NIGERIA

INVESTMENT CLIMATE STATEMENT

2015

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Executive Summary

With well over 170 million citizens, a Gross Domestic Product (GDP) over USD 500 billion, and oil production over 2 million barrels per day, Nigeria has Africa's largest population, economy, and oil production (and export). Consistently strong GDP growth over the past decade has developed a growing consumer class and attracted considerable investor interest. Nigeria offers abundant natural resources and a low-cost labor pool, and enjoys mostly duty-free trade with other member countries of the Economic Community of West African States (ECOWAS). However, much of Nigeria's market potential remains unrealized because of significant impediments such as pervasive corruption, inadequate power and transportation infrastructure, high energy costs, an inconsistent regulatory and legal environment, insecurity, a slow and ineffective judicial system, inadequate intellectual property rights protections and enforcement, and an inefficient property registration system. Major developments affecting investors' attitudes toward Nigeria have included the following factors:

1. Declining Naira: The drop in the value of the Naira against the dollar from 165 to 200 in late 2014 and early 2015 squeezes margins for traders and manufacturers, who pay for imports in dollars but earn revenue in Naira (most manufacturers in Nigeria rely heavily on imported inputs).

2. Foreign exchange and fiscal challenges: The approximately 50% drop in the price of crude oil, Nigeria's chief export, in late 2014 created a foreign exchange challenge for the Central Bank of Nigeria (CBN) and a fiscal challenge for the government. The loss of revenue derived from the sale of crude oil created a budget deficit which the government is addressing through cuts in government spending, efforts to improve tax collection, and discussions with international financial institutions for loans. State governments are facing significant loss of income under the federal oil sharing plan, creating significant budget strain and challenging many state governments' ability to pay civil servant salaries. Reduced government spending, greater tax collection, and low oil prices were factors contributing to the slowdown in economic growth in 2015, forecast to be 4¾ percent, according to the International Monetary Fund, with inflation increasing to 11½ percent from the effects of exchange rate depreciation.

3. Elections: The presidential and gubernatorial elections, though postponed by six weeks, took place on March 28 and April 11, 2015. Independent international observers deemed both elections largely peaceful and orderly.

4. While the short-lived Ebola crisis of 2014 had added to negative perceptions of Nigeria's investment climate, the World Health Organization declared the country Ebola-free by October of that year. The increase in terrorist attacks by Boko Haram in 2014 and early 2015 added to investor uncertainty over security in the country.

Nigeria's recent economic growth has been concentrated primarily in trade, agriculture, manufacturing, and telecommunications. While the agriculture sector sustains over 80 percent of rural households, the Nigerian economy remains heavily dependent on its oil and gas sector which accounts for 11 percent of GDP but over 90 percent of export earnings and over 70 percent of government revenues. Nigeria is the world's thirteenth largest oil producer and sixth largest oil exporter, producing high-value, low-sulfur crude oil. However, investment in

Nigeria's oil sector has been slowed by regulatory uncertainties, security risks, and low oil prices. The Petroleum Investment Bill, which would significantly alter the fiscal and regulatory parameters within which the industry operates, has been debated and modified for years in the National Assembly, and companies have reported that doubts about its final provisions and the years of delay in its passage have created uncertainties that have restricted investment in the oil and gas sector.

Nigeria's underdeveloped power sector remains a significant bottleneck to broad-based economic development. Current production is around 4,000 megawatts of power, ranking Nigeria among the worst countries in the world in power generation per capita and in electricity access, and forcing the vast majority of businesses to generate at least some of their own electricity. The World Bank currently ranks Nigeria 187th out of 189 countries for ease of obtaining electricity for business. Reform of Nigeria's power sector is ongoing, but investor confidence has been shaken by recent tariff and regulatory uncertainty. The Nigerian Electricity Regulatory Commission's surprise announcement of a 50% reduction in the electricity tariff in March 2015 reversed a phased increase policy upon which newly privatized electricity generation and distribution companies had been relying to support profitable operation and investment in infrastructure. Many challenges remain before Nigeria will see a significant, sustainable improvement in power delivery to industrial and consumer end-users.

Nigeria's trade regime remains protectionist and distorting, with restrictive import tariffs and outright import prohibitions in place intended to spur domestic agricultural and manufacturing sector growth. U.S. goods exports to Nigeria in 2014 were USD 5.9 billion, down 7.3 percent from the previous year, while U.S. imports from Nigeria were USD 3.8 billion, down 67.2 percent. U.S. exports to Nigeria are primarily refined petroleum products, used vehicles, cereals, and machinery. Crude oil and petroleum products continued to account for over 96 percent of Nigerian exports to the United States in 2014. The stock of U.S. foreign direct investment (FDI) in Nigeria was USD 8.1 billion in 2013 (latest data available), down from USD 8.4 billion in 2012. U.S. FDI in Nigeria continues to be led by the oil and gas sector. There is also substantial new investment from the United States and other countries in Nigeria's power, telecommunications, real estate (commercial and residential), and agricultural sectors.

Given the corruption risk associated with the Nigerian business environment, potential investors often develop anti-bribery compliance programs. The United States and other parties to the OECD Anti-Bribery Convention aggressively enforce anti-bribery laws, including the U.S. Foreign Corrupt Practices Act (FCPA). A high-profile FCPA case in Nigeria's oil and gas sector resulted in 2010 U.S. Securities Exchange Commission (SEC) and U.S. Department of Justice rulings that included record fines for a U.S. multinational and its subsidiaries that paid bribes to Nigerian officials. Since then, the SEC has charged an additional four international companies with bribing Nigerian government officials to obtain contracts, permits, and resolve customs disputes. See SEC enforcement actions at https://www.sec.gov/spotlight/fcpa/fcpa-cases.shtml.

Security remains a concern to investors in Nigeria due to high rates of violent crime, kidnappings for ransom, and terrorism. Seven bombings of high-profile targets with multiple deaths have occurred in the federal capital Abuja since October 2010, two of which – one at a bus station and one in a market – happened in 2014. Other bombings and assassinations have occurred in the cities of Kaduna, Maiduguri, Damaturu, Bauchi, Jos, Kano, and Suleja, the majority linked to Boko Haram. An amnesty program for militants in the Niger Delta region and rehabilitation and re-integration training for ex-militants have led to a significant decline in militant violence and limited restoration of shut-in oil and gas production. The longer-term impact of the government's Delta peace efforts, however, remains unclear and criminal activity in the Delta – in particular, rampant oil theft - remains a serious concern. Maritime criminality in Nigerian waters, including incidents of piracy and crew kidnap for ransom, has increased in recent years and law enforcement efforts have been limited or ineffectual. Onshore, international inspectors have voiced concerns over the adequacy of security measures at some Nigerian port facilities.

Freedom of expression and of the press remains broadly observed, with the media often engaging in open, lively discussions of challenges facing Nigeria. Some journalists, however, occasionally practice self-censorship on sensitive issues.

1. Openness To, and Restrictions Upon, Foreign Investment

Attitude toward Foreign Direct Investment

Nigeria is party to multiple bilateral investment agreements. It does not have a bilateral investment treaty with the United States (see 14. Bilateral Investment Agreements).

In 1995 the Nigerian Investment Promotion Commission Act unraveled years of controls and limits on foreign direct investment (FDI), opening nearly all sectors to foreign investment, allowing for 100 percent foreign ownership in all sectors (with the exception of the petroleum sector, where FDI is limited to joint ventures or production sharing), and creating the Nigerian Investment Promotion Commission (NIPC) and its mandate to encourage and assist investment in Nigeria. The NIPC features a One-Stop Investment Center that nominally includes participation of 27 governmental and parastatal agencies (not all of which are physically present at the OSIC, however) in order to consolidate and streamline administrative procedures for new businesses and investments. Foreign investors receive largely the same treatment as domestic investors in Nigeria, including tax incentives (see 5.2 Investment Incentives). However, without strong political and policy support, and because of the unresolved challenges to investment and business in Nigeria, the ability of the NIPC to attract new investment has been limited.

The Government of Nigeria (GoN) has promoted an import substitution policy on the rationale that trade restrictions and local content requirements will attract investment that would develop domestic capacity to produce and manufacture products and services which the government believes can be produced domestically rather than imported. The import bans and high tariffs used to advance Nigeria's import substitution goals have been undermined by smuggling of targeted products (most notably rice and poultry) through the country's porous borders, and by corruption in the import quota systems developed by the GoN to incentivize domestic investment. Despite the GoN's stated goal to attract investment, investors generally find Nigeria a difficult place to do business.

