment develops a legal framework that encourage the registration, regulation and growth of small businesses for Nigeria's economy.

The Companies and Allied Matters Decree No. 1 of 1990 was promulgated to repeal the Companies Act of 1968. Since its promulgation into law, the Companies and Allied Matters Act, Cap. C20, Laws of the Federation of Nigeria, 2004 is now over 20 years old with minimal amendments during the period. It became apparent that the entire Nigerian corporate landscape was heavily hamstrung by several provisions in

CAMA that impede modern business practices in the light of national and global reforms, particularly as legislations setting up most peer regulators have since been amended on different occasions. The 8th Senate concluded that the provisions of the Act are no longer in line with global trends and requires extensive amendments.

The proposed amendment to the Act is one of the most critical pieces of legislation with a direct impact to the Nigerian business climate and Micro, Small and Medium Scale Enterprises (MSMEs). It also directly affects the influx of Foreign Direct Investments (FDI) into Nigeria because it is relevant to ease of doing business and ease of investing in Nigeria.

So it is clear that the 8th National Assembly recognized the deficiencies in the business environment and placed strong emphasis on improving Nigeria's competitiveness.

Nigeria's system of Company Law and Corporate Governance is a critical part of this legal framework. It sets out the legal basis by which companies are formed, operated and managed, provides the corporate vehicle that enables individuals to collaborate in business as well as the legal structure through which companies are financed and sets the rules for company boards, shareholders and the exercise of decisions on business growth and investment. It is the means by which individuals are held to account for the exercise of corporate power.

Therefore, an effective legal framework of company law is a key building block of a modern and business friendly economy. A genuinely modern and effective legal framework can promote enterprise, enhance competitiveness and stimulate investment. Conversely, an ineffective or outdated framework can inhibit productivity and growth and undermine investor confidence.



The Bill reflects several key provisions.

Single Member Companies

This makes it possible for a single person to form a private company is being introduced for the first time in Nigeria. This provision is consistent with what is obtainable in several other modern economies such as the United Kingdom, India and Singapore.

Reduction in Share Capital

To ease the process of doing business, amendments were proposed in the Bill provides a process for a company to reduce its share capital by enabling private companies to reduce share capital of such companies if a special resolution to that effect is passed, without the added burden of applying to court for a confirmation of the reduction.

Resolving Insolvency

The Bill introduced a rescue and insolvency legal regime for a company that is not focused on a company's demise but on rescuing companies from insolvency through inclusion of an insolvency framework. An effective insolvency regime in Nigeria has a dual aim. The first is to save viable businesses and, the second is to ensure that non-viable businesses can quickly exit the market and allow deployment of assets to more productive firms. The regime will also lower costs of credit, increase access and availability of credit, improve creditor recovery, strengthen job preservation through reorganization and business rescue and promote entrepreneurship, among other benefits for small businesses.

Company Secretary

The proposed Bill further eases the regulatory burden of companies by making provisions which limit the requirements to appoint a Company Secretary to public companies. This then makes it optional for small companies and companies with one shareholder.

Annual General Meeting

The proposed Bill no longer mandatorily requires small companies to convene and hold Annual General Meetings.

Minority Shareholder Rights

One of the objectives of the Bill is to enhance minority shareholder rights. The amendment also regulates related-party transactions and shareholders access to judicial redress and protects the shareholders' rights in corporate governance as a proxy for Nigeria's overall corporate governance standards and ease of access to financing from capital markets.

Beneficial Ownership

The Bill mandates the disclosure of beneficial interests in a company's shares and prescribes punitive measures for failing to disclose such interests. In this regard, where a person holds interests on behalf of another in a nominal capacity in a company, both parties (the owner and the nominal holder) are required to disclose the beneficial interests to the company in question.

Exemption from Audit

The Bill exempts a company from appointing auditors if it has not carried on business since its incorporation or in a particular financial year and where the company's turnover is not more than N10m and its balance sheet total is not more than N5m.

As earlier indicated, the introduction of these amendment to the Act greatly improves the ease of doing business and generally enhance the business climate in Nigeria. If they are passed into law, there will be economic benefits to the country.

A more business-friendly regulation for Micro, Small and Medium Enterprises. The survey by the Nigerian Bureau of Statistics (NBS) and the Small & Medium Enterprises Development Agency of Nigeria (SMEDAN) referred to earlier had determined that the existing Act regulates mostly larger type companies and imposed unnecessary costs on smaller type companies. According to that survey, the MSMEs in Nigeria contribute almost 50% of the Gross Domestic Product (GDP) in nominal terms and account for 84.02% of all jobs.

By making the provisions of the Act friendlier to MSMEs, the amendments have the potential to increase the activities of MSMEs, thereby growing the Nigerian economy.

Fewer reporting obligations for small companies.

Another impact of the amendment is to reduce the financial reporting obligations

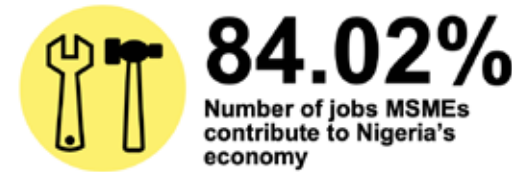
of small companies. Such companies will now be exempt from the yearly audit process and this invariably means that cost is reduced and more money can be ploughed back into the businesses for expansion. For the Nigerian economy, this translates into more jobs..

Reduction in Time and Cost for Setting up a Company.

The amendments to the Act make it more attractive for small businesses operating within the informal sector, which contribute about 64% to the GDP. These companies will be able to formalize their businesses by registering at the Corporate Affairs Commission and has the potential of widening the tax base of the country, increasing revenue earned from taxation of corporate entities and diversifying the economy.

Promotion of Financial Stability.

The introduction of model netting provisions in the amendments as a means of mitigating credit risks associated with over the counter derivatives promotes financial stability and investor confidence in the Nigerian financial sector. The amendments also minimize risks associated with the performance of certain large financial institutions, thereby making the financial positions of Nigerian financial institutions more secure.



Increasing Investor Confidence in the Nigerian Financial Sector as well as all sectors of the economy.

Investor confidence in the Nigerian financial sector, and indeed all sectors of the economy, is expected to significantly improve due to a competitive and business-friendly environment where companies are regulated in line with global best practice.

Nigeria's legal framework for undertaking business in the country must reflect the challenges of modern markets in which business and investment decisions are increasingly determined by global conditions. This increasingly global marketplace should incorporate regulatory conditions which are modelled around international best practice.

Nigeria's legal framework for undertaking business in the country must reflect the challenges of modern markets in which business and investment decisions are increasingly determined by global conditions.

INVESTMENT AND SECURITIES ACT

The amendment to the Investments and Securities Act (ISA) seeks to strengthen the capacity of the Securities and Exchange Commission (SEC) to regulate the capital market, especially the bonds market, more effectively and maintain proper standards of conduct and professionalism in the bond security business. It will enhance investor confidence and improve ease of investing and doing business in Nigeria.

The proposed amendments also sought to reduce the cost of compliance to existing regulatory requirements that do not add to the efficiency of the market.

SECURE TRANSACTIONS IN MOVABLE ASSETS ACT, 2017

The Secure Transaction in Moveable Assets Act, 2017 was a major attempt by the 8th National Assembly to further ease access to credit for SMEs through the establishment of a National Collateral Registry that will facilitate access to credit secured by movable assets. The Act makes more funds available for small businesses which will in turn create more jobs and increase productivity.

The Act provides for secured transactions, registration and regulation of security interest in movable assets that will facilitate access to credit secured with movable assets. It bill establishes the National Collateral Registry in the Central Bank of Nigeria (CBN) to receive, register and store information about security

interests in movable assets. The registry will increase the availability of credit and reduce the cost of credit, as SMEs will leverage their assets into capital for investment and growth.

Movable collateral provides the basis for free-flowing credit markets and reduces the potential losses lenders face from non-payment.

CREDIT REPORTING Act, 2017

It is established that access to finance is a major challenge to MSMEs in Nigeria, as it is in many countries. The Credit Reporting Act, 2017 will open credit facilities to a larger population of Nigerians through a consumer credit system, facilitate the production of effective credit data bases that can be leveraged as a risk assessment tool in determining the credit worthiness of individuals seeking credit through the country's financial system,



promote a fair and competitive credit reporting system and set standards and conditions for the establishment, regulation and operations of Credit Bureaus.

It is already acknowledged globally that by facilitating the exchange of information, credit registries and bureaus help creditors to win new borrowers and to price loans correctly. A 2008 World Bank survey of 91 banks in 45 economies documented that the availability of credit information is a critical factor in access to finance for MSMEs, particularly in developing economies where 70% of banks reported that the presence of a credit bureau facilitates lending to this category of borrowers.

The Act provides a framework for credit reporting, establishment of credit bureaus, facilitation and promotion of access to credit and it also enhances risk management in credit transactions. It provides for licensing of credit bureaus, providing information on individuals' borrowing and bill-paying habits.

Adequate credit information could facilitate lenders in screening and monitoring borrowers as well as avoiding giving loans to high risk individuals. At the same time, consumers benefit from a good credit information system because it reduces the effect of credit monopoly from banks and provides incentives for borrowers to repay their loans on time.



