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Strategies for foreign investments in Nigeria: a central bank perspective.

A. Ahmed

STRATEGIES FOR FOREIGN INVESTMENTS IN NIGERIA: A CENTRAL BANK PERSPECTIVE*

BY
A. AHMED, GOVERNOR
CENTRAL BANK OF NIGERIA

Abstract

The strategies adopted by Nigeria on foreign investments considered in this paper consist of a nexus of incentive measures designed to attract foreign investors as well as policies and regulations aimed at directing the flow of investments with a view to facilitating economic growth and a more even development. The major elements of the incentives comprise tax relief for Research and Development (R & D), pioneer status, tax-free dividends, Customs duty draw back on raw materials used for export production, export credit guarantee and insurance scheme, etc. Another important component of the incentive framework is the development of some basic industries and infrastructures considered necessary for expanding and consolidating the industrial base of the economy. The paper outlines the stages a foreign investor has to pass through when establishing a new company in Nigeria and discusses the administrative machinery for executing government strategies mentioned above.

It also briefly presents the new processes laid down for the repatriation of profits and dividends. The paper concludes that the on–going resolute pursuit of the policy of rational economic reform and deregulation under the aegis of the Structural Adjustment Programme (SAP), by fostering international confidence and a more healthy business environment, represents a significant additional incentive to foreign investors.

Introduction

Before discussing Nigeria's strategies on foreign investments I wish to mention some of the important roles which foreign investments could play in the economic development of the country. Foreign investments usually consist of external resources, including technological, managerial and marketing expertise, in addition to capital. These may generate considerable impact on Nigeria's production capabilities since they are directly linked to productive investment. Foreign investments also facilitate transfer of technology and managerial and marketing skills which are indispensable in the quest for viable solutions to the problems of industrial inputs shortage and the diversification and expansion of exports.

The ability of Nigeria to sustain growth and development as well as meet her external obligations depends on adequate inflow of foreign investment resources. As you are aware the country has been experiencing difficulties in her efforts to meet external commitments since 1981. At the current low level of foreign exchange earnings and high external debt service obligations little or nothing is available for new investment. Consequently, in our present circumstances the injection of foreign capital is necessary for initiating growth and development. Let me emphasise however that foreign capital or investment should be seen as complement to our local, indigenous effort. It is well known that Nigeria offers immense investment opportunites which could attract foreign investors. These include a large domestic market for many categories of goods and services, a large and relatively cheap labour force as well as rich natural endowments ideally suited to export–oriented production.

In its efforts to encourage and direct the inflow of foreign investments, the Federal Government has adopted a variety of measures. The purpose of this paper is to identify and analyse those measures comprising the incentive and regulatory strategies designed to promote investments in Nigeria. It will also highlight the procedure a foreign investor wishing to establish investment projects in the country is expected to follow; intimate potential foreign investors with the latest arrangements to facilitate the processes for establishing a new company in Nigeria; and present the simplified, liberal procedure for the repatriation of profits and dividends introduced since the inception of the Structural Adjustment Programme in July 1986.

This paper has been organised into five main sections. Section I discusses the incentive measures for attracting foreign investments. The measures introduced to improve the economic environment for investment are discussed in Section II. The policies and regulations adopted to direct the flow of foreign investments and the machinery for their implementation are outlined in Sections III and IV respectively. Section V contains the summary and conclusions.

SECTION I

Nigeria, like most other countries in the developing world, seeks to influence the locational decisions of foreign investors by offering direct and indirect incentives. Depending on the effects on the prices of the products of investment projects and the resources utilised by these projects in the course of production, the incentives offered may be categorised into two groups. Some incentives are intended to guarantee commodity protection by altering the prices of goods and services bought or sold by a firm while some others are designed to guarantee factor protection by altering the prices of the inputs of production employed by a firm. The policy instruments for the first group of incentives comprise mainly tariffs and quotas on imported competing products and exemptions from import duty on inputs. The instruments for the second group consist of tax holidays and investment allowances.