Other Investment Policy Reviews

The OECD has recently completed an investment policy review of Nigeria (see www.oecd.org/competition/oecd-investment-policy-reviews-nigeria-2015-9789264208407-en.htm). The WTO published a trade policy review of Nigeria in 2011 which also includes a brief overview and assessment of Nigeria's investment climate. That review is available at https://www.wto.org/english/tratop_e/tpr_e/tp347_e.htm.

In 2009, the United Nations Council on Trade and Development (UNCTAD) published an investment policy review of Nigeria and a Blue Book on Best Practice in Investment Promotion and Facilitation, both of which are available at unctad.org. The policy review identified Nigeria's need to diversify FDI away from the oil and gas sector by improving the regulatory framework, investing in physical and human capital, taking advantage of regional integration and reviewing external tariffs, fostering linkages and local industrial capacity, and strengthening institutions dealing with investment and related issues.

Laws/Regulations of Foreign Direct Investment

The NIPC Act of 1995 allows 100 percent foreign ownership of firms, except in the oil and gas sector where investment stays limited to joint ventures or production-sharing agreements. Laws restrict industries to domestic investors if they are considered crucial to national security, such as firearms, ammunition, and military and paramilitary apparel. Foreign investors must register with the NIPC after incorporation under the Companies and Allied Matters Decree of 1990. The Act prohibits the nationalization or expropriation of foreign enterprises except in cases of national interest.

Nigerian laws apply equally to domestic and foreign investors. These laws include the Nigerian Oil and Gas Content Development Act 2010, Nigerian Minerals and Mining Act of 2007, Nigeria Extractive Industries Transparency Initiative (NEITI) Act of 2007, Central Bank of Nigeria Act of 2007, Electric Power Sector Reform Act of 2005, Money Laundering Act of 2003, Investment and Securities Act of 2007, Foreign Exchange Act of 1995, Banking and Other Financial Institutions Act of 1991, and National Office of Technology Acquisition and Promotion Act of 1979.

Industrial Promotion

Nigeria's trade regime remains highly protectionist and distorting with the aim of incentivizing growth in Nigeria's domestic industrial and agricultural capacity. Nigeria bans the import of poultry, pork, beef, eggs, cement, textiles, glass bottles, and numerous other items in order to protect or encourage domestic production. In addition, the country imposes a combined ad valorem import duty (tariff plus levy) of 70 percent or higher on more than 40 tariff product lines, including tobacco products, rice, wheat flour, sugars, salt, and new passenger vehicles. The high tariffs on agricultural commodities reflects the Jonathan Administration's national Agricultural Transformation Action Plan which relies on restrictive import tariffs and outright import prohibitions to spur domestic agricultural sector growth by actively promoting import substitution of staples, including rice, cassava, palm oil, cocoa, and cotton.

In October 2013 the GoN announced the National Automotive Industry Development Plan (NAIDP) as an effort to restart the country's domestic automotive manufacturing sector, create skilled jobs, develop local supply chains, and reduce automobile imports. The central feature of the NAIDP is a new 35% levy assessed on automobile imports, over and above the 35% tariff already levied, for an effective total ad valorem duty of 70%. As an additional incentive to promote investment in Nigeria's auto sector, the NAIDP allows companies that are manufacturing or assembling cars in Nigeria to continue to import two vehicles under the former 35% tariff for every one vehicle produced in Nigeria.

Limits on Foreign Control

There are currently no limits on foreign control of investments in Nigeria. The NIPC Act of 1995 liberalized the ownership structure of business in Nigeria, so that foreign investors can now own and control 100% of the shares in any company (as opposed to the earlier arrangement of 60%-40% in favor of Nigerians).

Privatization Program

The Privatization and Commercialization Act of 1999 established the National Council on Privatization, the policy-making body overseeing the privatization of state-owned enterprises (SOEs), and the Bureau of Public Enterprises (BPE), the implementing agency for designated privatizations. The BPE has focused on the privatization of key sectors, including telecommunications and power, and calls for core investors to acquire controlling shares in formerly state-owned enterprises.

Since 1999, the BPE has privatized and concessioned more than 140 enterprises, including an aluminum complex, steel complex, cement manufacturing firms, hotels, petrochemical plant, aviation cargo handling companies, and vehicle assembly plants, electricity generation and electricity distribution companies. The transmission company remains state-owned, but operated by an international operations and management contractor. Foreign investors can and do participate in the BPE's privatization process.

The National Assembly has questioned the propriety of some of these privatizations, with one case related to an aluminum complex privatization recently the subject of a Supreme Court ruling on ownership. Nevertheless, the GoN's long-delayed sale in December 2014 of the state-owned Nigerian Telecommunications and its mobile arm, Mobile Telecommunications, shows a continued commitment to the privatization model. The GoN remains interested in developing public-private partnerships to attract foreign capital to support basic infrastructure development, such as the Design-Build-Operate-Transfer of the Lagos-Ibadan Expressway, a major highway in the southwestern part of the country.

Screening of FDI

The NIPC Act of 1995 contains a negative list that prohibits private investment , both foreign and domestic, in the following sectors:

a) production of arms, ammunition, etc.;
b) production of and dealing in narcotic drugs and psychotropic substances;

c) production of military and para-military wears and accoutrement, including those of the Police and the Customs, Immigration and Prison Services; and
d) such other items as the Federal Executive Council may, from time to time, determine.

Nigeria does not have an entity comparable to the U.S. Treasury's Committee on Foreign Investment in the United States (CFIUS) that screens and reviews investment into sectors deemed sensitive.

Competition Law

Nigeria has no consolidated competition law. Under the Investment and Securities Act, the Nigerian Securities and Exchange Commission is empowered to determine whether any business combination is likely to substantially prevent or lessen competition. There are also sector-specific antitrust regulations. Several consolidated competition bills have been drafted and considered by Nigeria's National Assembly in the last 15 years, but none have passed into law. The latest such bill, the Federal Competition and Consumer Protection Bill of 2014, was drafted by Nigeria's Bureau of Public Enterprises (BPE) and forwarded to the National Assembly by Nigeria's Federal Executive Council in February 2015. A key feature of a previous BPE-drafted bill was the establishment of a Federal Competition Commission to oversee antitrust and anti-competitive activities. Like its predecessors, this latest bill may face headwinds in the National Assembly. Nigerian businesses have been known to seek to protect and expand market share through political connections and economic protections, rather than through free and fair competition, and vested interests may seek to retain such a system.

Investment Trends

The GoN actively seeks foreign investment and has repealed or amended earlier military government decrees inhibiting competition or conferring monopoly powers on public enterprises. The GoN's protectionist tradition remains strong despite these actions, resulting in inconsistent trade policy. In an effort to foster domestic production, the GoN specifically prohibits the importation of some goods, such as cement, and, effective 2013, refined sugar. The GoN enacted the Nigerian Oil and Gas Content Development Act (NOGCDA) in 2010 to support domestic employment and add value in this sector. The NOGCDA requires oil and gas production and service companies to use local resources for the delivery of some goods and services previously sourced from outside the country. Concerns about the NOGCDA include its restrictive trade practices in violation of World Trade Organization (WTO) agreements as well as technology transfer requirements that infringe upon foreign investor company intellectual property rights. Many local companies established to respond to the greater demand for local goods and services provided for by the NOGCDA have suffered due to lack of new contracts caused by the delayed passage of the Petroleum Industry Bill. Laws against the re-export of equipment restrict the development of Nigeria as an oil and gas service center for the growing African oil and gas industry. Local content requirements have since been implemented in Nigeria's information technology sector (see 5. Performance Requirements) and are generally viewed as a growing trend in Nigeria.

The Nigeria's telecommunications sector has grown fast since the early 2000s. According to the Nigerian Communications Commission (NCC), a regulatory oversight body, as of 2015 there were over 140 million telephone line subscribers, both mobile and landline, representing a 100.6 percent teledensity. Four private companies - MTN, Airtel, Globacom, and Etisalat - dominate the mobile industry. GSM technology is used by 98.4 percent of Nigeria's telephone lines.