The bill sets out to advance the safe and efficient operation of the transportation and distribution infrastructure for the industry as well as provide the framework for developing third party access arrangements to petroleum infrastructure.

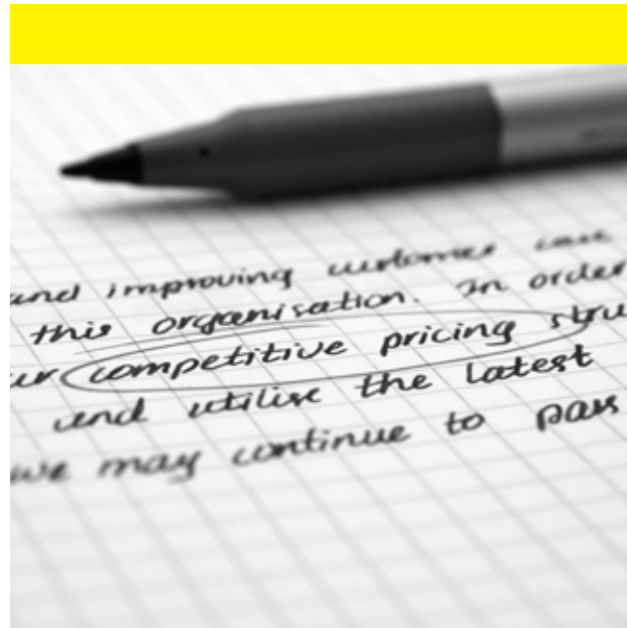
INDEPENDENT WAREHOUSE REGULATORY AGENCY BILL

The Bill establishes the Nigerian Independent Warehouse Regulatory Agency to regulate the operations of licensed warehouses and provide a regulatory framework for trading in warehouse receipts, enable depositors store agricultural or other commodities in commercial warehouses and upon issue of negotiable warehouse receipt by the warehouse, be able to use it as collateral to obtain finance from a financial institution and make warehouse receipt valid negotiable instruments.

With this kind of financing, a farmer or trader delivers his produce to a warehouse that has been approved, the warehouse then issues a receipt vouching for the quality and quantity of produce being stored. The bank may upon production of this receipt, provide funding to the farmer or trader. The receipt acts as collateral for the bank, giving the financial institution the right to take ownership, if the loan is not repaid.

FEDERAL COMPETITION AND CONSUMER PROTECTION COMMISSION BILL

The Bill repeals the Consumer Protection Act to establish the Federal Competition and Consumer Protection Commission and the Competition and Consumer Protection Tribunal. It seeks to promote competition in Nigerian markets at all levels by eliminating monopolies, prohibiting abuse of a dominant market positions and penalizing other restrictive trade and business practices. In promoting competition, not only will monopolies and undue profits be prevented, it will also enhance efficiency in goods and service delivery.



We have already seen how the work of the Consumer Protection Council has helped to curb some dubious business practices.

Competition between businesses has been shown to increase efficiency, expand choice for consumers and drive down prices. Consider the following:

In the United States, in a contemporaneous review of the deregulation of natural gas, long-distance telecommunications, airlines, trucking and rail, it was reported that real prices dropped by at least 25 per cent and sometimes close to 50 per cent within ten years of deregulation in those industries. At the same time, there were improvements in the quality of service.

Pro-competition policy developments in New Zealand and the United Kingdom are estimated to have added around 2.5 percentage points to their employment rate over the period 1978-1998. Reforms promoting private governance (i.e. privatization) and competition tend to boost productivity. In India, economic reforms comprising, inter alia, of liberalization, privatization and pro-competition policies have been introduced since the early 1990s. As these reforms took effect, economic growth surged and consumer sovereignty asserted itself. There are reasons to believe that developing economies tend to be more vulnerable to anti-competitive practices than developed countries. Thus, it may be particularly important to protect consumers in developing countries against cartels, monopoly abuses, and the creation of new monopolies.

We have already seen how the work of the Consumer Protection Council has helped to curb some dubious business practices. We can expect to see more of this when the competition (anti-trust) law comes into operation.

The Bill may deliver several economic impact to the Nigerian economy.

- i. A 10% reduction in prices in uncompetitive sectors and a 1% economy-wide price reduction, both of which manifest as income effects, especially for poor households;



There are reasons to believe that developing economies tend to be more vulnerable to anti-competitive practices than developed countries.



- ii. The creation of an additional estimated 320,000 jobs over a 5-Year period, with average job creation of around 64,000 a year; the total income effect is estimated at an average of ₦148bn yearly, and ₦742bn over the full 5-Year period; and
- iii. A resultant reduction in poverty through greater employment and lower prices may precipitate about 12% reduction in relative poverty in Nigeria over a 5-Year period.

NATIONAL PAYMENT SYSTEMS BILL

The Bill creates legal, institutional and administrative framework for the management and operation of payments clearing and settlements systems in Nigeria and establishes the Payment System Management Body to be recognized by the Central Bank of Nigeria and charged with the functions of organizing, managing and regulating the participation of its members in the payment system.

ELECTRONIC TRANSACTIONS BILL, 2015

The Electronic Transaction Bill 2015 is the first legal framework ever in our country that provides the legal foundation for electronic

Another obvious benefit of this bill is that it will reduce the cost of doing business by eliminating transportation and other logistics cost.

signatures and guarantees predictability in contracts made electronically. This bill (now law as it has been signed into law as an Act of the National Assembly) will offer full protections to contracts entered into via emails, and transactions conducted with online shops, electronic commerce and services platforms, which are currently not provided for in our laws. Another obvious benefit of this bill is that it will reduce the cost of doing business by eliminating transportation and other logistics cost. By passing this bill, the Senate gave legitimacy and local application to the United Nations Convention on the Use of Electronic Communications in International Contracts, which was adopted by the General Assembly of the United Nations on 23rd November 2005 (the UN Convention).

This new legal framework emboldens innovative creativity and open up new areas of investment opportunity for our young population and start-ups that have suffered a lack of support from creditors and investors due to the absence of this law. The implication is that the country now has the opportunity to see the emergence of a new generation online, electronic application giants in the mould of Chinedu Echeruo.

THE FRANCHISE BILL

This Bill provides a framework for the regulation of franchising in Nigeria. Franchising is an important capital mobilisation and enterprise development model with a unique feature suitable for the Nigerian market. It is becoming increasingly useful as Nigerians seek enterprise collaboration into new markets with established businesses, they can leverage experience and brand and this has raised the need for a regulatory framework for the industry.

Currently, the practice is to use franchise contracts. However, the bill now adds a layer of support confidence and value to the process by providing the necessary statutory flavour which provides a modicum of comfort and cover beyond contract.

The Bill has stipulated the procedures, mandatory terms and remedies for breach of franchise agreement which cannot be waived by parties. This may afford some protection to local SMEs as well as assure foreign businesses of the predictability of the domestic legal framework.

Similarly, the requirement of at least 20% local content would ensure the participation of local SMEs in the value chain of franchised businesses.

CHAPTER 6

THE LEGISLATIVE AGENDA FOR INFRASTRUCTURE MARKET DEVELOPMENT, EXPANSION, MODERNISATION AND DEPLOYMENT FOR EASE OF DOING BUSINESS



One of the mitigating factors to developing Nigeria's infrastructure is the governance framework in place to deliver it.

“The cost of the gridlock in Apapa is monumental. The cost in man-hours in the traffic can hardly be quantified. The economy consequence to the nation is enormous. The health implications of staying so long on the road sandwiched in between antiquated vehicles laden with petroleum products or containers can be better imagined than experienced. The Association of Nigerian Licensed Customs Agents (ANLCA) said the country loses over N5 billion daily to the gridlock in Apapa. That is over 1.8tr in a year.

There is no doubt that the over-concentration of oil tank farms in Apapa, an area predominantly designed for port operations, has not helped matters, but nothing more epitomizes the need for us to expand our roads and other transport systems to free the economy. There is now a situation where we have proliferation of oil tank farms without regards for the safety logistics implication.

If we must expand our infrastructure base, we must seek alternative funding sources and opportunities. We must enable private sector to play a key role in the development and deployment of efficient infrastructure to deliver economic development to our people.”³

TRANSPORT INFRASTRUCTURE

- I. The Federal Road Authority Bill
- II. The National Roads Fund Bill
- III. The Nigerian Railway Authority Bill
- VI. The Ports and Harbours Bill
- V. The National Transport Commission Bill
- IV. The National Inland Waterways Authority Bill

In this chapter we shall be taking a look at the legislative bills that the National Assembly has proposed and passed to address the issue of worsening infrastructure deficit and the huge cost to the economy as a result. These bills will reform the various transport sectors by promoting the sustainable development and operation of the industry and every sector within it. It will also serve as a mechanism for opening up the industry to greater private sector participation and services.

It is globally acknowledged that every modern economy relies on aviation, Rail, Roads, Ports and Waterways to provide it the arterial channels to move its manpower, products and open access to its markets.

Since independence, successive Nigerian governments have made huge investments in transport infrastructure, yet the country still suffers a wide gap and this deficit has imposed huge costs on the economy. One of the mitigating factors to developing Nigeria's infrastructure is the governance framework in place to deliver it. Hence the need for a reform of legislations related to the infrastructure sector to remove the binding constraints and unlock Nigeria's infrastructure revolution. Existing legislations were drafted and enacted to support the outmoded model of delivering infrastructure which restricts management and investments to the public sector.