For practical purposes it is convenient to classify the incentives measures offered by Nigeria into three categories, namely tax and tariff concessions and non–tax financial incentives. The main elements of each category are discussed below. Another important aspect of the incentive framework which is also dealt with below relates to Government efforts to develop some key infrastructural industrial

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projects with substantial linkages established with a view to promoting private investment in some key industrial sub-sectors.

1. TAX CONCESSIONS

(i) Tax Relief For Research and Development (R & D)

This incentive is intended to promote the development of locally–sourced inputs and create linkages in the production process. Under this incentive, a company which undertakes R and D activities in a year is entitled to a tax–deductible allowance equal to 120 per cent of the amount expended if the research is on raw materials. In addition, the fruits of such research could be patented and protected in accordance with internationally–accepted industrial property rights.

(ii) Pioneer Status

This incentive is aimed at encouraging the establishment of some industries which Government considers beneficial to Nigeria. To benefit from this incentive, the relevant company (or the product) has to be declared a pioneer industry (or pioneer product) on application to the government. Companies granted "pioneer status" are entitled to tax holidays on corporate income for three years in the first instance, and an extension of two years thereafter. The incentive applies to Government–owned companies but it is now being reviewed with a view to extending the concession to private foreign investors as well as indigenous investors

Clearly, tax holidays represent a substantial protection for the capital invested in industries accorded pioneer status. The accrual of the amount that should remain with the company is expected to be adequate to compensate the investor for any risks associated with the decision to invest in a pioneer industry.

(iii) Corporate Income Tax

The incentives under corporate income tax provisions are usually specified during the annual fiscal budget. For example, in the 1988 budget the tax policy of the Government was substantially modified with a view to stimulating investment and growth in the Nigerian economy. While retaining the reduction, by 5 percentage points in the companies' income tax rate (to 40%), introduced in 1987, the Government took further action to reduce the taxes payable on dividends, interest, royalties and rents. It also introduced small business tax relief under which a lower tax rate of 20 per cent will be paid by small establishments in the manufacturing, agricultural and solid mineral processing sectors. Moreover, in furtherance of Government's efforts to assist industries in certain preferred sectors, an additional 5 per cent initial capital allowance is to be granted in respect of new expenditure on plant and machinery used in manufacturing , construction, and agricultural production, including qualified ranching and plantation expenditure. The same facility was extended to companies engaged in public transportation with a fleet of not less than three buses.

(iv) Tax–Free Dividends

With effect from 1987 any individual or company deriving dividends from any company is entitled to tax–free dividends for a period of three years if:

(a) the company paying the dividend is incorporated in Nigeria;

(b) the equity participation was imported into the country between 1st January, 1987 and 31st December, 1992; and

(c) the recipient's equity in the company constitutes at least 10 per cent of the share capital of the company.

In addition to the requirements in (a), (b) and (c) above; if the company paying the dividend is engaged in agricultural production within Nigeria or the production of petro–chemicals or Liquefied Natural Gas, the tax free period shall be 5 years.

(v) Investment in Economically–Disadvantaged Areas

In order to promote the even development of the country, some areas have been classified as economically disadvantaged. The following policy measures consisting of special income tax and other concessions are designed to encourage investors to locate their activities in these areas:

(a) seven years income tax concessions under the pioneer Status Scheme;

(b) special fiscal concessions by the relevant State Governments; and

(c) additional 5 per cent on the initial capital depreciation allowance under the Companies' Income Tax (Accelerated Capital Depreciation).

Based on the distribution on Social Overhead Capital and the level of labour market development, the country has been divided into three zones for the purpose of administering the above incentive arrangement, namely:

Zone I: Industrially and economically developed urban areas e.g. Lagos, Kano, Kaduna, Port Harcourt, etc.

Zone II: Less industrially and economically developed areas.

Zone III: Least industrially and economically developed areas

Graduated incentives for investing in economically disadvantaged areas are to be conferred on investments in Zones II and III.

