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WTO Trade Policy Review: Nigeria*

Note: This text provides brief description of the conditions foreign business will encounter in trade with Nigeria. It is based on a WTO Trade Policy Review for Nigeria, late June 2011. Readers wishing for deeper analysis should turn to the original Trade Policy Review available on the WTO website. (www.wto.org/english/tratop_e/tptr_e/tp347_e.htm)

Trade Policy Reviews are an exercise, mandated in the WTO agreements, in which member countries' trade and related policies are examined and evaluated at regular intervals.

Nigeria has benefited from several years of robust economic growth, averaging over 6% per year in real terms since 2005. Growth has been quite broadly based with wholesale and retail trade, communications, and agriculture contributing most strongly. Despite high oil prices, the importance of the petroleum sector to the economy has actually declined, from 27% to 16% of GDP during 2003-09. However, although oil and gas employ relatively few people, they continue to be critical for the economy as they make up over 90% of exports and 80% of government revenue as well as being the main objective for foreign direct investment.

Nigeria's international trade more than doubled in the 2003-09 period, with exports rising to nearly US\$50 billion and imports to nearly US\$34 billion. Although oil accounts for nearly all the value of exports there was strong growth in exports of agriculture products over this period. Tariffs are the main trade policy instrument, as Nigeria has been aligning its tariff with the ECOWAS common external tariff. As a result, the average applied MFN tariff declined from 29% in 2003 to 12% in 2009. However, the average bound tariff was 118% in 2009 and only 20% of tariff lines are bound. The significant gap between the average applied MFN tariff rates and the average bound rates, and the low coverage of bindings makes the tariff quite unpredictable and acts as a significant disincentive to investment.

* Extracted from WTO Secretariat Report on Trade Policy Review Nigeria

In addition to tariffs, Nigeria charges a number of additional duties on imports, which vary from one product to another and can add considerably to the cost of business. There are also some inconsistencies in taxes charged on imported goods and domestically produced goods. For example, excise duties are not levied on imports, only on domestically produced goods. In addition to facing tariffs and other duties, imports entering Nigeria by road cannot be in containers, which place an additional obstacle to regional trade while doing nothing to reduce congestion in the sea ports. Nigeria also has two import prohibition lists: the Absolute Import Prohibition List, which is based on security, health, and morality grounds; and the Import Prohibition List, which is used mostly to protect domestic industry and which has been reduced steadily over the past few years.

Exports are also subject to some taxes and restrictions. All exports of goods are subject to a levy of 0.5% to cover the cost of preshipment inspection, even exports to destinations that do not require preshipment inspection. Some goods are also subject to an export prohibition, and there are some inconsistencies between this list and the import prohibition list, with imports of some food products prohibited in order to reduce competition for domestic producers and exports of other food products prohibited on the grounds of food security. According to the authorities, legislation is currently being prepared to abolish the export prohibition list.

Customs procedures have been simplified over the last six years with the introduction of improved systems and increased automation. However, the customs legislation is out of date and does not provide for modern processing and clearing methodology and techniques. New legislation to replace the Customs and Excise Management Act is being prepared and is expected to be enacted during the current year. The draft legislation allows for the use of electronic documents, signatures, and payments as well as the application of proper risk management, post-clearance audits, and special simplified procedures for qualified traders. Furthermore, it will strengthen the penalty structure to ensure an adequate level of deterrence.

To encourage investment, Nigeria provides a broad range of incentives nearly all of which are tax or import-tariff related and apply to enterprises producing for the domestic as well as export markets. In addition, 11 ex-

port processing zones, with more under development, are overseen by the Nigerian Export Processing Zone Authority. Despite these incentives, foreign direct investment remains concentrated in the oil and gas sector. In order to improve services for investors the One Stop Investment Centre was opened in the Nigerian Investment Promotion Commission in March 2006. The Centre brings together the agencies responsible for the processes, procedures, and requirements for business entry permits, licences, and authorizations in order to reduce the cost of a business entering and establishing in Nigeria by simplifying procedures and speeding up the processing of application forms.

Nigeria enacted a new Public Procurement Act in 2007. The Act created the National Council on Public Procurement and the Bureau of Public Procurement. This legislation is expected to reduce corruption and improve the transparency and efficiency of the public procurement process.

In the early 2000s, Nigeria made considerable progress in privatization and the programme continues with some successes, such as in concessions for operating ports, which have resulted in improved services. However, in other areas progress has been much slower and in some, such as steel and telecommunications, sales have been annulled. Current activity is concentrated in the power sector.