Economists project that, if the bills listed below are signed and duly implemented, they would have very positive impact on the overall economy, as follows:

The Nigerian Integrated Infrastructure Master Plan (NIIMP) assumes \$166bn total investment in infrastructure, out of which 26% is expected in transportation, with the private sector contributing 48%. Evidence from IFC research indicates that a 1% increase in infrastructure produces a 0.08% increase in GDP and infrastructure investments result in a 0.5 multiplier (3-5% increase) in jobs.

³ Senate President, Dr. Abubakar Bukola Saraki, at a public hearing on the Apapa, Lagos State transportation gridlock.

“For the first time since 1924, the Railway Bill will open up the sub-sector and attract private capital into this segment of our transport system that has appeared stuck in the past.”

They have been projected to significantly improve the economy by creating jobs, reduce poverty and providing access to market. An average of 87,384 new jobs in the sector over the next 5-Year period is projected and income growth averaging 7%. These changes may contribute towards a 2.5% reduction in poverty rate and a significant positive impact on sectoral GDP.

It is further projected that the implications of these frameworks would positively impact on other infrastructure – energy, ICT, agriculture, water and mining, housing and social infrastructure. This projection is also based on NIIMP and the global benchmark that a 0.08% increase in GDP results from every 1% investment in infrastructure. However, the conservative assumption is only 40% performance of NIIMP private sector investment targets, based on current economic conditions and unclear policy. The results include additional cumulative employment of 15 million through a 5-year period with 80% average growth in per capita income.

Below are explanatory notes on the Bills and areas of intervention for increasing infrastructure development, modernization, employment creation and private sector expansion;

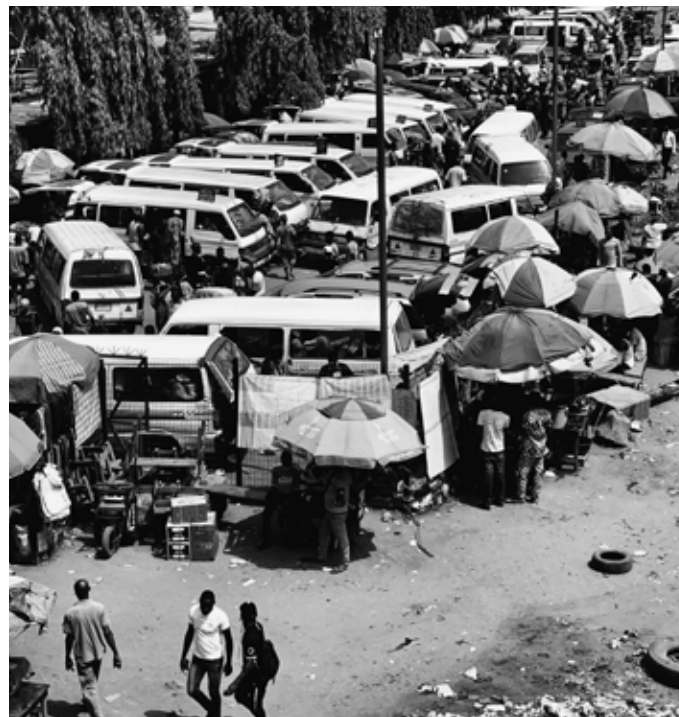
1) THE FEDERAL ROAD AUTHORITY BILL 2016

The bill is designed to separate the role of regulation from policymaking in order to

improve the quality of our roads and create a more modern and well maintained road network. With this, the Federal Roads Authority becomes the body to carry out all technical regulation of the road sector services. The role of regulation maintenance (review and updating) to be clearly delegated to the FRA along with the day to day application of those specifications and regulations.

2) THE NIGERIAN RAILWAY AUTHORITY ACT (REPEAL AND RE-ENACTMENT) BILL, 2016

The Bill provides for the restructuring of the Railway sector and establishes the Nigerian Railway Authority. It makes provision for private sector participation in provision of rail



services which will effectively close the infrastructural gap in the railway sector and reactivate the long dormant sector. The Bill also ensures safety in the railway services by providing for an independent railway regulator to be responsible for the economic and safety regulation of the sector.

For the first time since 1924, the Railway Bill will open up the sub-sector and attract private capital into this segment of our transport system that has appeared stuck in the past. The influx of private sector players, states and local government will not only stimulate rapid rural development, but would significantly change the fortunes of the Nigerian economy, contributing to the development and deployment of railways, linking more states and local governments exponentially increases the value and effectiveness of transport, reducing cost and time for distribution of factors of production and contributing to economic growth.

The effect of an efficient rail system on the entire market size, supply, demand, price and cost of products will be remarkable, this is especially so in relation to agriculture as our farmers are afforded greater market access enabling economies of scale in production, distribution, and consumption, thereby increasing economic growth. With the railways, we are better equipped to plan our urban areas and extend development to the rural areas with greater network of railroads.



It is estimated that the jobs this reform can bring on line will be in the region of 250,000, according to the Ministry of Transport.

3) NATIONAL ROAD FUNDS BILL

This is one of the most critically acclaimed bills to help reduce the cost of doing business in Nigeria, reduce waste of manhours, improve access to markets and improve the quality of our road infrastructure.

The Bill establishes the Road Fund which will be a repository for revenues accruing from the road user charging systems and other sources for the purpose of financing the maintenance and upkeep of national roads and to promote

sustainable development of the road sector. The objectives of the Federal Roads Fund Bill are to:

- I. Establish a federal road fund which shall be a pool of dedicated funds to finance the rehabilitation, repairs and maintenance of federal roads in Nigeria;
- ii. Promote the sustainable development and operation of federal roads network in the country.

The establishment of Road Funds to address constraints in road maintenance funding has been on a common pathway for effective governance within the road sector over the years.

At the core to the Road Fund 'solution' is the concept that some of the insufficiency and unpredictability of funding (and by extension, planning) can be mitigated by extracting additional funds from those that use the road assets in the form of a user based charge or levy (User-Pay Concept).



Several sub-Saharan countries have established such Road Funds to manage their road infrastructure. Such developments have long been viewed by economists as crude earmarking, and are thus resisted because of their damaging effects on fiscal flexibility. It has been argued that such road funds should be subject to "sunset provisions" as an interim step towards either full commercialization of road maintenance or a return to good governance within the public sector.

Sources of Revenue

Several sources as identified in Bills are presented below:

- A. From the National Road Fund Bill
 1. Fuel Levy
 2. Grants, Gifts and Loans
- B. Additions from the Federal Road Fund Bill:
 3. Users' Charge
 4. Toll fees
- C. Additions from international best practice and other sources
 5. International vehicle Transit Charges
 6. Vehicle Registration Charges

Fuel Levy

Most Road Fund Agencies rely on the Fuel Levy for sustainable revenue with the objective of developing a safe and economically efficient road sector. Road Funds are essentially established for: efficiency (the achievement of an economically efficient level of funding of road sector projects) and accountability (the equitable use of revenue). Road Fund Agencies have found that the most feasible Users-Pay fees are charges on diesel and petrol used on-road, vehicle license fees and cross border transit charges.

Some of the more advanced Road Funds Agencies in Europe and the Americas have found veritable means of improving their sources of funds for the Road Fund Agency through road pricing (fee related to vehicle mass and travel distance to improve road user charge equity between light and heavy vehicles). Road pricing, however, requires sensitive calculations dependent on traffic and roadway characteristics.

Tanzania, Malawi, Kenya and Ghana fund their Road Fund Agencies predominantly from fuel levy. It must be understood that these nations, with the exception of Ghana, are not oil-producing countries and so rely solely on imports, fuel levies are deducted from sales within the country.