It is estimated that 38 percent of Nigerians have access to some form of the internet, mostly through mobile phones, and that 6 percent of Nigerians have broadband internet. While five undersea communications cables have landed in Lagos, providing service within Nigeria's cities, "last mile" broadband access to residences, businesses and government customers has been impeded by high taxation and right of way fees charged by state and local governments to lay fiber optic cable. Further, large network operators that built fiber optic backbones are unwilling to share their infrastructure, keeping other competitors from entering the market and prices high. Multiple cell tower systems and parallel fiber optic lines currently exist in Nigeria without improved service, as each network operator builds its own cell tower and lays its own cable. In 2013, the Ministry of Communications Technology announced a National Broadband Plan and NCC proposed to divide the current broadband provision market into three segments: retail internet providers, wholesale "infrastructure companies," and broadband backbone providers.

The GoN has made efforts to expand its civil aviation sector. A bilateral air services (Open Skies) agreement with the United States was signed in 2000. Its implementation has been mixed: in 2012, Nigeria denied a U.S. carrier "fifth freedom" rights specifically permitted under the Open Skies agreement to provide transportation to passengers between Nigeria and a third country on flights in route to the United States. U.S. carriers presently fly from Lagos to Atlanta and Houston. A Nigerian carrier flies between Lagos and New York. In 2010, the Federal Aviation Administration awarded Nigeria Category 1 status in its International Aviation Safety Assessments program, indicating that Nigeria's civil aviation authority fully complies with International Civil Aviation Organization safety standards. This Category 1 status was recertified by FAA in 2014. Nigeria and the U.S. signed an Air Marshals Memorandum of Understanding in 2010.

The following table indicates Nigeria's recent rankings against other countries on metrics of transparency and good governance.

Table 1

Measure	Year	Index or Rank	Website Address
TI Corruption Perceptions index	2014	136/174	transparency.org/cpi2014/results
World Bank's Doing Business Report "Ease of Doing Business"	2015	170/189	doingbusiness.org/rankings
Global Innovation Index	2014	110/143	globalinnovationindex.org/content.aspx?page=data-analysis
World Bank GNI per capita	2013	$2,710	data.worldbank.org/indicator/NY.GNP.PCAP.CD

Millennium Challenge Corporation Country Scorecard

The Millennium Challenge Corporation, a U.S. Government entity charged with delivering development grants to countries that have demonstrated a commitment to reform, produced scorecards for countries with a per capita gross national income (GNI) or USD 4,125 or less. A list of countries/economies with MCC scorecards and links to those scorecards is available here: http://www.mcc.gov/pages/selection/scorecards. Details on each of the MCC's indicators and a guide to reading the scorecards are available here: http://www.mcc.gov/pages/docs/doc/report-guide-to-the-indicators-and-the-selection-process-fy-2015.

2. Conversion and Transfer Policies

Foreign Exchange

All foreign transfers are done through banks, and foreign currency for most transactions is procured through local banks in the inter-bank market. The official Central Bank of Nigeria window for procuring foreign exchange, namely the Retail Dutch Auction System, was discontinued in February 2015. Local banks also issue foreign currency-denominated debit cards to customers who have domiciliary accounts. ATM Naira-denominated cards issued by local banks can be used internationally for transactions and cash withdrawals, but such transactions have a ceiling of the daily local cash withdrawal limit of Naira 150,000 (approximately USD 750). Low value foreign exchange may also be procured at a premium from foreign exchange bureaus, called Bureau De Change (BDC).

Remittance Policies

The NIPC guarantees investors unrestricted transfer of dividends abroad (net a 10 percent withholding tax). Companies must provide evidence of income earned and taxes paid before externalizing dividends from Nigeria. Money transfers usually take no more than 48 hours, if individuals provide the necessary documentation. All such transfers must occur through banks. Transfers of currency are protected by Article VII of the International Monetary Fund (IMF) Articles of Agreement (http://www.imf.org/External/Pubs/FT/AA/index.htm#art7).

3. Expropriation and Compensation

The GoN has not expropriated or nationalized foreign assets since the late 1970s, and the NIPC Act of 1995 forbids nationalization of a business or assets unless the acquisition is in the national interest or for a public purpose. In such cases, investors are entitled to fair compensation and legal redress. A U.S.-owned waste management investment expropriated by Abia State in 2008 is the only known U.S. expropriation case in Nigeria.

4. Dispute Settlement

Legal System, Specialized Courts, Judicial Independence, Judgments of Foreign Courts

Nigeria has a complex, three-tiered legal system composed of English common law, Islamic law, and Nigerian customary law. Common law governs most business transactions, as modified by statutes to meet local demands and conditions. The Supreme Court sits at the pinnacle of the judicial system and has original and appellate jurisdiction in specific constitutional, civil, and criminal matters as prescribed by Nigeria's constitution. The Federal High Court has jurisdiction over revenue matters, admiralty law, banking, foreign exchange, other currency and monetary or fiscal matters, and lawsuits to which the federal government or any of its agencies are party. The Nigerian court system lacks adequate court facilities and computerized document-processing systems, and poorly remunerates judges and other court officials, all of which encourages corruption and undermines enforcement.

The public increasingly resorts to the court system and has become more willing to litigate and seek redress. Use of the courts, however, does not automatically imply fair or impartial judgments. The World Bank's publication, Doing Business 2015, which surveyed 189 countries, ranked Nigeria 140 out of 189 on enforcement of contracts, compared with its 2014 ranking of 136. The Doing Business report noted that there can be significant variation in performance indicators between cities in Nigeria (as in other developing countries). For example, resolving a commercial dispute takes 720 days in Kano but 447 days in Lagos. In addition, the report revealed that contract enforcement required 40 procedures spanning an average of 447 days averaging 92 percent of the value of the contract. This situation compared 31 procedures spanning an average of 529 days and averaging 21 percent of the cost of the contract in OECD countries and 39 procedures spanning an average of 652 days and averaging 51.1 percent of the contract in sub-Saharan countries.

Bankruptcy

Entrepreneurs generally do not seek bankruptcy protection in Nigeria’s business culture. Claims often go unpaid, even in cases where creditors obtain judgments against defendants. Under Nigerian law, the term bankruptcy generally refers to individuals where as corporate bankruptcy is referred to as insolvency. The former is regulated by the Bankruptcy Act of 1990, as amended by the Bankruptcy Decree 109 of 1992. The latter is regulated by Part XV of the Companies and Allied Matters Act Cap 59 1990 (CAMA) which replaced the Companies Act, 1968. The Embassy is not aware of U.S. companies that have had to avail themselves of the insolvency provisions under Nigerian law.

Investment Disputes

Nigeria's civil courts handle disputes between foreign investors and the GoN as well as between foreign investors and Nigerian businesses. The courts occasionally rule against the GoN. Nigerian law allows the enforcement of foreign judgments after proper hearings in Nigerian courts. Plaintiffs receive monetary judgments in the currency specified in their claims.

International Arbitration

Section 26 of the NIPC of 1995 provides for the resolution of investment disputes through arbitration as follows:

1) Where a dispute arises between an investor and any Government of the Federation in respect of an enterprise, all efforts shall be made through mutual discussion to reach an amicable settlement.
2) Any dispute between an investor and any Government of the Federation in respect of an enterprise to which this Act applies which is not amicably settled through mutual discussions, may be submitted at the option of the aggrieved party to arbitration as follows:
    a. in the case of a Nigerian investor, in accordance with the rules of procedure for arbitration as specified in the Arbitration and Conciliation Act; or
    b. in the case of a foreign investor, within the framework of any bilateral or multilateral agreement on investment protection to which the Federal Government and the country of which the investor is a national are parties; or
    c. in accordance with any other national or international machinery for the settlement of investment disputes agreed on by the parties.
3) Where in respect of any dispute, there is disagreement between the investor and the Federal Government as to the method of dispute settlement to be adopted, the International Centre for Settlement of Investment Dispute Rules shall apply.

Nigeria is a signatory to the International Centre for Settlement of Investment Disputes Convention and the 1958 Convention on Recognition and Enforcement of Foreign Arbitral Awards (also called the "New York Convention"). Nigerian Courts have generally recognized contractual provisions that call for international arbitration.