(vi) Tariff Concessions

With effect from January 1988, a new tariff structure designed to be in force for 7 years, was introduced. The tariff structure is aimed at providing appropriate levels of effective protection to domestic industries. A Tariff Review Board has also been set up to implement the tariff policy. To further ensure the competitiveness of locally produced goods within the domestic market, imported goods which compete with local products will attract additional tax equal to the excise duty levied on domestically–produced substitutes. In addition, under the new tariff regime, all intermediate products are exempted from excise duty while the number of goods placed on the excise list has been substantially reduced from 412 to 182.

(vii) Customs (Duty Drawback) Concession

Import duties paid on raw materials used for producing export goods may be refunded under the above arrangement. The repayment is in full if all the imported raw materials are used in the production of goods which are exported. If the raw materials are used for producing composite goods some of which are exported, appropriate computation is made to arrive at the amount to be refunded. The aim of the incentive is to encourage production for export and export diversification as well as enhance the competitiveness of export goods in external markets through increased local value added.

The above incentive should offer a great deal of attraction especially to multi-national companies interested in establishing production bases in Nigeria to produce raw materials considered vital for their global activities. The incentive is made more attractive by the opportunity it provides to beneficiaries to retain all the export proceeds in a domiciliary account which guarantees easy access to the foreign exchange earned. Finally, the refund of duty and other indirect taxes paid on raw materials will guarantee that benefitting Nigerian companies operate under conditions which make their costs of production internationally–comparable to those of their competitors in other countries.

(viii) Customs Duties (Dumped and Subsidized Goods) Act

As a further protection for domestic manufacturing industries, Government will impose a special duty on any good which is dumped in Nigeria or subsidized by any Government or authority outside Nigeria. The enforcement of this Act has led Government to carry out some investigations, the outcome of which has resulted in the imposition of dumping margins on five products with effect from January 1988. These products are: roofing sheets, tomato paste and puree, aluminium coils, batteries (the R.20 type) and alkyd resins. Government has also decided to set up a permanent machinery for dealing with proven cases of dumping based on a revised version of the Dumped and Subsidized Goods Act of 1958.

2. NON-TAX FINANCIAL INCENTIVES

Non-Voting Equity Shares

For companies whose shares are quoted on the Nigerian Stock Exchange, Government has permitted the issuance of non-voting shares to enable them attract capital from foreign investors.

The above innovation has been formalised by a recent Decree which authorises companies quoted on the Nigerian Stock Exchange to issue non–voting shares for sale on the Exchange. The shares may be subscribed to by any person irrespective of nationality and place of residence. The Decree was introduced to provide investment opportunities to foreign investors including existing foreign partners and individuals. Payment for the shares is to be made in convertible foreign currency. The shares shall be qualified for both dividend and capital repatriation.

For the purpose of implementing this Decree, the Government has set up a committee whose functions shall be, *inter alia*:

(i) to find ways and means of attracting capital investment in the form of non–voting equity shares to companies quoted on the Nigerian Stock Exchange; and

(ii) to conduct research and advise the Federal Military Government on ways and means of expanding the Nigerian Stock Market and on the internationalisation of the Nigerian Stock Exchange. The provisions of the above Decree hold out prospects for the stimulation of foreign capital inflow. Since the Decree specifically requires payment for the shares to be made in convertible currency, the bulk of the purchasers are likely to be foreigners especially multinational companies.

3. Other Investment Promotional Measures

Apart from the financial incentive measures analysed above, Government is pursuing, as a matter of priority, the maintenance and expansion of existing infrastructural facilities i.e. road, railways, sea and airports, water and telecommunications networks. Improved communication links consisting of the provision of thousands of new telephone lines and effective reactivation of postal services have been enhanced through the reorganisation of the official institutions formerly in charge of post and telegraph services and additional investment in this area of infrastructure. Government has also executed a number of major projects in the area of power, energy and gas designed to enhance investment in industry.

In order to promote both indigenous and foreign investments in some industrial sub–sectors, the Government has vigorously pursued the establishment of some key and basic industrial projects. The rationale for Government involvement in the setting up of these projects is that their establishment requires heavy expenditure outlay which are unaffordable to private investors. These projects include two iron and steel plants, steel rolling mills, petrol–chemical projects, fertilizer plants and paper mills, etc.