4) PORTS & HARBOURS REFORMS BILL

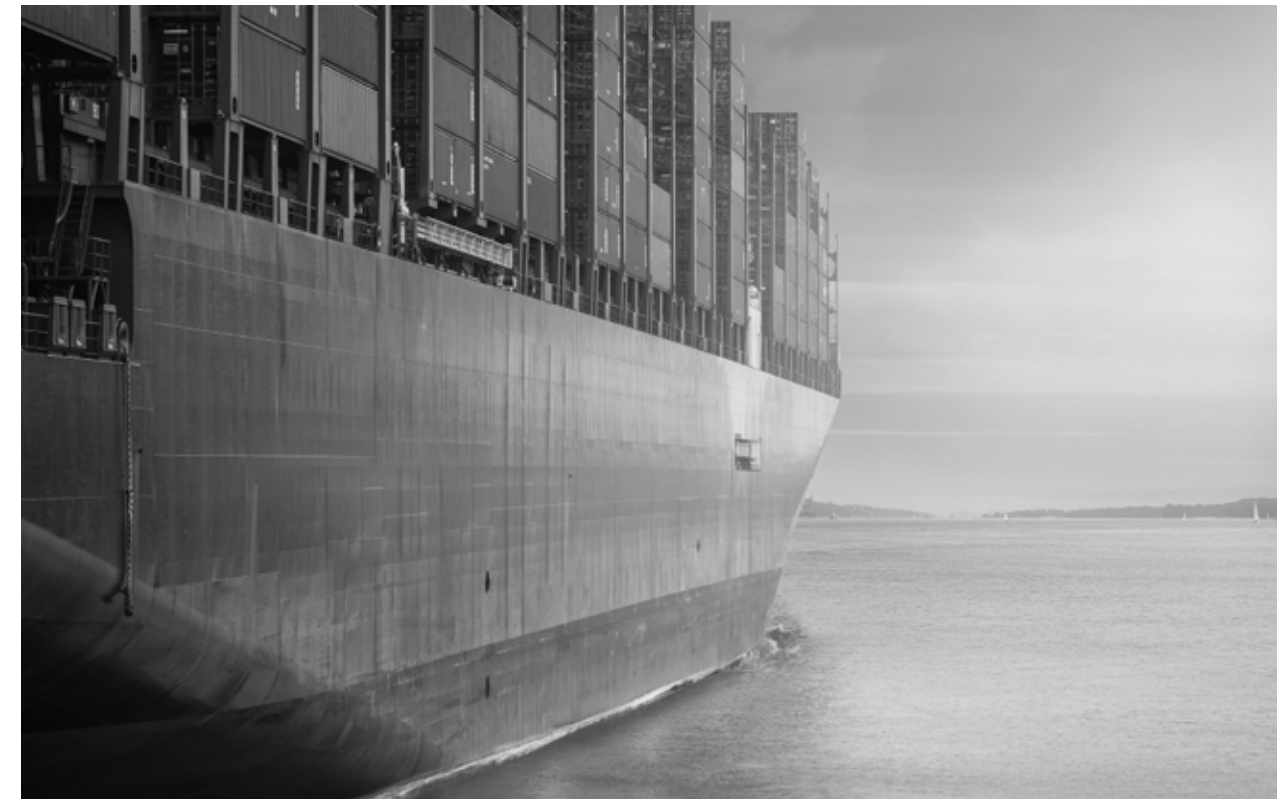
The bill establishes the Nigerian Ports and Harbour Authority charged with the control and ownership of all ports and harbours on behalf of the Federal Government.

It provides an appropriate institutional framework for the ownership, management and development of Ports and Harbours. It seeks to reactivate the dormant sector by encouraging private sector participation in the provision of ports services and port infrastructure, and ensures the integrity, efficiency and safety of the ports. It further ensures the sustenance of the principles of accountability, competition, fairness and transparency and encourages private investment in port infrastructure; promotes private sector participation in the provision of port services and facilities while also promoting and safeguarding Nigeria's competitiveness and trade objectives.

5) NATIONAL INLAND WATERWAYS AUTHORITY BILL

To improve and develop the inland waterways for navigation and day to day technical and safety regulations, increase and promote private sector investment and involvement in the management and operation of the assets of the inland waterways, provide for the economic and oversight safety regulation of the inland waterways and promote inter-modalism in the transport sector.

Nigeria's main modes of transportation are road, rail, air and water. While our road transport system is overused and in a dilapidated condition, our railways are not linked to most parts of the country and air transport is considered expensive, and our waterways are scarcely utilized even though it has huge investment potentials. The only drawback of the waterways is speed because it is faster to transport people and goods by road and air but it is more cost effective and relatively safer. The lack of interest in Nigeria's inland waterways transport may be due to the apathy of the government over the past years towards the development of the sector. As a result, the sector has a weak institutional and governance framework to drive its development. This has established the need for an appropriate legislative instrument that will create the right framework to develop the sector.



6) NATIONAL TRANSPORT COMMISSION BILL

To establish the Commission as an effective, impartial and independent regulatory authority and provide for an economic regulatory framework for the provision of services and supply of goods in the transport sector or regulated transport industry. It also aims to provide a mechanism for monitoring compliance of government agencies and transport operators in the regulated transport industry with relevant legislation and for providing advice to Government on matters relating to economic regulation of the regulated transport industry. It will also protect the rights and interests of service operators and users within Nigeria to create an enabling environment for private sector participation in the provision of services in the transport sector.

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CHAPTER 7

THE LEGISLATIVE MASTERPLAN FOR AGRICULTURE AND VALUE-CHAIN DEVELOPMENT IN THE SECTOR

Bills and relevant areas of intervention to boost agriculture employment and diversification of the economy:

- I. The Fertilizer Bill
- II. Commercial Agriculture Credit Guarantee Scheme
- III. The Food Security Bill
- VI. The Climate Change Bill
- V. Agricultural Credit Guarantee Scheme Act Amendment bill

THE COMMERCIAL AGRICULTURE CREDIT GUARANTEE SCHEME BILL

The bill provides a regulatory framework for the agricultural credit fund which shall promote commercial agriculture in Nigeria, ensure credit support for production, storage and processing of target commodities, develop market and agricultural enterprise.

For the Senate, it is time to walk the talk. It is not acceptable that the contribution of formal lenders to credit availability to small farmers is put at 3% as opposed to 54% obtaining loans from Esusu Cooperatives. This scenario cannot lead to a virile agricultural sector on which diversification can be built on.

This bill therefore seeks to amend the existing act to provide the missing gap in the operation of the scheme which has

been in existence without really living up to its role as a key driver for credit and capital necessary for growth and development of the agriculture sector.

This objective of the bill is linked with the need for us to put in place the necessary legislative frameworks that will set the stage for our people to acquire agricultural loans for fishery, poultry, piggery, livestock rearing, and Agro-allied manufacturing and support services with ease and within terms that are not too difficult to meet. There is no gainsaying the fact that it will be untenable to expect our farmers to borrow at the commercial lending rates today and survival.

If we are sincerely intending that farming becomes a lucrative business venture in Nigeria we must be ready to provide real farmers loans at single digit. This bill seeks to enable us do this. Distinguished colleagues, invited guests, the idea of the great prospect of our economy through agriculture continues to dominate economic discussion in our country but not so much has happened to move it from its subsistence character into a commercial business from where the Nigerian economy could create millions of jobs. Without a doubt, this role of credit in making this a reality cannot be overemphasized.



THE NATIONAL FERTILIZER BILL

This Act repeals the National Fertilizer Board Act Cap N39 LFN 2004, The Fertilizer (Control) Act Cap F25 LFN 2004, and enacts The National Fertilizer Quality Control and Other Related Matters Act, 2014, to provide an improved regulatory framework for the manufacture, importation, sale and distribution of fertilizer in Nigeria.

This Bill prescribes the conditions for obtaining the necessary licences for the manufacture, importation or distribution of fertilizer in Nigeria. It would go a long way in curbing the menace of adulterated fertilizer. It would also afford some protection to farmers against fertilizer adulteration.

THE NATIONAL FOOD SECURITY BILL

The Bill establishes the Food Security Agency to be charged with formulating strategies and implementation of policies towards food security and facilitating the realization of the right to food. The bill provides for every person's right to food, right to be free from hunger and to have adequate food of an acceptable quality.

The agency will, through State Food Security Committees, implement food distribution programmes and provide subsidy on food. It is the boldest move by the country to enunciate and practicalize freedom from hunger and the right to adequate food of acceptable quality.



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CHAPTER 8

THE LEGISLATIVE AGENDA
FOR SECURITY REFORM

In total, the Senate has taken up about 19 motions and resolutions on the security situation in the country, including some calling for investigations and action on several terrorism related occurrences in the North East and North West especially.

08

Security remains a major challenge to the country. There has been significant loss of lives and property due to the increasing rates of insecurity in the country. This is the reason security has ranked very high in the legislative activities of the 8th National Assembly.

The National Assembly set up an Ad-hoc Committee on reforming the National Security Infrastructure. The Committee has since submitted its report.

Highlights of some of the other security challenges have been the increase in the activities of the Boko Haram in the North East, and growing militia activities in the North-West especially in states like Zamfara and Sokoto. These are growing threats that rank highest in terms of their implication to the survival of the country and its democracy.

The Senate has carried out investigative motions and hearings on the activities of

murderous herdsmen and their clashes with farmers in the North-Central region.

In total, the Senate has taken up about 19 motions and resolutions on the security situation in the country, including some calling for investigations and action on several terrorism related occurrences in the North East and North West especially.

The Senate has also taken significant interest in the worrisome and growing

threats of cybercrime in the country. In 2017 alone, the Senate passed eight resolutions dealing with security including the growing cases of jungle justice in the country, the state of insecurity in southern Kaduna, the proliferation of small arms and light weapons, ethnic clashes in Ile-Ife, the increasing rate of kidnappings in the country, the rising rate of rape and sexual assault on women, communal clashes in certain communities in cross-river state, the death of 26 young Nigerian girls off the coast of Libya, and the state of security in Adamawa, Borno and Yobe States.

Also in 2018, the Senate took further action on the security situation in the country through motions including: calling attention to the urgent need to look into killings in Zamfara State, where several people lost their lives; the continuous killings in Benue State; the proliferation of dangerous firearms in Nigeria; the gruesome killing of 40 people in Sokoto State by armed bandits; the need to investigate the importation of military items without the approval of the National Security Adviser. The Senate took the extraordinary step to invite the President to come and brief the National Assembly on what the administration planned to do to halt the growing insecurity and killings in the country. This was after two major incidences - one in Benue state where there were three separate church killings within a short space of time, and the other being the Plateau revenge killings over slaughtered cows.