ICSID Convention and New York Convention

The Arbitration and Conciliation Act of 1988 provides for a unified and straightforward legal framework for the fair and efficient settlement of commercial disputes by arbitration and conciliation. The Act created internationally-competitive arbitration mechanisms, established proceeding schedules, provided for the application of the United Nations Commission on International Trade Law (UNCITRAL) arbitration rules or any other international arbitration rule acceptable to the parties, and made the New York Convention applicable to contract enforcement, based on reciprocity. The Act allows parties to challenge arbitrators, provides that an arbitration tribunal shall ensure that the parties receive equal treatment, and ensures that each party has full opportunity to present its case. Some U.S. firms have written provisions mandating International Chamber of Commerce (ICC) arbitration into their contracts with Nigerian partners. Several other arbitration organizations also operate in Nigeria.

Duration of Dispute Resolution

The judicial process in Nigeria is typically slow, and investors using the Nigerian court system to enforce an arbitration ruling could end up waiting a year or more if the case is appealed all the way to the Supreme Court. Furthermore, it is not uncommon in Nigeria for business parties to seek and secure court injunctions from judges deemed favorable to their cause, in order to protect themselves against business or legal proceedings which they deem unfavorable. Losing parties do not always pay settlements expeditiously. A U.S. supplier of fuel for the Nigeria Airways state airline, which went into liquidation in 1997, received full payment for its share of the liquidated assets only in 2010.

5. Performance Requirements and Investment Incentives

WTO/TRIMS

Nigeria generally regulates investment in line with the World Trade Organization's Trade-Related Investment Measures (TRIMS) Agreement, but the GoN’s expanded use of local content requirements, most notably in the information technology sector, may run afoul of Nigeria’s commitments under TRIMS. Foreign companies operate successfully in Nigeria's service sector, including telecommunications, accounting, insurance, banking, and advertising. The Investment and Securities Act of 2007 forbids monopolies, insider trading, and unfair practices in securities dealings.

On December 3, 2013, the National Information Technology Development Agency (NITDA), under the auspices of the Federal Ministry of Communication Technology, issued the Guidelines for Nigerian Content Development in the ICT sector. These guidelines require ICT original equipment manufacturers to use local manufactured content by 50 percent within three years from the effective date of the guidelines, and for ICT companies to use Nigerian companies in providing all value added series on networks by 80 percent in three years. In addition, the guidelines require multinational companies operating in Nigeria to source all hardware products locally; all government agencies to source and procure all computer hardware only from NITDA-approved original equipment manufacturers; and ICT companies to host all consumer and subscriber data locally, to use only locally manufactured SIM cards for telephone services and data, and to use indigenous companies to build cell towers and base stations.

The goal is to promote development of domestic production of ICT products and services for the Nigerian and global markets, but the guidelines post impediments and risks to foreign investment and U.S. companies by interrupting their global supply chain, increasing costs, disrupting global flow of data, and stifling innovative products and services.

Despite U.S. ICT Companies’ continued inquiries, the Government of Nigeria has not clarified the level of sanctions U.S. companies would face for not complying with the guidelines. Further, there are concerns as to whether the guidelines would be implemented in a fair and transparent way towards all Nigerian and foreign companies. All ICT companies, including Nigerian companies, use foreign manufactured products as Nigeria does not have the capacity to produce ICT products.

Investment Incentives

The GoN maintains different and overlapping incentive programs. The Industrial Development/Income Tax Relief Act Number 22 of 1971, amended in 1988, provides incentives to pioneer industries deemed beneficial to Nigeria's economic development and to labor-intensive industries, such as apparel. There are currently 71 industries defined as pioneer industries for the purposes of this incentive. Companies that receive pioneer status may benefit from a non-renewable, 100 percent tax holiday of five years (seven years, if the company is located in an economically-disadvantaged area). Industries that use 60 to 80 percent of local raw materials in production may benefit from a 30 percent tax concession for five years, and investments employing labor-intensive modes of production may enjoy a 15 percent tax concession for five years. Additional tax incentives are available for investments in domestic research and development, for companies that invest in local government areas (LGAs) deemed disadvantaged, for local value added processing, for investments in solid minerals and oil and gas, and for a number of other investment scenarios. For a full list of incentives please, refer to the Nigerian Investment Promotion Council website at nipc.gov.ng.

The Nigerian Export Promotion Council administered an Export Expansion Grant (EEG) scheme to improve non-oil export performance, but the government shut down the program in 2014 due to concerns about corruption on the part of companies who collected the grants but did not actually export. The Nigerian Export-Import (NEXIM) Bank provides commercial bank guarantees and direct lending to facilitate export sector growth, although these services are underused. NEXIM's Foreign Input Facility provides normal commercial terms of three to five years (or longer) for the importation of machinery and raw materials used for generating exports.

Agencies created to promote industrial exports remain burdened by uneven management, vaguely-defined policy guidelines, and corruption. Nigeria's inadequate power supply and lack of infrastructure and the associated high production costs leave Nigerian exporters at a significant disadvantage. Many Nigerian businesses fail to export because they find meeting international packaging and safety standards is too difficult or expensive. The vast majority of Nigeria's manufacturers remain unable to compete in the international market.

Research and Development

The NIPC states that up to 120 percent of expenses on (R&D) are tax deductible, provided that such R&D activities are carried out in Nigeria and are connected with the business from which income or profits are derived. Also, for the purpose of R&D on local raw materials, 140 percent of expenses are allowed. For cases in which the research is long-term, it will be regarded as a capital expenditure and will be written off against profit.

Performance Requirements

Foreign investors must register with the NIPC, incorporate as a limited liability company (private or public) with the Corporate Affairs Commission, procure appropriate business permits, and register with the Securities and Exchange Commission (when applicable) to conduct business in Nigeria. Manufacturing companies sometimes must meet local content requirements. Expatriate personnel do not require work permits, but they remain subject to needs quotas requiring them to obtain residence permits that allow salary remittances abroad. Authorities permit larger quotas for professions deemed in short supply, such as deep-water oil-field divers. U.S. companies often report problems in obtaining quota permits. The Nigerian Oil and Gas Content Development Act, 2010 (NOGCDA) restricts the number of expatriate managers to five percent of the total number of personnel for companies in the oil and gas sector.

Technology Transfer Requirements

The National Office of Industrial Property Act of 1979 established the National Office of Technology Acquisition and Promotion (NOTAP) to facilitate the acquisition, development, and promotion of foreign and indigenous technologies. NOTAP registers commercial contracts and agreements dealing with the transfer of foreign technology and ensures that investors possess licenses to use trademarks and patented inventions and meet other requirements before sending remittances abroad. In cooperation with the Ministry of Finance, NOTAP administers 120 percent tax deductions for research and development carried out in Nigeria and 140 percent tax deductions for research and development using local raw materials. The NOGCDA has technology-transfer requirements that appear to violate a company’s intellectual property rights.

Customs

The Nigerian Customs Service (NCS) and the Nigerian Ports Authority (NPA) exercise exclusive jurisdiction over customs services and port operations. Nigerian law allows importers to clear goods on their own, but most importers employ clearing and forwarding agents to minimize tariffs and lower their landed costs. Others ship their goods to ports in neighboring countries, primarily Benin, after which they transport overland and smuggle into the country. The GoN implements a destination inspection scheme whereby all imports are inspected upon arrival into Nigeria, rather than at the ports of origin. In December 2013, the NCS regained the authority to conduct destination inspections, which had previously been contracted to private companies. NCS also introduced an online system for filing customs documentation via a Pre-Arrival Assessment Report (PAAR) process.

Shippers report that efforts to modernize and professionalize the NCS and the NPA have reduced port congestion and clearance times. These efforts include an ongoing program to achieve 48-hour cargo clearance, particularly at Lagos' Apapa Port, which handles over 40 percent of Nigeria's legal trade. Nevertheless, bribery of customs agents and port officials remains common, and smuggled goods routinely enter Nigeria's seaports and cross its land borders.

Visa Requirements

Investors sometimes encounter difficulties acquiring entry visas and residency permits. Foreigners must obtain entry visas from Nigerian embassies or consulates abroad, seek expatriate position authorization from the NIPC, and request residency permits from the Nigerian Immigration Service. Investors report that this cumbersome process can take from two to 24 months and cost from USD 1,000 to USD 3,000 in facilitation fees. The GoN announced a new visa rule in August 2011 to encourage foreign investment, under which legitimate investors can obtain multiple entry-visas at points of entry into Nigeria. These changes have not been fully implemented, and the costs to obtain multiple entry visas on entry are not clearly set or standardized with each point of entry. U.S. businesses have reported being solicited for bribes in the visa on entry program. Obtaining a visa prior to traveling to Nigeria is strongly encouraged.