SECTION II: PROMOTION OF SUITABLE INVESTMENT CLIMATE

1. Macro-Policy and Institutional Framework

The Government is conscious of the fact that while incentive measures may stimulate the inflow of foreign private investments, some other factors, particularly macro–economic policies, are more critical in influencing investment decisions. These factors relate to fiscal, monetary and exchange rate policies adopted, as well as the provision of a stable socio–economic environment in the country. These factors directly or indirectly affect the profitability or otherwise of investment projects; and when they are favourable, they enhance the country's ability to attract foreign investments.

The level of development of financial institutions is another important factor. Investors see banks as both the gateway between the host country and the rest of the world and the most important institutions in the money and capital markets. They consider opportunities available in these markets to raise local investible funds both for long and short–term investments.

With respect to exchange rate policy, investors prefer a system which ensures that a country's currency is correctly priced, that its value is reasonably stable and that there is an orderly and simple procedure for assessing foreign exchange.

At this juncture, it is perhaps pertinent to examine the economic environment and, in particular, the policies being pursued under the SAP. In the process we would highlight some aspects of the programme designed to encourage investment, both indigenous and foreign.

2. The Structural Adjustment Programme(SAP)

Against a gloomy background of mounting external debt, unhealthy investment climate and the failure of the regime of stringent trade and exchange controls which had been pursued for about two decades, the Federal Government introduced in July 1986 a comprehensive and courageous programme of rational economic reform under the aegis of the SAP. Some of the objectives of the SAP are to:

(a) correct for the over–valuation of the naira through the setting up of a viable and substantial foreign exchange market;

(b) relieve the debt burden and attract a net inflow of foreign capital, while keeping a lead on foreign loans; and

(c) reduce the over–dependence on oil and imported inputs.

In pursuit of these objectives, a foreign exchange market (SFEM) for determining the naira exchange rate and allocating the available foreign exchange among banks has been set up since 29th September, 1986. The procedure for allocating foreign exchange was decentralised and liberalised and banks were allowed to buy and sell foreign exchange at market–determined rates without reference to the Central Bank on a case–by–case basis as had happened during the regime of stringent exchange controls. Other measures adopted under the SAP to promote investment include the introduction of a new tariff regime aimed at securing adequate rates of effective protection for domestic industries. Moreover, import and export licensing and controls on factory–gate prices were abolished. These exchange and trade policy reforms were reinforced by appropriate monetary and fiscal policies. Meanwhile, the Federal Government is carrying out a comprehensive review of investment incentives with a view to increasing their attractiveness to foreign investors in the light of the SAP environment.

In the agricultural sector, which is one of the priority areas for foreign investment, measures designed to encourage investment and growth include the abolition of the Commodity Boards which had administered the marketing and pricing of agricultural commodities. The winding up of the Commodity Boards has secured for farmers the benefits of exchange rate adjustment which has enhanced the naira value of agricultural exports. The alteration of relative prices through exchange rate adjustment has also made Nigerian exports more competitive and has already called forth appropriate responses in the form of increased output by farmers.

The impact of the SAP, although mixed, has been significantly positive in the enhancement of efficiency in resource allocation, increased and easier access by the productive sectors to foreign exchange and gradual restoration of international confidence in our payments arrangements. This gradual return to credit worthiness is evidenced by the increasing inflow of foreign exchange from autonomous sources, the quantum of import and service transactions financed from external sources which are a proxy for autonomous receipts and the success achieved in the rescheduling of Nigeria's external debt on a comprehensive and durable basis.

SECTION III: THE ADMINISTRATIVE FRAMEWORK

This section describes the laid–down procedures to be followed by a foreign investor wishing to establish a company in Nigeria. It also deals with the guidelines for the repatriation of capital, dividends and profits. The relevance of the Nigerian Enterprises Promotion Decree which gives the legal basis for the promotion of joint venture arrangements between Nigerians and expatriates is also discussed in this section.