Bills and relevant areas of intervention for security of lives and property as well as social re-engineering:

- North East Development Commission Bill
- The Police Reform Bill 2018
- The Prisons Reform Bill
- The Compulsory Treatment of Gunshot Wound Victims Bill
- Sexual Harassment in Tertiary Institutions Prohibition Bill
- Discrimination Against Persons with Disabilities Bill
- Prevention and Punishment for Torture Bill
- Anti-Jungle Justice Bill

NORTH EAST DEVELOPMENT COMMISSION BILL

The Bill establishes the North East Development Commission (NEDC) charged with the responsibility to, among other things, receive and manage funds from allocation of the Federation Account and International Donors for the settlement, rehabilitation and reconstruction of roads, dwellings and business premises of victims of insurgency as well as tackling the menace of poverty, poor literacy levels, ecological problems and other related environmental or developmental challenges in the North East States.

The Police Reform Bill 2018

The legal framework for the Nigerian Police improves significantly from what is currently obtainable in the Police Act. The new proposal clearly states the guiding principles and objectives of the police service to include efficiency and effectiveness, public accountability and transparency, protection of human rights and fundamental freedoms, and partnership with other security institutions. These underlying principles were clearly emphasized all-round the provisions.

The bill rightly removes the old provisions of supernumerary police officers. These are police officers attached to private properties or individuals by an application to the police force. It sets out clear procedures for the appointment, removal and tenure of Inspector General of Police (IGP), Deputy Inspector General of Police and the Assistant Inspector General, which is currently lacking in the Police Act.

The bill provides a mechanism for assessing the performance of the IGP and Commissioners around a robust functional structure. This is important as it has been lacking in the extant Police Act. The proposal minimizes presidential influence and interference in the operations of the police.

The bill mandates police officers to undergo specialized trainings and ensures that intending officers go through psychological evaluation to ensure their suitability. It provides more detailed and best practices provisions on the powers of police to execute a search and arrest. In order to ensure transparency and dissuade abuse of human rights, it makes it mandatory for the police to keep substantial records of searches and arrests. This is a major reform initiative that seeks to create a ring of accountability on such vexed issues as arrest, detention and processing of suspects.

The bill provides for Community Police Forums to ensure efficient community policing. The framework created is the most comprehensive yet, and provides clarity of roles in the implementation of the community policing initiative. It further seeks to establish the Police Complaints Response Unit as a unit that will oversee the police by investigating

and recommending disciplinary actions to appropriate authorities for erring officers. This is more like the ombudsman scheme for the police. In that case, it needs to be ringfenced to be more efficient and independent.

For the first time, we have a directive principle on which our police must exercise its powers and authority. These principles include efficiency and effectiveness; accountability and transparency; protection of human rights and fundamental freedoms; and partnership with other security institutions. The bill also includes methods of dealing with abuse of weapons by police officers.

Another major feature is the establishment of a Community Police and Boards in all the States of the Federation that will consist of broad representatives of the community and the State to ensure effective, efficient and participatory community policing.

THE COMPULSORY TREATMENT OF GUNSHOT WOUND VICTIMS BILL

Over the years, Nigerians have lamented the level of neglect of citizens left to die of gunshot wounds on the pretext that such victims may have been shot while committing criminal acts. For too long, the default has been not to render help to such persons on the presumption of guilt of some crime or the other.

The 8th National Assembly found this practice not only repugnant and heinous, but also a complete violation of the constitutionally guaranteed presumption of innocence until proved guilty in a court of competent jurisdiction, which is granted all persons within the territory of Nigeria. This bill puts paid to this practice and criminalises the abandonment of victims of gunshot wounds until such victims provide police reports.

SEXUAL HARASSMENT IN TERTIARY EDUCATIONAL INSTITUTIONS BILL 2016

The bill makes provision for the prohibition and punishment of sexual harassment of students in our educational institutions.

“The bill provides a mechanism for assessing the performance of the IGP and Commissioners around a robust functional structure.”

The bill recognizes need to create equal learning opportunities for students of tertiary institutions in an atmosphere devoid of sexual harassment. The bill makes it an offence for educators to engage in any form of sexual activity with students.

DISCRIMINATION AGAINST PERSONS WITH DISABILITIES (PROHIBITION) BILL 2015

The Bill ensures the integration of persons with disabilities into society; it establishes a National Commission for Persons with Disabilities and vests it with the responsibilities for their education, healthcare and the protection of their social and economic rights.

Amongst other things, the bill clearly spells out the rights of disabled persons, their participation in politics, and provides for free medical and health services for mental disability. It makes it mandatory for employers in public organizations to as much as possible have persons with disabilities constituting at least five per cent of their work force.

PREVENTION AND PUNISHMENT OF TORTURE BILL 2015

The bill gives effect to the provisions of section 34(1) of the 1999 Constitution on the right to respect of human dignity and protection from inhuman treatment by prohibiting and preventing any form of torture or cruel, inhuman or degrading treatment or punishment. It provides for the crime of torture and a clear definition of acts that constitute torture.

ANTI-JUNGLE JUSTICE BILL 2015

The Bill prohibits and protects persons from suspect lynching, mob action and extra-judicial executions by any person or security officer of the Police, armed forces or any paramilitary organization. The Bill empowers the Attorney General to open an investigation into every case of jungle justice with a view to the prosecution of all persons involved.



CHAPTER 9

09

A LEGISLATIVE AGENDA FOR DEEPENING DEMOCRACY AND STRENGTHENING INSTITUTIONAL CAPACITY FOR ANTI-CORRUPTION

Elections with integrity are the foundation of democracy. In a true democracy, our elected leaders are simply the temporary custodians of political power; the power ultimately rests with the people. While elections are the foundation of democracy, they do not serve the cause of democracy if they are corrupt; in fact, they give democracy a bad name. By ensuring that elections are held with integrity, we can help fulfil the promise of the Declaration and its supporting international treaties: a world where governments are mindful of the inherent dignity and equality of every individual, and respect their right to have a voice in how they are governed... Strengthening the rule of law so that the rights of voters and candidates are protected.⁴



In this chapter, we shall explore the various legislative instruments that the 8th Assembly designed to further deepen the democratic process and democratic accountability. The ultimate goal being to ensure that good governance is achieved and the dividends of democracy become less illusive.

The following bills and relevant areas were targeted to strengthen anti-corruption, governance reform and deepening democracy.

- I. The Federal Audit Service Commission Bill 2017
- II. The Electoral Act (Amendment) Bill 2018
- III. Whistle-Blowers Protection Bill
- IV. Proceeds of Crime Bill
- V. National Financial Intelligence Unit Bill
- VI. Mutual Assistance in Criminal Matters Bill
- VII. Food Security Bill

⁴ Speech by Kofi Annan at the Global Commission report launch, September 2012

THE FEDERAL AUDIT SERVICE COMMISSION BILL

*"Today is a landmark achievement in the fight against corruption. This is will bring accountability and probity in the finances of the government and the fight against corruption. This will go a long way in ensuring the independence of the office of the Auditor-General and will ensure that the Auditor-General has access to different parastatal agencies."*⁵

These words capture the true fundamental objective of the audit bill. There is no better time than now to see greater probity in the management of the Nigerian public financing architecture. For too long, the level of corruption and lack of accountability that has permeated the public sector has become widespread and unacceptable. The 8th National Assembly identified institutional weakness as one of the limitations to changing a culture of financial impunity in the public system. Therefore, it thought it wise that the only way to sustainably deal with the problem is to strengthen the Office of the Auditor General and provide a framework for the systematic auditing, review and independent observation of the accountability requirements on every office where public funds are expended.

Indeed, this is the most far reaching and robust audit framework the country has adopted in over 40 years. The Commission created under the bill will have the power to carry out audits of all revenues accruing to the federation, expenditures of the federation from all sources, donations, grants and loans accruable to the Federal Ministries, Departments and Agencies (MDAs) or other public entities. The Commission will also be empowered to carry out performance audit by ensuring that the business of federal government and its agencies is economically, efficiently and effectively performed. The Commission will have power to audit classified expenditure, international institutions to the extent of Nigeria's contribution to such bodies, as well as all federal government and its agencies' counterpart funded projects across the country.

THE ELECTORAL ACT 2010 AMENDMENT BILL

Aside the constitution, no other piece of legislation has the potential to deepen our democracy like the Electoral Act. The current law, the Electoral Act 2010 amended by the 2015, is the framework that guides the conduct, process, outcome and expectation of our electoral process.

⁵ The Senate President, Dr. Abubakar Bukola Saraki's Remarks after the Senate passage of the Federal Audit Bill on the 30th of April 2018.



Therefore, the viability or otherwise of our electoral process is closely tied to the integrity and ability of the electoral law to midwife a genuine and fair elections. In the same vein, a credible electoral system holds the key to some of our overarching policy imperatives such as the anti-corruption war, good governance, dividends of democracy and sustainable democracy. Our current electoral law does not serve us optimally on these fronts.