Data Storage

On December 3, 2013, the National Information Technology Development Agency (NITDA), under the auspices of the Federal Ministry of Communication Technology, issued the Guidelines for Nigerian Content Development in the ICT sector. These guidelines require ICT original equipment manufacturers to use local manufactured content by 50 percent within three years from the effective date of the guidelines, and for ICT companies to use Nigerian companies in providing all value added series on networks by 80 percent in three years. In addition, the guidelines require multinational companies operating in Nigeria to source all hardware products locally; all government agencies source and procure all computer hardware only from NITDA-approved original equipment manufacturers; and ICT companies host all consumer and subscriber data locally, use only locally manufactured SIM cards for telephone services and data, and use indigenous companies to build cell towers and base stations.

6. Right to Private Ownership and Establishment

The GoN supports competitive business practices and generally protects private property in accordance with the NIPC Decree of 1995.

7. Protection of Property Rights

Real Property

The GoN recognizes secured interests in property, such as mortgages. The recording of security instruments and their enforcement remain subject to the same inefficiencies as those in the judicial system. In the World Bank publication, Doing Business 2015, Nigeria ranked 185 out of the 189 countries surveyed for registering property, requiring averages of 12 procedures over 70 days at a cost of 18.6 percent of the property value.

Fee simple property rights remain rare. Owners transfer most property through long-term leases, with certificates of occupancy acting as title deeds. Property transfers are complex and must usually go through state governors' offices. In Abuja, the Federal Capital Territory government cancelled and began a process of reregistering all property allotments, refusing to renew those it deemed not to comply with the city's master plan. Authorities have often compelled owners to demolish buildings on such property allotments, including government buildings, commercial buildings, residences, and churches, even in the face of court injunctions. Therefore, acquiring and maintaining rights to real property have become major challenges.

Clarity of title and registration of land ownership remain significant challenges throughout rural Nigeria, where many smallholder farmers have only ancestral or traditional use claims to their land. Nigeria’s land reforms have attempted to address this barrier to development but with limited success. A major American investment in an industrial-scale farm in rural Nigeria was cancelled in 2015 in part because the land ownership and the relocation of smallholder farmers was not carried out by the state government, which is vested with such power under Nigerian law.

Intellectual Property Rights

Nigeria's legal and institutional infrastructure for protecting intellectual property rights remains in need of further development and more funding, even though there are laws on the books to deal with enforcing most IPR violations. The areas where the legislation is deficient include online piracy, geographical indications, and plant and animal breeders' rights.

Copyright protection in Nigeria is governed by the Copyright Act of 1988, as amended in 1992 and 1999, which provides an adequate basis for enforcing copyright and combating piracy. That Act is administered by the Nigerian Copyright Commission, a division of the Ministry of Justice. U.S. business interests have previously noted that the Copyright Act needs to be amended to provide for stiffer penalties for violators. Trademarks are covered under the Trademarks Act of 1965, while patents and designs are protected under the Patents and Designs Act of 1970. Both of these Acts are administered by the Ministry of Industry, Trade, and Investment through its Trademarks, Patents and Designs Registry (TPDR). TPDR officials have benefitted from capacity building and training from U.S. agencies, including most recently from the U.S. Patent and Trade Office.

The lack of new IPR legislation means some newer IPR categories are not currently addressed in Nigerian law, including online piracy, geographical indications, and plant and animal breeders' rights. Legislation has previously been proposed to fill these gaps, but has not been passed. The GoN and National Assembly have also discussed legislation – first introduced in 2006 – that would combine the NCC and the TPDR into one IPR organization, which could provide more effective and efficient protections and enforcement (the TPDR currently does not have enforcement authority). Political wrangling has reportedly been largely responsible for preventing such legislative solutions from being developed and implemented.

Nigeria is a member of the World Internet Property Organization (WIPO) but has not yet passed legislation to ratify two WIPO treaties that it signed in 1997: the Copyright Treaty and the Performances and Phonograms Treaty. These treaties address important digital communication and broadcast issues that have only become more relevant since Nigeria signed those 18 years ago.

Recognition of geographical indications would be among the obligations the long-delayed Economic Partnership Agreement (EPA) between the EU and ECOWAS would impose on Nigeria (and all other ECOWAS member countries). ECOWAS has yet to ratify that EPA, however.

Local content guidelines issued by the Ministry of Communication Technology in 2013 (Guidelines for Nigerian Content Development in Information and Communications Technology) have raised concerns about, among other things, the future ability of the GoN to protect data and trade secrets, due to the localization processes requiring the disclosure of source code and other sensitive design elements as a condition of doing business. The IT industry in Nigeria has pushed back strongly against several of the measures in those guidelines, which remain in effect.

Violations of Nigerian IPR laws continue to be widespread, due in large part to a culture of inadequate enforcement. That culture stems from several factors, including insufficient resources among enforcement agencies, lack of GoN political will and focus on IPR, porous borders, entrenched trafficking systems that make enforcement difficult (and sometimes dangerous), and corruption. The NCC, which has primary responsibility for copyright enforcement, is generally viewed as understaffed and underfunded relative to the magnitude of the IPR challenge in Nigeria. Nevertheless, the NCC has engaged in significant activity. In the last four years, the NCC has conducted more than 180 anti-piracy operations across the country, arrested 403 suspects, and seized approximately 5.9 million units of pirated works (with an estimated market value of approximately 40 million USD). Those arrests have resulted in 53 criminal convictions against copyright offenders, with sentences including fines, imprisonment, or both. Currently, over 172 criminal copyright infringement cases are pending in various courts across the country. The Nigerian Police, the Economic and Financial Crimes Commission, and the National Customs Service all have a supporting role in IPR enforcement, but enforcement actions are typically coordinated and led by the NCC, as these other agencies – also constrained by resource limitations – do not view IPR enforcement as a primary mandate.

Contributing to the culture of inadequate enforcement is the low level of public awareness among the general populace, including among intellectual property rights holders themselves and those who violate those rights. The rapid growth in the size of Nigeria's own domestic creative industries, including Nollywood (the contribution of Nigeria's entertainment and music industries to GDP grew 24% in 2013), as well as the growth of internet use in Nigeria, means the Nigerian economy has more to lose than ever before from inadequate IPR protections, including inadequate online digital piracy protections.

The NCS has general authority to seize and destroy contraband. Under current law, copyrighted works require a notice issued by the rights owner to Customs to treat such works as infringing, but implementing procedures have not been developed and this procedure is handled on a case by case basis between the NCS and the Nigerian Copyright Commission (NCC). Once seizures are made, the NCS invites the NCC to inspect and subsequently take delivery of the consignment of fake goods for purposes of further investigation because the NCC has the statutory responsibility to investigate and prosecute copyright violations. The cost of moving and storing infringing goods is to be borne by the NCC. If, after investigations, any persons are identified with the infringing materials, a decision may be taken to prosecute. Where no persons are identified or could be traced, the Commission may obtain an order of court to enable it destroy such works. The Commission works in cooperation with right owners associations and stakeholders in the copyright industries on such matters.

Many USG agencies, including the Department of Justice, the U.S. Patent and Trademark Office, the U.S. Copyright Office, the Department of Homeland Security, the Internal Revenue Service, and others have all led or participated in IPR capacity building efforts in recent years that have included participants from Nigeria's Economic and Financial Crimes Commission, the Nigerian Customs Service, the Nigerian Police, the Nigerian Copyright Commission, the Nigerian Trademarks, Patents, and Designs Registry, the Standards Organization of Nigeria, and the National Agency For Food and Drug Administration and Control.

Resources for Rights Holders

For additional information about treaty obligations and points of contact at local IP offices, please see WIPO's country profiles at http://www.wipo.int/directory/en/.

Embassy point of contact: Trade and Investment Officer EconNigeria@state.gov

Local lawyers list: http://nigeria.usembassy.gov/acs_abuja_legal_information.html

8. Transparency of the Regulatory System

Nigeria's legal, accounting, and regulatory systems comply with international norms, but enforcement remains uneven. Opportunities for public comment and input into proposed regulations sometimes occur. Professional organizations set standards for the provision of professional services, such as accounting, law, medicine, engineering, and advertising. These standards usually comply with international norms. No legal barriers prevent entry into this sector.

