REDEFINING THE EASE OF DOING BUSINESS IN NIGERIA

Introduction

Nigeria is currently ranked 169 out of 189 countries in the World Bank Ease of Doing Business index. This is a small improvement on Nigeria’s ranking of 170 in 2015, and 175 in 2014. Nigeria’s average ranking between 2008 and 2015 was 141, reaching an all-time high of 108 in 2008 and a record low of 175 in 2014.

In view of the current state of Nigeria’s economy, which is faced with dwindling oil revenues, devaluation of the Naira and a slowing GDP growth rate; it has become imperative to go back to the drawing board to redefine Nigeria’s investment climate. At the National Economic Council’s (NEC) two-day retreat held earlier this year, the President, State Governors and Ministers proposed 71 policy reforms aimed at reviving Nigeria’s economy. The Ministry of Industry, Trade & Investment (MITI) was tasked with developing a matrix of measures to be undertaken by the Federal and State Governments to improve Nigeria’s ranking on the World Bank Ease of Doing Business Index.

In light of this background, this article will consider the successes in ease of doing business reform in the other MINT countries (Mexico, Indonesia and Turkey) in comparison with the current processes in Nigeria. The comparison will be based on 5 of the 10 indicators of the Ease of Doing Business Index, with the aim of proposing similar measures which may be adopted in Nigeria. The five indicators are:

(i) Ease of registering a Business
(ii) Simplifying the mode of paying taxes
(iii) Enforcing contracts
(iv) Registering property
(v) Access to electricity

What some of the MINT countries are getting right

Policy reforms in some of the MINT countries, and other countries that have been ranked consistently in the top 20 per centile of the index, have focused on key areas such as the use of technology-based platforms in reducing lengthy administrative procedures and on providing more financial incentives. These have in turn contributed to improving the ease of doing business in these countries.

Mexico created an online One Stop Shop, which permits business name availability searches to be conducted in minutes. The system has made it possible for all company registration documents to be submitted via a single portal, complete with an online notary service. With this, registration processes can be completed in 2 to 3 days. Using the same approach, the 13-step procedure involved in registering a business in Indonesia, which previously took up to 47 days, was cut down to 7 procedures to span 10 days. In addition to leveraging on available technology, Indonesia also empowered the Ministry of Law and Rights to issue incorporation certificates.
Indonesia and Mexico recorded significant improvements in tax revenue with the introduction of a mandatory electronic filing and payment system, an approach which has made paying taxes less cumbersome. Both countries also recorded considerable development with respect to registration of property. Indonesia eased the processes required for the transfer of property by implementing strict time limits for procedures at the land registry. Mexico’s approach involved reducing the cost of registering property, through the introduction of a revised fee schedule.

Legislative reforms to strengthen contract enforcement in Mexico resulted in the creation of small courts to specifically cater for such contractual matters that require expedient settlement. Turkey, on the other hand, embarked on a legislative reform of its civil procedure law and introduced a simplified electronic process to cut down filing and processing times.

A. Ease of registering a Business

Registering a company in Nigeria is done through the Corporate Affairs Commission (CAC). The Commission has offices in all the States across Nigeria. However, only the headquarters in Abuja offers expedited registration services. Nigeria is currently ranked 139 out of the 189 countries rated globally with respect to the “Ease of Registering a Business” on the World Bank Ease of Doing Business Index.

The incorporation process is heavily dependent on manual processes which are prone to errors and delays. To solve this problem, the Commission should expand the scope of its online registration portal to cover all incorporation services. This approach which has proved successful in highly-ranked countries will make the process more efficient and help reduce the large volume of administrative procedures at the Commission’s offices.

The Nigerian Investment Promotions Commission’s (NIPC) One Stop Investment Centre (OSIC), which is an investment facilitation mechanism, coordinates and streamlines investor registration and permits, by bringing relevant government agencies to one location. This measure has helped provide more efficient service to investors. For ease of access, the centre can adopt an online platform which would exclusively offer expedited registration services and specific registration needs as an added incentive. With a fully functional online system, the Corporate Affairs Commission can focus on expanding its service outreach in each State through the use of accredited third party agents.