It is for these reasons and the experience of the 2015 elections that, upon inception, the National Assembly made the amendment of the Electoral Act a cardinal policy objective. The leadership determined that

“We must not leave the stage without doing our bit to make it better for posterity and for our country’s democracy. For us at the National Assembly, this was a national duty beyond law-making, it was about saving our country and building the right blocks that would ensure the survival of our democracy far better than what we have now. The legislative agenda was simple; beyond politics, building a more robust, effective, fair and just electoral system that would form the foundation for a better Nigeria tomorrow.”⁶

The vision was an electoral system that is as far as practicable insulated from manipulation. An electoral system that would command the respect and confidence of our people. The idea was to have a system that would encourage the best among us to feel protected enough to vie to serve our nation and participate fully in

our electioneering process - with an underlying expectation that electoral outcomes will be the true representation of the people’s will. It was for this that the National Assembly prioritized the amendment of the Electoral Act 2010 to plug the loopholes that have helped to subvert the electoral process in the past.

The bill was the product of a very robust collaborative process of engagement between the National Assembly, the Independent National Electoral Commission (INEC), the Executive and other major stakeholders. A draft bill was produced and endorsed by most stakeholders. And at the public hearing on the bill, Nigerians from all over the country made contributions to the draft which was then passed by both Houses of the National Assembly after a rigorous debate in both chambers, and sent to the President for his assent. Certain minimum milestones were set out to be achieved and were indeed. These include:

Card Reader Authorization

It would be recalled that the Supreme Court had, in several recent cases, questioned the legitimacy of the use of card readers for accreditation since there is yet no law legitimizing its use in the electoral process. This bill was designed to fix this significant challenge in the light of our rather inglorious past with the manual electoral process.

The aim was to ensure the legitimization of the card reader system of accreditation, towards the eventual incorporation of electronic voting and seamless transmission of electoral result, through a process that is insulated from undue human interference. This was for the 8th Assembly a minimum requirement, something that was as important for the 2019 election as well as the electoral system going into the future.

Direct Transmission of Result

The bill was designed also to help guarantee that election results are free from manipulations, as they are transmitted directly by electronic means to a central database. It also has provisions for severe punishment for election officials who try to manipulate the process wilfully to announce fake and wrong results. This would have had the implication of cutting out one of the strongest routes to electoral fraud in our history; the manual collation and transmission of results from place to place.

Reducing the Fee Band for Nomination Forms

Other notable provisions have the potential to widen the electoral field by ensuring that elections do not mean that you must be very rich to participate and be voted for. This has been made possible by reducing the band of fees chargeable by the parties against candidates for elections, especially with regard to youths and women.

Anti-Corruption Implication

More importantly, if we are truly ready to deal with corruption, it must start with getting the integrity value of our elections back. The bill which has been sent to the President, and which has been denied assent, would have been a major

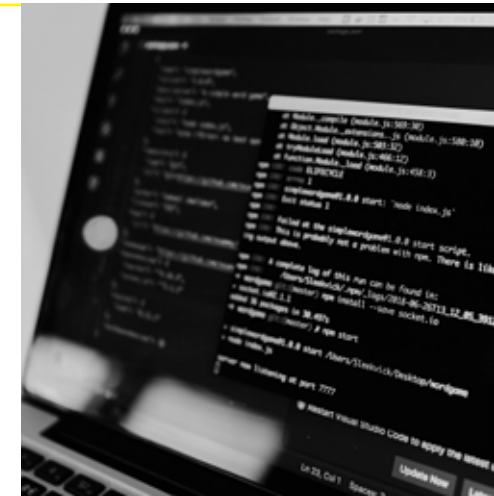
springboard for the anti-corruption fight, as people who go to seek elections will find that they can only rely on their integrity and the people’s goodwill to win. No longer would unscrupulous elements be able to use incidents forms and other such discretionary prone instruments to their advantage in the election process, as this bill would have made their use illegal and inapplicable. This is further noted as the bill has expanded the opportunity of the public to check the integrity of the process by asking for and being allowed to check the election materials including ballot papers, boxes etc. before the commencement of voting.

Apart from obviating the clear gap in the law relating to substituting dead candidates under Section 33 (which this amendment has been able to rectify), there are several other milestones under this bill that would have had only the effect of creating clarity, just and modern electoral process that all Nigerians would have been proud of, but which may - by this decision of the President - become a pipe dream and therefore go with the wind, unless the National Assembly decides to review this decision positively.

Fair Playing Field

Furthermore, this amendment provides a fair and more level playing ground for all contestants by

mandating INEC to publish all voter registers 30 days before the election. This will end the manipulation of voter registers. In the case of missing names on the voter register, voters have 30 days to complain to INEC. It also empowers INEC to utilize full biometric accreditation of voters with smart card readers and/or other technological devices as INEC may introduce for elections from time to time. This would have ensured that political parties can no longer impose arbitrary qualification criteria on candidates. It will also encourage younger voters to contest, promote competition in the process, and make elections more free and fair.



⁶ Remark by the President of Senate (Dr.) Abubakar Bukola Saraki (CON) on the consideration of the Electoral Act Amendment 2017.

The bill sets out a very robust process for the determination of candidates, as well as a dispute resolution mechanism that will allow those who are aggrieved to petition quickly and have their matters resolved timeously. It would have guaranteed the keeping of all election records and documents for all time, meaning that where such matters become important in the future, they can be retrieved and used by the public for just purposes.



01

WHISTLE-BLOWERS PROTECTION BILL

The bill seeks to encourage and facilitate the disclosures of improper conduct by public officers and public bodies, protect persons making those disclosures and others from reprisals, and provide for the matters disclosed to be properly investigated and dealt with.

02

PROCEEDS OF CRIMES BILL 2016

The bill seeks to provide for a legal and institutional framework for the recovery and management of the proceeds of crime or benefits derived from unlawful activities. It provides a robust regime for the confiscation/forfeiture of proceeds of crime by the courts; and establishes the Proceeds of Crime Recovery and Management Agency to administer and enforce the provisions of the bill.

03

MUTUAL ASSISTANCE IN CRIMINAL MATTERS BILL 2016

The bill seeks to facilitate the provision and obtaining by Nigeria of international assistance in criminal matters. It provides the framework for any agreement between Nigeria and foreign countries for the purpose of gathering and exchanging information in enforcing our criminal laws. This also includes assistance in the identification, tracing, freezing, restraining, recovery, forfeiture and confiscation of proceeds; property and other instrumentalities of crime.

04

WITNESS PROTECTION PROGRAMME BILL 2015

The bill seeks to provide for the establishment and operation of a programme to enable certain persons to receive protection in relation to certain inquiries, investigations or prosecutions. It facilitates the protection of persons directly or indirectly providing assistance in law enforcement matters

05

STUDENTS FINANCIAL AID SCHEME (ESTABLISHMENT, ETC.) BILL 2015

The bill seeks to establish the National Student Financial Aid Scheme (NSFAS) to provide for the management, governance and administration of a scheme, to provide for the granting of loans and bursaries to eligible students at higher institutions and ensure the recovery of such loans.

Students who do not have the financial means to fund their studies and/or cannot access bank or other private funding will benefit from this scheme.

06

NATIONAL CENTRE FOR CANCER AND TREATMENT (EST., ETC.) BILL

The bill provides for the establishment of the National Centre for Cancer Research and Treatment, and to provide treatment to patients in Nigeria. It shall provide research on scientific improvements to cancer prevention, treatment and care; and make recommendations to the Government about cancer policy and priorities.

CHAPTER 10

10

A LEGISLATIVE AGENDA FOR
CONSTITUTION REVIEW TO ENHANCE
THE MANAGEMENT OF THE ECONOMY

CONSTITUTION AMENDMENTS

There are 37 bills to alter the provisions of the constitution with the Constitutional Review Committee and they include the following:

- The alteration to create provisions for independence and financial autonomy of local government councils in Nigeria.
- The alteration to provide for the establishment of a special court for the trial of financial crimes, corrupt practices and related offences.
- The alteration to provide for voting rights for Nigerian citizens living in the Diaspora.
- The alteration to review downwards the ages for Nigerian Youths in politics who could be Senators and members of the House of Representatives - 30 years for Senate and 25 years for House of Representatives.
- The alteration to allow for payment by states to local government councils such proportions out of the State Internally Generated Revenue as may be prescribed by a law enacted by the state houses of assembly.
- The alteration that seeks to remove jurisdictional bottlenecks that hamper speedy dispensation of justice in the courts.

“On our part and in keeping with our pledge to support the anti-corruption crusade, this Senate has within this period carried out oversight investigations into the noticed abuse in the implementation of the Treasury Single Account saving government over N20bn and the implementation of the Rice Importation Waivers and Duties policy of government and the latest NEITI Report detailing humongous levels of corruption totalling over 3trillion naira.”⁷

⁷ Senator (Dr.) Abubakar Bukola Saraki, First Anniversary of the 8th Senate of the National Assembly.

11

CHAPTER 11

MOTIONS, RESOLUTIONS, INVESTIGATIONS AND PETITIONS



4. Need for intensified sensitization on climate change mitigation and adaptation in the Nigerian agricultural sector.
5. Nigerians' involvement in illicit Global Drugs Trade and Increase in Domestic Drug Abuse by Nigerian Youth.