Taxation

Nigeria's tax laws generally do not impede investment, but the imposition and administration of taxes remains uneven and lacks transparency. Tax evasion commonly occurs, with individuals and businesses often colluding with relevant officials to avoid paying taxes. Nigeria has signed double taxation agreements with several countries, including the United Kingdom, France, the Philippines and Japan. The GON imposes a 7.5 percent tax rate on dividends, interest, rent, and royalties when such benefits are paid to a bona-fide beneficiary under a tax treaty. Multiple taxes remain a problem for businesses at state and local levels, with companies within concurrent state and local jurisdictions expected to pay several taxes and levies. The top individual income tax rate is 24 percent, and the top corporate tax rate is 30 percent. Other taxes include a value-added tax and a capital gains tax.

9. Efficient Capital Markets and Portfolio Investment

The NIPC Act of 1995 liberalized Nigeria's foreign investment regime, which has facilitated access to credit from domestic financial institutions. Foreign investors who have incorporated their companies in Nigeria have equal access to all financial instruments. Some investors consider the capital market, specifically the Nigerian Stock Exchange (NSE), a financing option, given commercial banks' high interest rates and the short maturities of local debt instruments. Trading on the NSE witnessed significant declines in value in 2014 due in part to the exit of foreign portfolio investors and hedge funds in response to the economic and political uncertainty. As of December 2014, the NSE claimed over 250 listed companies and a total market capitalization of over USD 90 billion. Roughly half of that figure is represented by the market capitalization value of just four companies. The GON has considered forcing companies in certain sectors or over a certain size to list on the NSE, as a means to encourage greater corporate participation and sectorial balance in the NSE, but those proposals have not been enacted to date.

The Government employs debt instruments, with the GoN issuing bonds of various maturities ranging from two to 20 years since the return to civilian rule in 1999. The GoN has issued bonds to restructure the GoN domestic debt portfolio from short-term to medium- and long-term instruments. Some state governments have issued bonds to finance development projects; while some domestic banks have used the bond market to raise additional capital. The Nigerian Securities and Exchange Commission (NSEC) has issued stringent guidelines for states wishing to raise funds on capital markets, such as requiring credit assessments conducted by recognized credit rating agencies.

Money and Banking System, Hostile Takeovers

The Central Bank of Nigeria (CBN) currently licenses 21 deposit–taking commercial banks in Nigeria. Following a 2009 banking crisis, CBN officials intervened in eight of 24 commercial banks (roughly one third of the system by assets) due to insolvency or serious undercapitalization and established the government-owned Asset Management Company of Nigeria (AMCON) to address bank balance sheet disequilibria via discounted purchases of non-performing loans. The Nigerian banking sector emerged stronger from the crisis thanks to a number of reforms undertaken by the Central Bank of Nigeria (CBN) including the adoption of uniform year-end IFRS financial reporting to increase transparency, a stronger emphasis on risk management and corporate governance, and the nationalization of three distressed banks. In 2013 the CBN introduced a stricter supervision framework for the country's top eight banks, identified as "Systematically Important Banks" (SIBs) given they account for more than 70 percent of the industry's total assets, loans and deposits, and their failure or collapse could disrupt the entire financial system and the country's real economy. These eight banks are: First Bank of Nigeria, United Bank for Africa, Zenith Bank, Access Bank, Ecobank Nigeria, Guaranty Trust Bank, Skye Bank, and Diamond Bank. Under the new supervision framework, the operations of SIBs are closely monitored with regulatory authorities conducting stress tests on the SIBs' capital and liquidity adequacy. Moreover, SIBs are required to maintain a higher minimum capital adequacy ratio of 15 percent.

The CBN supports non-interest banking. Both Jaiz Bank International Plc and Stanbic IBTC Plc have established Islamic banking operations in Nigeria. Jaiz Bank International commenced operations in 2012. Two financial institutions, First Securities Discount House Limited and Rand Merchant Bank, a subsidiary of FirstRand of South Africa, were each granted merchant bank licenses in November 2012, and are expected to commence operation in 2013.

10. Competition from State-Owned Enterprises

The Government has privatized most State-Owned Enterprises (SOEs) to encourage more efficient operations, most recently the state-owned telecommunications company, NITEL, and its mobile subsidiary, MTEL.

The biggest and arguably most important state-owned enterprise is the Nigerian National Petroleum Corporation (NNPC), responsible for exploration, refining, petrochemicals, products transportation and marketing. NNPC owns and operates Nigeria's four refineries (one each in Warri and Kaduna and two in Port Harcourt), all of which operate far below their original installed capacity. There is an ongoing drive to encourage private investment in refineries and, in a bid to attract such investment; the GON says it plans to deregulate the downstream sector fully. Nigerian cement conglomerate Dangote has committed to building a USD 9 billion, 500,000 barrel per day refinery and petrochemical plant in the Lagos area which it expects to begin operating by 2017. The NNPC carries out its work through 12 subsidiary companies, including:

- Nigerian Petroleum Development Company (NPDC)
- The Nigerian Gas Company (NGC)
- The Products and Pipelines Marketing Company (PPMC)
- Integrated Data Services Limited (IDSL)
- National Engineering and Technical Company Limited (NETCO)
- Hydrocarbon Services Nigeria Limited (HYSON)
- Warri Refinery and Petrochemical Co. Limited (WRPC)
- Kaduna Refinery and Petrochemical Co. Limited (KRPC)
- Port Harcourt Refining Co. Limited (PHRC)
- NNPC Retail
- Duke Oil

Another key SOE is the Transmission Company of Nigeria (TCN), responsible for the operation of Nigeria's national electrical grid. Private power generators have accused the TCN grid of significant inefficiency and inadequate technology. The TCN is a wholly owned subsidiary of the Nigeria Electricity Regulatory Commission.

OECD Guidelines on Corporate Governance of SOEs

Nigerian SOEs are not governed by OECD Guidelines on Corporate Governance.

Sovereign Wealth Funds

The Nigeria Sovereign Investment Authority (NSIA) is the manager of Nigeria's Sovereign Wealth Fund. It was created by the Nigeria Sovereign Investment Authority Act in 2011 and began operation the following year with seed capital of USD 1 billion. It was created to receive, manage and grow a diversified portfolio that will eventually replace government revenue currently drawn from non-renewable resources, primarily hydrocarbons.

The NSIA is a public agency that subscribes to the Santiago Principles which are a set of 24 guidelines that assign "best practices" for the operations of Sovereign Wealth Funds globally. The NSIA invests through three funds: the Future Generations Fund for diversified portfolio of long term growth, the Nigeria Infrastructure Fund for domestic infrastructure development, and the Stabilization Fund to act as a buffer against short-term economic instability. The Embassy has not received any report or indication that the activities of the NSIA limit private competition.

11. Corporate Social Responsibility

Large local and foreign enterprises generally follow Corporate Social Responsibility (CSR) principles as a way to identify with the communities in which they operate and display support for GON initiatives.

OECD Guidelines for Multinational Enterprises

Nigeria is not an adhering government to the OECD Guidelines for Multinational Enterprises. Most FDI is in Nigeria's oil and gas sector, carried out by multinational corporations who adhere to international CSR standards.

12. Political Violence

Political, religious, and ethnic violence continue to affect Nigeria. Boko Haram, formally known as Jama'tu Ahlis Sunna Lidda'awati Wal-Jihad, has waged a terrorist campaign across a growing number of northern states, calling for the institution of Shari'a law across Northern Nigeria. Such attacks have resulted in thousands of deaths since 2009. Boko Haram has targeted churches, mosques, government installations, educational institutions, and leisure sites with Improvised Explosive Devices (IEDs) and Suicide Vehicle-borne IEDS across nine Northern states and in Abuja. In 2011, Boko Haram bombed the National Police Force headquarters and conducted a suicide car bombing of the United Nations headquarters in Abuja. Attacks on innocent civilians accelerated from late 2013 through 2014. In 2013, Boko Haram claimed responsibility for raiding educational institutions and murdering students. In 2014, Boko Haram began using young girls as agents of suicide bomb attacks. Due to challenging security dynamics in the North, the U.S. Diplomatic Mission to Nigeria has significantly limited official travel north of Abuja. Such trips occur only with security measures designed to mitigate the threats of car-bomb attacks and abductions.