The current accreditation structure open to only lawyers, chartered accountants and chartered secretaries, should be revised. A new accreditation system should include a training programme for accredited agents with the aim of expanding the scope of services offered, one of which can be to help with the issuance of e-certificates, pending the issuance of the original certificate by the Commission. These agents upon accreditation will have access to a Certificate repository, to retrieve and issue e-certificates faster as opposed to relying solely on the Commission to oversee the entire process. With this in place, the Commission’s offices in different States will solely serve as State headquarters; this will allow the Commission channel funds and other resources towards investing in manpower and equipment to aid the entire process.

B. Simplifying the mode of paying taxes

Nigeria is currently ranked 181 out of the 189 countries rated globally with respect to the “Ease of Paying Taxes” on the World Bank Ease of Doing Business Index. Filing of taxes is a challenge in Nigeria. As a result, tax revenue collection is significantly lower compared to other countries with more simplified systems of tax collection. As Nigeria seeks to improve the mode of tax collection, it is vital to review tax policies to make the process less complicated, expand the existing tax incentives and switch to a fully electronic system for registering and paying taxes.

The introduction of the Integrated Tax Administration System (ITAS) project by the Federal Inland Revenue Service (FIRS) in 2013 was a step in the right direction. This was followed with the e-Tax Pay Solution in 2015. In an effort to further simplify the tax payment process and eliminate the hurdles associated with issuing Tax Clearance Certificates (TCC), the FIRS announced on the 26th of April, 2016 that the process of
issuing TCCs will be reviewed in an effort to abridge the process and make it less cumbersome.

Although there have been teething problems that have hindered the full utilization of the e-Tax pay Solution, redefining the existing tax payment system can be achieved through a combination of effective management and public enlightenment. To achieve this, the FIRS should consider creating a specialized unit within the FIRS to promote public awareness and educate Nigerians on the use of the systems in place. The success or failure of these measures is dependent on the enforcement of tax laws and an aggressive roll out campaign championed by the Federal Government to promote the use of the online system and send a firm message on non-compliance of tax payment obligations.

C. Enforcing Contracts

Nigeria is ranked 143rd out of the 189 countries rated globally with respect to the “Ease of Enforcing Contracts” on the World Bank Ease of Doing Business Index. The existence of an efficient contract enforcement structure and a strong judiciary are key indicators associated with jurisdictions that have experienced economic development and sustained growth. The judicial process in Nigeria suffers from weak institutions and legislations are easily exploited to create undue delays in enforcing contracts. Investors often seek out jurisdictions that safeguard the sanctity of contracts and provide speedy recourse in the event of a default. To encourage foreign investors’ confidence in the Nigerian economy, the Government has over the years been able to enter into bilateral Investment Promotion and Protection Agreements (IPPAs) with countries which desire to do business in Nigeria (Some of such countries include France, United Kingdom, Netherlands, Romania, Switzerland, Spain and South Africa). It is important to build on such progressive strides towards changing the outlook of the Nigerian business climate.

In seeking to redefine the lapses owing to the existence of weak institutions and legislation, it is important to ensure that in addition to reviewing existing legislation, adequate measures are put in place to ensure credibility and efficiency of judicial processes. Taking steps to rebuild the credibility of the government towards contract enforcement should also be prioritized.

As the courts remain overwhelmed with an ever-growing backlog of cases, it is important to explore various means to accommodate and expedite the process of enforcing contracts under the Nigerian court system. As seen from the other MINT countries, the contract enforcement process has been revamped through the introduction of electronic filing systems and legislative reforms that have majorly focused on streamlining the process and fixing loopholes that are easily exploited in the course of enforcing legally binding contracts.