INFRACTION BY MDAS

These motions have exposed sharp practices in Government Ministries, Department and Agencies. Investigative public hearings were carried out with the primary aim of exposing corruption and bringing corrupt officials to book. Some of the very notable motions include:

1. Need to determine the status of unclaimed N90 billion dividends in securities for Nigeria investors.
2. Need to investigate the granting of concession of western (Lagos-Kano) and eastern (Port Harcourt-Maiduguri) rail lines to General Electric, a United States company.
3. The need for a detailed explanation of the \$1.5 Billion proposed MoU with Indian Government and over \$80 Billion MoU signed by the Minister of State for Petroleum Recourses with Chinese firms.
4. Urgent need to investigate revenue generating Agencies over alleged leakages, non-remittance and misuse of generated revenue.
5. The unlawful and wrongful misappropriation and criminal withholding of Public Revenue by the NNPC and NPDC from 2013 to date.

Motions are the proposals made for the purpose of eliciting decisions which translate into resolutions on the floor of the parliament. As of Thursday, 8th of June 2017, the 8th Senate had considered over 204 motions covering different spheres of our national life.

Here, based on the nature and impact of these motions, we have categorized them under five sub-headings: Advocacy/Policy Recommendation, Infraction by MDAs, Socio-Economic Benefits, Infrastructural Development and Governance.

ADVOCACY MOTIONS

These are motions geared towards pushing forward an agenda or a policy for the Executive to drive. Some of the very notable motions moved are:

1. The urgent need for value orientation and re-introduction of History as a course of study in the nation's Education sector.
2. Need to revisit the regulatory conflict between JAMB and universities offering admission in Nigeria.
3. Provision of medical attention for critical condition victims.

SOCIO ECONOMIC MOTIONS

These motions speak to the economy and welfare of the citizens. They give birth to resolutions which are meant to solve challenges faced by the average Nigerian. They include:

1. Mounting humanitarian crisis in the North East.
2. Addressing the problem of rehabilitation of prison through Agricultural training programmes run by the Nigerian Prisons Service.
3. Intolerable upswing of unemployment in Nigeria.
4. Ad-Hoc Committee on State of the Economy.
5. Concern on Unwholesome Practices by MultiChoice Nigeria (DSTV).
6. Urgent need to curb the soaring rate of unemployment in Nigeria.
7. Unfair charges by FAAN at Airports in the country.
8. Urgent need to halt incessant delays, flight cancellation and ill-treatment of passengers by airline operators.
9. The incessant collapse of buildings around the country brought about the motion on the need to prosecute building laws violators in the country.
10. EU Ban on Nigerian Agricultural Products.
11. Tackling the Perennial Crisis between Farmers and Cattle Herdsmen.

INFRASTRUCTURAL/CAPITAL DEVELOPMENT MOTIONS

These motions draw the attention of the Executive to various infrastructures which requires upgrade and urgent attention. Some of the very notable ones are:

1. Deplorable state of the National Stadium, Surulere Lagos.
2. Need for the reconstruction and dualization of the Makurdi 9th mile Trunk A Federal Highway.
3. The need for the Federal Government to establish more Colleges of Education in Nigeria.

GOVERNANCE MOTIONS

These are motions that draw the attention of Government to its administrative responsibility, issues relating to the rule of law, and protection of citizens right. Some of which are:

1. The urgent need for the Federal Government to redeem local contractors' debt.
2. Resurgence of xenophobic attacks and extra-judicial killings of Nigerians in South Africa.
3. The Ethnic clash in Ile-Ife, Osun State.
4. Non conduct of election in Rivers State.

Some of these interventions have led to investigative inquiries which ultimately brought about notable changes. Examples:

1. The 8th Senate's intervention on the need to increase the funding of uncompleted Dams across Nigeria for Optimum Performance and Service Delivery caused the statistics of Dams to be collected and proper allocation of funds to selected dams were done during the 2017 budget circle.

These are motions that draw the attention of Government to its administrative responsibility, issues relating to the rule of law, and protection of citizens right.

2. The motion by the Nigerian Senate on International Women's Day 2016 on Gender Equality decried the rate of marginalization of Women and sought fair treatment for women in Nigeria. This motion caused the Senate to look into the domestication of the violence against persons' prohibition Act in all the states of the federation and the FCT.
3. The intervention in the Abuja Airport Closure brought about the timely and efficient completion of the Airport repairs within the six week time frame.
4. Senate investigation exposed abuse of import duty waivers on rice : the senate in a motion mandated its ad-hoc committee to investigate the removal of import waivers on rice.
5. Senate intervention led to review of Central Bank of Nigeria, CBN policy to enable small business owner's access to Forex.
6. The Senate through its resolution saved Nigeria about N20 billion from the implementation of the TSA policy by detecting the fraudulent activities involved in the implementation of the TSA.
7. Senate in a motion mandated Nigerian Electricity Regulatory Commission, NERC to immediately abolish fixed charges on electricity consumption and bulk marketing of villages and communities.

8. In September 2016, the Senate established an eight-person Ad-Hoc Committee on the North East charged with ascertaining the total amount of funds released to the Presidential Initiative on the North East, and probing spending by the Federal Government on the humanitarian crisis in the region. This Committee indicted the Secretary to the Government of the Federation for allegedly misappropriating funds upwards of N200million.
9. In March 2016, the Senate allocated of N10bn to IDPs in the North East in recognition of the dire situation.
10. Senate halted the proposed hike in prices of data plan by the Nigerian Communications Commission (NCC).
11. Senate has moved to investigate the Revenue Generating Agencies over alleged Leakages, Non-Remittance and Misuse of Generated Revenue.
12. The Senate constituted an Ad-Hoc Committee to investigate the fraud and anomalies uncovered by the 2013 audit report of the Nigerian Extractive Industries Transparency Initiative (NEITI). This report revealed that Nigeria lost over \$9 billion in stolen, unremitted oil money in 2013.

CONCLUSION

For many reasons what is here catalogued is historic. The idea of law as a critical primer of development is already acknowledged and is gaining currency across the globe. The 8th National Assembly was acutely alive to this fact and proactively took to using law-making to better a situation which others before it were unable to engage with; they reset this narrative. At the onset, the Senate and House of Representatives clearly took the challenging economic conditions, grave uncertainties and bleak outlook for the future as a collective problem with a solution path that crosses with the legislature.

With the Executive still grappling with the demands of transition and continuity, the 8th National Assembly took a bold decision to deploy legislative instruments to get Nigeria out of the economic morass with a raft of legislations and other tools available to the legislature. It was indeed a pragmatic approach, never recorded in history and with no other country in the world to learn from.

The 8th National Assembly's attempt at framing a reform agenda for the economy using legal institutional and regulatory reviews is no doubt a very historic

one. With the aim of creating a new business and investment environment befitting the problems of the 21st century Nigeria; one that is patterned in the frame of other developed countries.

It is often said that strong institutions are critical to achieving sustainable development. This is signposted by the fact that the economically stronger nations are found in the West; Europe, North America and along the Pacific Rim, with the economically weaker nations found in the rest of the world heavily linked to the strengthening of their laws and institutions. For instance, although the United States and Mexico share a common border, the former has seven times the national income per person of the latter. Also sharing a common border are Singapore and Indonesia, with the former enjoying per person income almost 20 times the latter.[1]

Aside the issue of natural resources, education and technology, climate and the presence of private market, an adequately enforced, system of law framed to support contract, enable market and competition as well as applied equally is increasingly recognised as a necessary foundation for strong,



productive economies. A certain framework of law is necessary for maximum incentive to entrepreneurs, investors and inventors.[2]

To go about it the way it did through collaboration with the private sector, the informal sector and the public institutions on the same table through the process, is a story that needs to be told soon.

The impact of some of these specific legislations will expand opportunities and create jobs include markets & competition, access to finance for MSMEs, ease of regulations for businesses and investments and development of transport infrastructure.

Markets & Competition. Competition between businesses has been shown to increase efficiency, expand choice for consumers and drive down prices. A World Trade Organization (WTO) Report observes that: "There are reasons to believe that developing economies tend to be more vulnerable to anti-competitive practices than developed countries. The reasons include high "natural" entry barriers due to inadequate business

infrastructure, including distribution channels, and (sometimes) intrusive regulatory regimes; asymmetries of information in both product and credit markets; and a greater proportion of local (non-tradable) markets. Thus, it may be particularly important to protect consumers in developing countries against cartels, monopoly abuses, and the creation of new monopolies..."

Competition law is based on clear insights from economic history that public interest is best served by free competition in trade and industry. Competition amongst producers and suppliers improves quality, increases efficiency and results in lower ("more competitive") prices. Competition laws attempt to prevent anti-competitive practices and unreasonable concentrations of economic power that stifle, restrain or weaken competition. Global research suggests that real prices drop by between 25-50% because of competition and deregulation in previously uncompetitive industries and quality of service also improves. Research also suggests an approximately 2.5% increase in employment as well as significant economic growth (India, for instance, grew by an average post reform differential growth of 5%).

The passage and assent of the Federal Competition & Consumer Protection Act will create a competitive market, protect the welfare of consumers by providing consumers with competitive prices and product choices, and prohibit restrictive business practices that distort or constitute an abuse of a dominant position of market power in Nigeria. This will therefore, promoting economic efficiency and will lead to better pricing, faster employment generation, better productivity, increased consumer savings, faster economic growth and increased investment. Based on global research evidence, it is conservatively assumed that the proposed enactment of a competition law in Nigeria may result in a 10% reduction in prices in uncompetitive sectors and a 1% economy-wide price reduction, both of which manifests as an income effect,

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especially for poor households. It is also estimated that it will spur 318,021 additional employments over 5 years, with average yearly job creation of 63,604 and total income effect estimated at an average of N148.30 billion yearly and N741.52 billion over a 5-year period. The resultant reduction in poverty, greater employment, and lower prices may precipitate an 11.8% reduction in relative poverty over a 5-year period.