Decades of neglect, persistent poverty, and environmental damage caused by the oil and gas industry has left Nigeria's oil rich Niger Delta region vulnerable to renewed violence. The 2009 amnesty of Delta militants significantly reduced attacks on pipelines and other petroleum facilities, increasing oil production from 700,000 barrels per day (bpd) at the peak of militancy to about 2 million bpd today. However, the sector still faces egregious onshore oil theft and maritime criminality, substandard infrastructure, and byzantine regulation that dampen oil and gas production and impede the sector's further growth.

Though each oil producing state receives a 13 percent derivation of the oil revenue produced within its borders, and the Niger Delta Development Corporation (NDDC) receives an additional USD 1 billion in annual funding to implement social and economic development projects, the Niger Delta suffers from endemic poverty and dismal federal government services.

Endemic corruption and environmental devastation caused by decades of oil spills remain largely unaddressed. State and local governments offer few social services, and Niger Delta residents continue to seek direct payments and other assistance from oil companies. Some oil companies have implemented their own socio-economic development programs to assist local communities, but the virtual absence of concerted government attention to the needs of these communities means many of them remain angry and resentful of oil production activities in their region. The limited scope and timeframe of the amnesty program (set to expire in 2015), a shortage of sufficient employment opportunities for both the thousands of amnesty beneficiaries as well as other underserved youth, and the federal government's failure to address the region's underlying grievances could result in a resumption of broader and more violent criminal activity without concerted government action.

13. Corruption

Government Procurement

The GON awards contracts under an open-tender system, advertising tenders in Nigerian newspapers and a "tenders" journal, and opening the tenders to domestic and foreign companies. Procurement has become slightly more transparent, but allegations of large-scale corruption in the awarding of government contracts persist. Procurement for capital projects often suffers from over-invoicing, which permits improper payments or "kick-backs" to private and public sector officials. Many U.S. companies claim they remain disadvantaged in obtaining GoN contracts, even when they appear to have submitted the best bids in technical and financial terms. Unsuccessful U.S. bidders sometimes allege collusion between foreign competitors and key GoN officials.

The Public Procurement Law of 2007 established the Bureau of Public Procurement (BPP) as the successor agency to the Budget Monitoring and Price Intelligence Unit (BMPIU). The BPP acts as a clearinghouse for government contracts and procurement and monitors the implementation of projects to ensure compliance with contract terms and budgetary restrictions. Procurements above 100 million naira (about USD 641,000) reportedly undergo full "due process." Some of the 36 states of the federation have also passed public procurement legislation.

Businesses report that bribery of customs and port officials remains common, and smuggled goods routinely enter Nigeria's seaports and cross its land borders.

Domestic and foreign observers identify corruption as a serious obstacle to economic growth and poverty reduction. Nigeria scored 25 out of 100 in Transparency International's 2013 Corruption Perception Index (CPI), placing it in the 144th position out of the 177 countries ranked. The Economic and Financial Crimes Commission (EFCC) Establishment Act of 2004 established the EFCC to prosecute individuals involved in financial crimes and other acts of economic "sabotage." The EFCC has encountered the most success in prosecuting low-level Internet scam operators. A relative few high-profile convictions have taken place, such as a former governor of Bayelsa State, a former Inspector General of Police, and a former Chair of the Board of the Nigerian Port Authority. However, in the case of the convicted governor of Bayelsa State, the President of Nigeria pardoned him in March 2013.

The Corrupt Practices and Other Related Offences Act of 2001 established an Independent Corrupt Practices and Other Related Offences Commission (ICPC) to prosecute individuals, government officials, and businesses for corruption. The Act punishes over 19 offenses, including accepting or giving bribes, fraudulent acquisition of property, and concealment of fraud. Nigerian law stipulates that giving and receiving bribes constitute criminal offences and, as such, are not tax deductible. ICPC investigations have resulted in 8 convictions in 2013, bringing the total since its inauguration to 68 cases. In April 2014, a presidential committee set up to review Nigeria's ministries, departments, and agencies (MDAs) recommended that the EFCC, the ICPC, and the Code of Conduct Bureau (CCB) be merged into one organization. The federal government, however, rejected this proposal to consolidate the work of these three anti-graft agencies.

Nigeria gained admittance into the Egmont Group of Financial Intelligence Units (FIUs) in May 2007. The Paris-based Financial Action Task Force (FATF) removed Nigeria from its list of Non-Cooperative Countries and Territories in June 2006. In October 2013, the FATF decided that Nigeria had substantially addressed the technical requirements of its FATF Action Plan and agreed to remove Nigeria from its monitoring process conducted by FATF's International Cooperation Review Group (ICRG). The Nigeria Extractive Industries Transparency Initiative (NEITI) Act of 2007 provided for the establishment of the NEITI organization, charged with responsibility to develop a framework for transparency and accountability in the reporting and disclosure by all extractive industry companies of revenue due to or paid to the GON. NEITI serves as a member of the international Extractive Industries Transparency Initiative (EITI), which provides a global standard for revenue transparency for extractive industries like oil and gas and mining.

UN Anticorruption Convention, OECD Convention on Combatting Bribery

Nigeria is party to the United Nations Convention against Corruption. Nigeria is not a member of the OECD and not party to the OECD Convention on Combating Bribery.

Resources to Report Corruption

Economic and Financial Crimes Commission. Hotline: +234 9 9044752 or +234 9 9044753. Headquarters: No. 5, Fomella Street, Off Adetokunbo Ademola Crescent, Wuse II, Abuja, Nigeria. Branch offices in Ikoyi, Lagos State; Port Harcourt, Rivers State; Independence Layout, Enugu State; Kano, Kano State; Gombe, Gombe State.

Independent Corrupt Practices and Other Related Offences Commission:
Abuja Office - Headquarters
Plot 802 Constitution Avenue, Central District, PMB 535, Garki Abuja
Phone/Fax: 234 9 523 8810 Email: info@icpc.gov.ng

14. Bilateral Investment Agreements

The GoN signed a Trade and Investment Framework Agreement (TIFA) with the United States in 2000. Nigeria has bilateral investment agreements with Algeria, Bulgaria, China, Egypt, Ethiopia, France, Finland, Germany, Italy, Jamaica, Montenegro, The Netherlands, North Korea, Romania, Serbia, South Africa, South Korea, Spain, Sweden, Switzerland, Taiwan, Turkey, Uganda, and The United Kingdom. Twelve of these treaties (those with France, Finland, Germany, Italy, The Netherlands, Romania, Serbia, South Korea, Spain, Switzerland, Taiwan and The United Kingdom) have been ratified by both parties. The GoN and Canada concluded negotiations in May 2013 for a Foreign Investment Promotion and Protection Agreement. GoN officials blame treaty partners for the lack of ratification, but the ratification process within the GoN has not proven proactive or well-organized. U.S. and Nigerian officials held their latest round of TIFA talks in March 2014.

Bilateral Taxation Treaties

Nigeria is a party to double taxation agreements with thirteen countries, the latest of which (with the Philippines) became effective January 1, 2014. Nigeria does not have such an agreement with the United States.

15. OPIC and Other Investment Insurance Programs

The U.S. Overseas Private Investment Corporation offers all its credit and risk products to U.S. investors in Nigeria.

16. Labor

Nigeria's skilled labor pool has declined over the past decade due to inadequate educational systems, limited employment opportunities, and the migration of educated Nigerians to other countries, including the United Kingdom, the United States, and South Africa. The low employment capacity of Nigeria's formal sector means that almost three-quarters of all Nigerians work in the informal and agricultural sectors or are unemployed. Companies involved in formal sector businesses such as banking and insurance possess an adequately skilled workforce (often trained abroad in private institutions or at the better-funded universities). Manufacturing sector workers often require on the job training. The result is that while individual wages are low, individual productivity is low and overall labor costs can be high.