Although the petroleum sector dominates the economy, agriculture is more important to most Nigerians as it represents over half of employment. Agriculture production has been increasing steadily for several years as it has benefited from better prices, a more stable policy environment, and the revaluation of the naira. However, it is still operating well below potential and the challenges facing agriculture in Nigeria are considerable. The small size of farms, the low levels of mechanization and input use, poor infrastructure, and many other problems need to be addressed, not least of which is the high level of post-harvest losses due to pests, poor transport, and storage conditions. Some of these problems are being addressed by current programmes. Furthermore, a legal bill to address land tenure has been prepared but has yet to go before the National Assembly. Improved tenure would also enable farmers to obtain better access to credit as their land could provide collateral for loans.

Although the gas and petroleum sector is critical to the economy it too faces challenges, and production is well below potential due to security failures and subsequent damage to infrastructure as well as leaks and theft from pipelines. The complex set of policies, taxes, rents, royalties, and other rules and charges also discourages investment. The new Petroleum Industry Bill, currently before the National Assembly, would help to clarify and simplify them as well as addressing possible conflicts of interest in the state agencies involved in investing in the sector and overseeing the industry. In the downstream petroleum sector, Nigeria continues to be a net importer of refined petroleum products as its refineries operate below capacity and cannot meet domestic demand while the fuel subsidy encourages greater consumption as well as being a considerable drain on government revenue.

Despite considerable policy reform over the past few years, including the creation of the Nigerian Electricity Regulatory Commission (NERC), Nigeria continues to suffer from inadequate generation, transmission, and distribution of electricity. The Electric Power Sector Reform (EPSR) Act, passed in 2005, provided for the creation of the NERC and the end of the monopoly held by the National Electric Power Authority (NEPA). To encourage investment in the electricity sector, the EPSR Act provides for a number of fiscal incentives, including a tax holiday of up to five years, accelerated capital allowances, investment allowances, tax relief on dividends, and tax exemptions for exports of electricity. Furthermore, the Roadmap for the Power Sector, unveiled in August 2010, includes the sale to private investors of majority stakes in the 3 thermal generating plants and 11 distribution units; concession agreements with the private sector for the 6 hydroelectricity plants; and placing the transmission company under a private management company.

During the period under review, the services sector as a whole has performed well, especially telecommunications, which has continued its rapid growth and benefited from increased competition. On the other hand, the banking sector, which underwent consolidation in 2006, was adversely affected by the global financial crisis in 2008, with credit conditions becoming tight and the ratio of non-performing loans to total loans rising. The authorities took a number of measures to ensure the smooth flow of credit and liquidity in the system as well as to keep banks solvent. These measures appear to have been successful.

According to several reports, Nigeria continues to be perceived as highly corrupt and a difficult place in which to do business. Several steps have been taken to address this image, including through legislative measures in the Corrupt Practices and other Related Offences Act, No. 5, 2000, and institutional reform in the Corrupt Practices and Other Related Offences Commission. In addition, other governments have pursued cases where individuals and enterprises resident in their countries have been involved in corrupt practices in Nigeria.

Despite problems, Nigeria's economy continues to grow and to diversify. However, to sustain economic growth at current rates requires further diversification of the economy away from the petroleum sector. This will require significant investment, which, according to the most recent development plan (Vision 20:2020), is to come from the private sector. Attracting private investment will require far-reaching reforms in many areas, including competition law, infrastructure, access to credit and, probably of most immediate concern, adequate regulation of utilities. Additionally, improving investor confidence requires legislation to protect security of investment in such areas as property ownership, intellectual property, and the security of contracts. The authorities are aware of these issues, and draft legislation that deals with many of them has been prepared. However, the step from planning and policy to legislative change and its implementation is slow. In some cases, draft bills that were being considered by the National Assembly at the time of the previous Review of Nigeria in 2005, have yet to be enacted or implemented. The climate for investment, business, and trade in all areas, would benefit from faster translation of official intentions into concrete action. Where this has happened, such as telecommunications, air transport, and maritime port services, the results have been quite dramatic.

The trade policy review process also highlighted problems related to lack of information and poor coordination between official agencies, which are noted in different areas of the report and make any description or assessment of Nigeria's trade policies particularly difficult. Furthermore, without accurate and timely data, policy development, preparing legislation, and working on institutional changes is very difficult and may help to explain the slow pace of change in some areas in Nigeria.