1. Requirements for Establishing a New Company

Before establishing a company which has foreign interest, or a company jointly owned by a foreign investor and an indigenous Nigerian entrepreneur, a business permit is required for the foreign investor. Moreover, in order to ensure future unimpeded repatriation of capital, dividends, etc. the foreign investor requires an "Approved Status" for his original investment. The grant of an "Approved Status" amounts to an undertaking by the Government to the effect that favourable consideration would be given to requests for remittance of investment income. Applications for the grant of approved status on imported capital should be supported by relevant documents evidencing such importation and investment.

2. Permit to Employ Expatriates

All foreign investors are required to obtain a permit for the expatriate personnel they wish to employ to work in Nigeria.

3. Investment Guarantee (Protection) Approval

Nigeria has bilateral arrangements with some countries for the purpose of guaranteeing investments made in Nigeria by citizens of those countries. The arrangements provide for the repatriation of the imported capital in the event of adverse socio–political changes. The conditions for granting an investment guarantee approval are:

(i) that the capital required for such investment had actually been imported into the country and granted approved status in principle;

(ii) evidence of compliance with the provisions of the Nigerian Enterprises Promotion Decree;

(iii) copy of Business permit;

(iv) copy of the audited accounts of the company if the company had been in operation

4. Industrial Development Co-ordinating Committee (I.D.C.C.)

Before June, 1986 authorization for the establishment of a new company involved the pursuit of approvals from many government ministries and agencies. This resulted in undue delays and other problems which created disincentives for many genuine foreign investors. The government has now established the IDCC to serve as a central agency where all the approvals required for foreign investment in Nigeria may be obtained. Consequently, all applications for:

(i) Business Permit and Permit to employ expatriates;

(ii) Approved Status in Principle for imported capital on new ventures;

(iii) Pre-investment Technical Fees Agreements; and

(iv) Product Standards,

are now to be directed to the IDCC.

5. The Nigerian Enterprises Promotion Decree (NEPD)

Under this Decree, all enterprises are classified under three schedules, each of which indicates the maximum equity participation a foreigner could hold in the enterprises listed under it. The list under each schedule has been modified from time to time to reflect developmental priorities. For example, in 1981, the Government relaxed foreign equity restrictions on the manufacturers of metal containers, fertilizers, cement and agricultural projects. Foreign investors were allowed to have 60 per cent interest in such businesses as against the maximum of 40 per cent allowed before then. Moreover, foreign investment in industries such as jewellery, clothing, clock repairs and rice milling where foreign participation was initially precluded is now allowed up to a maximum of 40 per cent.

In the light of the developments in the country and in particular the economic recession which has brought about low levels of capital formation even in a number of priority sectors, the NEPD has come in for some criticism in recent times. Those who advocate a review of the Decree argue that is a serious constraint to the inflow of foreign investment and that the objectives of the Decree had not been accomplished. Government has taken note of these criticisms and there are indications that further modifications to the Decree would be made in due course. Meanwhile, Government endorses the promotion of joint venture arrangements between foreign and indigenous investors as a way of enhancing capital formation for the benefit of both foreign investors and the country.

6. Repatriation of Capital and Dividends

The Federal Government is aware of the importance which foreign investors attach to the timely repatriation of capital, profits and dividends. With the introduction of the Structural Adjustment Programme, Government has simplified the processes for repatriating profits, dividends and capital. These processes are well articulated in Section 14 of the Second–Tier Foreign Exchange Market (SFEM) Decree 1986.

Applications for remittance of dividends of non–resident shareholders must be accompanied by the following:

(a) Evidence of Approved Status on non–resident capital investment or evidence of previous approval to remit dividends;
(b) Tax Clearance Certificate issued by the Federal Department of Inland Revenue on the amount to be remitted;
(c) Audited accounts for the year in which the dividends were declared and for the two preceding years;
(d) Relevant Board of Directors resolution;
(e) Confirmation that the dividend declared had not exceeded the maximum allowed by the current policy. Recently, the ceiling placed under the incomes policy guidelines has been removed.

On receiving the approval mentioned above, the repatriation of the dividend will be effected through authorised dealers (commercial and merchant banks) without further formality or undue delay in receiving foreign exchange cover as was the case under the pre–SFEM exchange control regime. The new arrangement represents a marked improvement.