The Right of Association

Nigeria's constitution guarantees the rights of free assembly and association and protects workers' rights to form or belong to trade unions. Several statutory laws, nonetheless, restrict the rights of workers to associate or disassociate with labor organizations. Nigerian unions belong to one of two trade union federations, the Nigeria Labor Congress (NLC), which tends to represent junior (i.e., blue collar) workers, and the Trade Union Congress of Nigeria (TUC) representing the "senior" (i.e., white collar) workers. According to figures provided by the Ministry of Labor and Productivity, total union membership stands at roughly 7 million. A majority of these union members work in the public sector, although unions exist across the private sector. The Trade Union Amendment Act of 2005 allowed non-management senior staff to join unions. Nigeria's largest labor federation, the NLC, contains 42 industrial unions; the TUC includes 18.

Collective Bargaining

Collective bargaining occurred throughout the public sector and the organized private sector in 2014. However, public sector employees have become increasingly concerned about the GoN and state governments' failure to honor previous agreements from the collective bargaining process. For instance, in 2013 a five-month strike by the Academic Staff Union of Universities (ASUU) was the result of the GoN failing to implement a 2009 agreement. President Jonathan signed legislation in 2011 amending the Minimum Wage Act to raise the minimum wage to 18,000 naira (or what was then about USD 110) per month. Union leaders have complained that some state governors did not fully implement the Act, citing its budget implications, and in response unions staged strikes in some states.

Collective bargaining in the oil and gas industry is relatively efficient compared to other sectors. Issues pertaining to salaries, benefits, health and safety, and working conditions tend to be resolved quickly through negotiations. One exception is a long-standing, unresolved dispute over the industry's use of contract labor.

Workers under collective bargaining agreements cannot participate in strikes unless their unions comply with the requirements of the law, which includes provisions for mandatory mediation and referral of disputes to the GoN. Despite these restrictions on staging strikes, unions occasionally conduct strikes in the private and public sectors without warning. Localized strikes occurred in the education, government, energy, power, and healthcare sectors in 2014. The law forbids employers from granting general wage increases to workers without prior government approval, but the law is not often enforced.

The Nigerian Minister of Labor and Productivity may refer unresolved disputes to the Industrial Arbitration Panel (IAP) and the National Industrial Court (NIC). Union officials question the effectiveness and independence of the NIC, believing it unable to resolve disputes stemming from GON failure to fulfill contract provisions for public sector employees. Union leaders criticize the arbitration system's dependence on the Minister of Labor and Productivity’s referrals to the IAP.

Child Labor

Nigeria’s laws regarding minimum age for child labor and hazardous work are inconsistent. Article 59 of the Labor Act of 1974 sets the minimum age of employment at 12, and it is in force in all 36 states of Nigeria. The Act also permits children of any age to do light work alongside a family member in agriculture, horticulture, or domestic service.

The Federal 2003 Child’s Right Act (CRA) codifies the rights of children in Nigeria and must be ratified by each State to become law in its territory. There were no new adoptions of the CRA during the reporting period. To date, 23 states and the Federal Capital Territory have ratified the CRA, with 12 of the remaining 13 states located in northern Nigeria.

The CRA states that the provisions related to young people in the Labor Act apply to children under the CRA, but also that the CRA supersedes any other legislation related to children. The CRA restricts children under the age of 18 from any work aside from light work for family members; however, Article 59 of the Labor Act applies these restrictions only to children under the age of 12. This language makes it unclear what minimum ages apply for certain types of work in the country.

While the Labor Act forbids the employment of youth under age 18 in work that is dangerous to their health, safety, or morals, it allows children to participate in certain types of work that may be dangerous by setting different age thresholds for various activities. For example, the Labor Act allows children age 16 and older to work at night in gold mining and the manufacturing of iron, steel, paper, raw sugar, and glass. Furthermore, the Labor Act does not extend to children employed in domestic service. Thus, children are vulnerable to dangerous work in industrial undertakings, underground, with machines, and in domestic service. In addition, the prohibitions established by the Labor Act and CRA are not comprehensive or specific enough to facilitate enforcement. In 2013, the National Steering Committee for the Elimination of the Worst Forms of Child Labor in Nigeria (NSC) validated the Report on the Identification of Hazardous Child Labor in Nigeria. Currently, the report is with the MOLP for the promulgation of guidelines for operationalizing the report.

Acceptable Conditions of Work

Nigeria's Labor Act provides for a 40-hour work week, two to four weeks of annual leave, and overtime and holiday pay for all workers except agricultural and domestic workers. No law prohibits compulsory overtime. The Act establishes general health and safety provisions, some of which specifically apply to young or female workers, and requires the Ministry of Labor and Productivity inspect factories for compliance with health and safety standards. Under-funding and limited resources undermine MOLP oversight capacity, and construction sites and other non-factory work sites are often ignored. Nigeria's labor law requires employers to compensate injured workers and dependent survivors of workers killed in industrial accidents.

17. Foreign Trade Zones/Free Ports/Trade Facilitation

The Nigerian Export Processing Zone Authority (NEPZA) allows duty-free import of all equipment and raw materials into its export processing zones. Up to 25 percent of production in an export processing zone may be sold domestically upon payment of applicable duties. Investors in the zones are exempt from foreign exchange regulations and taxes and may freely repatriate capital. The GoN also encourages private sector participation and partnership with state and local governments under the free trade zones (FTZ) program, resulting in the establishment of the Lekki FTZ (owned by Lagos state), and the Olokola FTZ (owned by the federal government, Ogun state, Ondo state, and private oil companies and straddling Ogun and Ondo states). Workers in FTZs may unionize, but may not strike for an initial ten-year period.

18. Foreign Direct Investment and Foreign Portfolio Investment Statistics

Table 2: Key Macroeconomic Data, U.S. FDI in Host Country/Economy

	Host Country Statistical source*		USG or international statistical source		USG or International Source of Data: BEA; IMF; Eurostat; UNCTAD, Other
Economic Data	**Year**	**Amount**	**Year**	**Amount**	
Host Country Gross Domestic Product (GDP) ($M USD)	2014	N/A	2014	523,000	www.worldbank.org/en/country

Foreign Direct Investment	Host Country Statistical source*		USG or international statistical source		USG or international Source of data: BEA; IMF; Eurostat; UNCTAD, Other
U.S. FDI in partner country ($M USD, stock positions)	2013	N/A	2013	8,100	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Host country's FDI in the United States ($M USD, stock positions)	2013	N/A	2013	-3	BEA data available 3/19/14 at http://bea.gov/international/direct_investment_multinational_companies_comprehensive_data.htm
Total inbound stock of FDI as % host GDP	N/A	N/A	N/A	N/A	

*Provide sources of host country statistical data used

Table 3: Sources and Destination of FDI

The stock of U.S. foreign direct investment (FDI) in Nigeria was USD 8.1 billion in 2013 (latest data available), down from USD 8.4 billion in 2012. U.S. FDI in Nigeria continues to be led by the oil and gas sector, although there is substantial new investment from the United States and other countries in Nigeria's power, telecommunications, real estate (commercial and residential), and agricultural sectors.

According to U.N. Conference on Trade and Development (UNCTAD) data, in 2013 Nigeria's FDI inflow was USD 5.6 billion (down 21.3% from USD 7 billion in 2012) and its total stock of FDI was valued at USD 82 billion in 2013 (nearly 10% of which is from the United States), up from USD 76.3 billion in 2012. Nigeria was the third largest recipient of FDI in Africa in 2013 (after South Africa and Mozambique), but the USD 5.6 billion received that year was the lowest FDI into Nigeria since 2006. Some FDI goes to telecommunications, real estate (including commercial and residential), and manufacturing, but total investment in the non-oil and gas sector remains small relative to investment in the oil and gas sector.

Direct Investment from/in Counterpart Economy Data					
From Top Five Sources/To Top Five Destinations *(US Dollars, Millions)*					
Inward Direct Investment			**Outward Direct Investment**		
Total Inward	94960	100%	Total Outward	N/A	100%
Netherlands	17223	18%	N/A	N/A	N/A
China, P.R. Mainland	13509	14%	N/A	N/A	N/A
Bermuda	13016	14%	N/A	N/A	N/A
Virgin Island, British	10702	11%	N/A	N/A	N/A
United Kingdom	10090	11%	N/A	N/A	N/A
"0" reflects amounts rounded to +/- USD 500,000.					

Source: IMF Coordinated Direct Investment Survey

Table 4: Sources of Portfolio Investment

Portfolio investment statistics are unavailable for Nigeria.

19. Contact for More Information

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