Access to Finance. Access to finance is a major challenge to MSMEs. The National Bureau of Statistics suggests that most small business owners are not accessing credit facilities offered by banks and other financial institutions. This supports the idea that traditional credit markets have historically been difficult for start-ups. MSMEs are the engine of job creation in Nigeria. According to the 2013 SMEDAN and NBS collaborative survey, there are 37,067,416 MSMEs in Nigeria contributing 48.47% of GDP and employing 59,741,211 persons representing 84.02% of the labour force. Data from the SMEDAN and NBS collaborative survey revealed that of a total of 80,312 Small and Medium Enterprises, only 13,031 (representing 17%) listed their source of capital as a loan. For Micro Enterprises, only 3% of the surveyed enterprises listed their source of capital as a loan (NBS/SMEDAN Report on MSMEs 2013).

Two of the important legislations that will ease access to finance have just been signed into law. The Credit Reporting Act will open credit facilities to a larger population of Nigerians through a consumer credit system, facilitate the production of effective credit data bases

that can be leveraged as a risk assessment tool in determining the credit worthiness of individuals accessing credit through the country's financial system, promote a fair and competitive credit reporting system and set standards and conditions for the establishment, regulation and operations of Credit Bureaux. The Secured Transaction in Moveable Assets Act establishes a National Collateral Registry that will facilitate access to credit secured by movable assets. The Act will make more funds available for small businesses and in turn create more jobs and increase productivity. The Independent Warehouse Regulatory Agency Bill when assented will also resolve the challenge of collateral for credits by allowing businesses to securitise their commercial warehouse receipts.

It is projected that removing constraints to MSMEs access to finance would result in a 50% increase in capital available to MSMEs as well as improvements in MSME productivity, employment, and income. The impact of increased capital will lead to an average of 1.57 million jobs yearly with income growing by an average of 5% per annum.

Infrastructure Development. Nigeria suffers a substantial infrastructure deficit, which has severe negative implications for economic growth. Improvements in infrastructure will play a critical role in boosting the performance of the economy. While more infrastructure investment is expected to come from the government, public funds are insufficient to reverse the trend, hence enabling legislation is required to facilitate greater private participation in infrastructure development. The main thrust of the

identified transport infrastructure legislations is to create a governance framework that delineates the roles and responsibilities of different institutions to deal with policy, asset ownership/management, operations and regulations. This enables greater certainty and clarity for private sector investment in the development, operation and management of Nigeria's transport infrastructure.

The Nigerian Ports and Harbour Authority Bill provides an appropriate institutional framework for the ownership, management, operation, development and control of ports and harbour to ensure the integrity, efficiency and safety of the ports based on the principles of accountability, competition, fairness and transparency and encourage private investment in port infrastructure, promote private sector participation in the provision of port services and facilities, promote and safeguard Nigeria's competitiveness and trade objectives. The Nigerian Railway Authority Bill provides for the restructuring of the railway sector by establishing the Nigerian Railway Authority, the procurement of private sector participation for the provision of Railway Services and Railway Infrastructure, provide for the regulation of the railway sector, promote the efficient and sustainable development and operation of the railway sector, facilitate the development of competitive markets for services in the railway sector, promote the provision of safe Railway Services, promote universal access to Railway Infrastructure in Nigeria; and provide the conditions that will enable the provision of Railway Services and Railway Infrastructure while protecting the rights and interests of Railway Operators, Customers and other stakeholders. The Nigerian Inland Waterways Authority Bill seeks to improve and develop the inland waterways for navigation and day to day technical and safety regulations, increase and promote private sector investment and involvement in the management and operation of the assets of the inland waterways, provide for the economic and oversight safety regulation of the inland waterways and promote inter-modalism in the transport sector.



The National Roads Fund Bill establishes a repository for revenues accruing from road user related charges and other sources for financing the routine and periodic maintenance of national roads, establish a Board which shall be responsible for the management of the Fund in accordance and promote the sustainable development and operation of the road sector. The Federal Roads Authority Bill creates a framework to manage the federal roads network so that it is safe and efficient, with a view to meeting the socio-economic demands of the country, promote the sustainable development and operation of the road sector and facilitate the development of competitive markets and the promotion of enabling environment for private sector participation in the financing, maintenance and improvement of roads in Nigeria.

The National Transport Commission Bill establishes the Commission as an effective, impartial and independent regulatory authority and provide for an economic regulatory framework for the provision of services and supply of goods in the transport sector or regulated transport industry. It also aims to provide a mechanism for monitoring compliance of government agencies and transport operators in the regulated transport industry with relevant legislation and for providing advice to Government on matters relating to economic regulation of the

regulated transport industry. It will also protect the rights and interests of service operators and users within Nigeria to create an enabling environment for private sector participation in the provision of services in the transport sector.

The passage of these bills will result in an improvement of the transport sector characterised by cheaper logistics cost, slow depreciation of transportation assets on the back of better roads, consumer savings from cheaper goods and services on the back of cheaper transportation cost, and faster economic growth as more money is diverted to other economic activities other than transportation. The Nigerian Integrated Infrastructure Master Plan (NIIMP) assumes \$166 billion total investment in infrastructure, out of which 26% is expected in transportation, with the private sector contributing 48%. Evidence from IFC research indicates that a 1% increase in Infrastructure produces a 0.08% increase in GDP and infrastructure investments result in a 0.5 multiplier (3-5% increase) in jobs. An average of 87,384 new jobs in the sector over the next 5-year period is projected and income growth averaging 7%. These changes may contribute towards a 2.5% reduction in poverty rate and a significant positive impact on sectoral GDP.

Ease of Regulations for Businesses and Investments. Since the inception of the World Bank's Doing Business Report, Nigeria has not performed relatively well. For instance, in 2008, out of 183 countries, Nigeria ranked 114. In 2009, 2010, 2011, 2012, 2013, and 2014, Nigeria ranked 118, 125, 133, 133, 131, and 170 respectively. Nigeria is ranked 169th out of 189 Countries in the Doing Business 2016 Report. The Report measures the relative ease or difficulty of opening and running a business when complying with relevant regulations. It, therefore, offers a useful and candid assessment of economies' relative standings in the world as it concerns bureaucratic barriers to business.

Even the progress made the Presidential Enabling Business Environment Council (PEEBEC) must be underpinned by legislation.

The review of the Companies and Allied Matters Act (CAMA) 1990 will make it easier to set up and run a company; ensure more appropriate regulation for micro, small and medium scale enterprises; to enhance transparency and shareholder engagement; align our framework for regulation of companies and other business entities with international best practice such that Nigeria can position itself as a preferred destination for establishment of a corporate presence for pan-African investments; and enhance the efficiency of the regulatory process. The amendment of the Investments and Securities Act (ISA) is intended to create a set of new market infrastructures and wide-ranging system of regulation of investment and securities business in Nigeria.

The review, repeal and enactment of these legislations will not only improve Nigeria's business environment. It is expected to open more opportunities for Nigeria's entrepreneurs, improve productivity and create more job. It is still an unfinished business of economic reform and development so the next sessions of the National Assembly is expected to continue and sustain these efforts for the good of Nigeria's business environment and the economy.





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A lawyer by training, with very strong legal, legislative and policy development background, Mr. Amaku has been significantly involved in conceiving, initiating, evaluating, planning, monitoring, and advising on legislative projects of the Office of the Senate President and the Nigerian Senate.

The Unit he headed developed, managed, monitored and processed some of the most difficult legislative projects in recent Nigeria history.

Some of the most significant projects here include;

The Companies and Allied Matters Act (Repeal and Re-enactment) Bill 2018, the Petroleum Industry Governance Bill 2016, the Petroleum Host Communities Bill 2016, the Petroleum Fiscal Framework Bill 2016, the Federal Competition Commission Bill 2016, the Credit Reporting Bill 2016, the National Transport Commission 2017, the Nigerian Railway Bill 2017, the Nigerian Ports and Harbour Bill 2017, the National Waterways Authority Bill 2017, the Federal Roads Authority Bill 2017, the National Roads Fund Bill 2017, the Credit Reporting Bill 2017, the Secure Transactions in Movable Assets Bill 2016, the Investment and Securities Act (Repeal and Re-enactment) Bill.

With previous law and legislative practice time in between, the Mr. Amaku had initial served as Special Assistant to the former Senate President, Senator Ken Nnamani under the Research and Strategy Unit 2005- 2007.

“The 8th National Assembly had quite a number seminal accomplishments.

The bedrock was the unprecedented collaboration with the business community and the Nigerian Bar Association under the auspices of the NBA Section on Business Law, culminating in the founding of NASSBER. The ethos of the collaboration was and remains easing doing business in Nigeria, especially for micro small and medium-sized enterprises (MSMEs) and, generally, fostering a highly competitive economy.” Seni Adio, SAN, Chairman, NBA Section on Business Law.