SECTION IV:

ADMINISTRATION OF THE POLICY REGULATIONS AND THE INCENTIVES

This section discusses briefly some of the institutions relevant to the implementation of government strategies on foreign investments together with their functions.

1. The Industrial Development Co–ordinating Committee (IDCC)

This agency has been mentioned earlier in this paper in connection with the initial processes of establishing a new company. The institution is also responsible for the administration of the incentive measures described in Section 1 above. Other functions of the IDCC consist of making recommendations on pertinent industrial policies including tariff and various incentive measures aimed at enhancing steady industrial development; ensuring that industrial location is consistent with Government's environmental policies; and such other relevant functions needed to facilitate meaningful industrial development.

2. Industrial Inspectorate Department (IID)

This department of the Federal Ministry of Industries plays the following important roles:

(i) certifying the actual values of capital investments in buildings, machinery and equipment of various companies;
(ii) the date of commencement of production, that is, "Production Day" for companies enjoying pioneer status;
(iii) certifying the value of imported industrial machinery and equipment for the purpose of granting approved status to non–resident capital investment;
(iv) issuing of certificates for granting concessionary rates of duty on imported industrial machinery and equipment;
(v) providing in–house technical services for the Ministry including negotiations, equipment selection and implementation of public sector projects.

3. National Office of Industrial Property (NOIP)

The National Office of Industrial Property (NOIP) is another important institution for the setting up of new companies involving foreign participation in Nigeria. An important function of NOIP is "the registration of all contracts or agreements having effect in Nigeria ... for the transfer of foreign technology to Nigeria parties"[2]

Examples of such agreements are:

(i) the use of trade–marks;
(ii) the right to use patented inventions;
(iii) the supply of technical expertise in the form of the preparation of plans, diagrams, operating manuals or any other form of technical assistance of any description whatsoever;

(iv) the supply of basic or detailed engineering;
(v) the supply of machinery and plant; and
(vi) the provision of operating staff and managerial assistance and the training of personnel.

NOIP also has the authority to monitor, on an on-going basis, the execution of any contract or agreement registered by companies with foreign interests.

4. Other Relevant Institutions

In order to co-ordinate all the Research and Development efforts of the private and public sectors, a Raw Material Research and Development Council was set up recently. The Investment Information and Promotion Centre is another unit in the Federal Ministry of Industries established to cater for the interests of both foreign and indigenous investors. The services of this unit are free of charge and cover all aspects of investment.

SECTION V: SUMMARY AND CONCLUSIONS

Summary and Conclusions

This paper has highlighted Nigeria's strategies towards foreign investments. They consist of a package of incentive measures designed to grant financial relief in the form of direct and indirect tax concessions to foreign investors. Strategy adopted to encourage the inflow of foreign investments also include the development of industrial infrastructural facilities capable of laying a sound basis for industrialisation. Another important aspects of the strategies are the simplified procedure for repatriating profits and dividends, the regulatory policy aimed at achieving a balance in the flow of foreign investment package and ensuring that the content of the package received is the type appropriate to the country's needs.

An important aspect of the incentive strategy also considered in this paper consists of the financial and economic incentives derived from the recently introduced SAP, the major element of which is the trade and exchange rate policy. A substantial part of the financial strategy also includes some export promotional measures designed to cushion non-oil exports in a bid to diversify the country's export base; and the permission to issue non-voting shares whose proceeds will augment the working capital of companies.

In the light of experience, the most important strategy a country could adopt for attracting foreign investment is that of ensuring stability of the political and economic environment in which foreign investment projects have to operate. While conscious efforts in the form of a package of incentives could improve a country's competitiveness among the group of developing countries seeking foreign investments, reasonable socio-political stability appears to be a *sine qua non* for foreign investment. Security of persons and property is also high on the list of factors necessary for foreign investment.

The private sector whose agents constitute the medium for contacting individual foreign investors also has a significant role to play in the current efforts to attract foreign investments into Nigeria. They should effectively publicise the incentive measures, the improvement in the economic climate, and the current open-door policy adopted by government towards foreign investors.

FOOTNOTES AND REFERENCES

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