Over the last couple of years, e-filing systems have been introduced in Nigerian courts (mainly the High Court in Abuja, Lagos State High Court and the Court of Appeal). Although, hailed as an innovation that has hastened the judicial process to an extent, it is largely underutilized due to operational challenges. A major problem has been the change in management required to fully accommodate the system which is yet to catch on. To make the system more functional, significant funds will be needed for infrastructure, aggressive training and enlightenment programmes. Furthermore, the implementation will need to be phased, as opposed to a full implementation roll out.

D. Registering Property

The process involved in registering property in Nigeria can be overwhelming and complex owing to the existence of a weak institutional framework, cumbersome regulatory structures and outdated laws. Nigeria is ranked 181 out of the 189 countries rated globally with respect to the “Ease of Registering Property” on the World Bank Ease of Doing Business Index. The current institutional structure is fraught with incessant delays, most especially with respect to obtaining Governor’s consent which can sometimes take years. The system is clogged with bureaucratic obstacles, administrative malpractices and very high costs (up to 15% of the property value). Although some States have taken steps to unclog the process and cut associated costs, there is still a long way to go with respect to easing the overall process.
Land transactions in Nigeria require the consent of the Governor of the concerned State by virtue of the Land Use Act which vests all land within each State (with the exception of land vested in the Federal Government or any Agency of the Federal Government) to be granted solely by the Governor of the State. These transactions have to be registered at the Lands Registry. The Land Registries in Nigeria do not have records that cover all lands, and there is also a gap in required verification especially in areas that lack institutionalized information on land. Investors seeking property-backed investments and transactions are more inclined to invest in jurisdictions where all property transactions can be publicly verified and authenticated at the Land Registry.

In addressing the challenges with respect to registering property in Nigeria, it is important to focus on revising the existing property legislation, reducing associated costs and strengthening the Land Registries. This will involve aggressively addressing the bureaucratic obstacles that cause undue delays in registering property in Nigeria by streamlining the title perfection process. Lagos State, for instance, has taken steps to address this with the initiatives such as the Lagos State Mortgage law and the 30-Day Governor’s consent guidelines. The latter proposes strict timelines for each procedure with the aim of developing a system where the entire process can be completed in 30 days or less. These measures will also go a long way in providing incentives that boost the mortgage contribution to the GDP in Nigeria which is currently as low as 0.12%.

**E. Access to electricity**

Reliable supply and access to electricity are key components for business growth. Nigeria is currently ranked 182 out of the 189 countries rated globally with respect to the “Ease of Access to Electricity” on the World Bank Ease of Doing Business Index. Nigeria’s reliance on on-grid generation has been plagued by several constraints, some of which include unavailability of gas, inadequacy of the transmission infrastructure as well as liquidity issues in the Nigerian Electricity Supply Industry. It is time that the Federal and State governments realized that the answer lies with utilizing off-grid solutions in the short and medium terms, whilst significantly reducing sole reliance on the grid. Government needs to aggressively promote and focus on implementing policies that attract investment in various off-grid solutions, embedded generation and micro grids, in order to improve access to electricity.

In particular, studies have shown that mini-grids require capital investments in the range of about $40 to $400 million. There is also an opportunity for State Governments to develop micro grids through renewable energy. As renewable energy sources vary in different locations, it is important for the State Governments to initiate State-owned power projects thereby maximizing the renewable energy sources most readily available in each State. Where renewable energy micro grids are created, the load on the main grid can be reduced and more resources will be channeled towards rehabilitating and expanding the existing power infrastructure.

**Conclusion**

As Nigeria seeks to improve the ease of doing business within her shores, the focus of the newly created Presidential Ease of Doing Business Council should be on strengthening existing institutions, prioritizing technology adoption and clogging loopholes that have been exploited to perpetuate all forms of administrative malpractices. Furthermore, the Federal Government should facilitate productive dialogue with State Governments and private sector investors to
address barriers to doing business by developing approaches that promote market access across the country. The focus of the dialogue should also be to propose and implement required policy reforms aimed at reducing challenges peculiar to doing business in Nigeria.

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