

Free Trade Zones & Nigeria Tax Regime

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“ Since 1991 when the Federal Government established the Export Processing Zone Act, and established the Calabar site, the country has been seen to add a major policy package to make the economy more attractive to foreign investors. Export Processing Zone (EPZ) is an economic legation for FDI to operate free from the Nigeria tax laws, levies, duties and foreign exchange regulations.”

Dr. Jonathan Aremu, Attracting and Negotiating Foreign Direct Investment with Transnational Corporations in Nigeria (2005)

Free Trade Zones & Nigeria Tax Regime

Outline of Presentation

- The Free Trade Zone Concept & Strategic Considerations
- Free Trade Zones in Nigeria: The Legal Framework
 - Legal Framework: Setting the Context
 - Review of NEPZA & OGEFZA Provisions
- The Nigerian FTZ Incentive Scheme
- Tax Implications of FTZ Transactions
- Registered Free Zones in Nigeria
- International Perspectives
- Is Nigerian FTZ Strategy Working?
- Questions & Answers

The Free Trade Zone Concept & Strategic Considerations

The Free Trade Zone Concept & Strategic Considerations

- Intense Competition for Global FDI
- Measures to enhance countries as preferred FDI destinations or 'havens' – eliminate bottlenecks/drive down cost of doing business: tax incentives, liberalisation of investment/exchange control regime, quality infrastructure, education (for skilled manpower), etc.
- FTZs part of strategy – 'investment' or 'production centers' within a country; may be “enclaves with no linkages to the rest of the economy”. “An area within which goods may be landed, handled, manufactured or reconfigured, and re-exported without the intervention of the customs authorities.”

The Free Trade Zone Concept & Strategic Considerations

“The objectives pursued by countries that use free zones have remained constant. The objectives include: development of disadvantaged regions, generating income and employment, attracting investment – especially foreign direct investment, and promoting technology transfer. The objectives ...are usually pursued through free zones by providing a series of incentives to companies and firms operating in those zones.”

- Torres A. Raul “ *Free Zones and the World Trade Organization Agreement on Subsidies and Countervailing Measures*” (2007)
Global Trade and Customs Journal , Vol. 2, Issue 5, 217.

The Free Trade Zone Concept & Strategic Considerations

- FTZs date back to medieval times when towns around the Baltic /in Asia began to exploit the concept of the free port. As other modes of international transport evolved, FTZs also appeared near airports and border crossings.
- FTZs subsequently shed their purely trading nature – becoming ideal location for processing of raw and intermediate materials into finished products, thereby increasing local value added, generate more employment, industrial development and productive investment.
- Many emerging economies active participants: research shows that most FTZs are located in developing countries.
- Operational framework:
 - minimal bureaucracy through management outsourcing to FTZ operator;
 - enterprises setting up in FTZ given tax breaks as an additional incentive;

Operational Framework (cont'd)

- FTZs usually set up in underdeveloped parts to attract employers, reduce poverty/unemployment and stimulate the local economy.
- Multinational Corporations (MNCs) attracted to FTZs because of supply chain cost reduction considerations.
- In 1999 about *3000 FTZs*, spanning *116 countries*, producing clothes, shoes, sneakers, electronics, and toys employed *43 million workers*.
- Easier to provide relatively well developed infrastructures in small special areas than to establish same throughout the whole country in a short period of time.
- Whether or not referred to by that name FTZs have concentrated traditionally on manufacturing for export, and many of them are located along the coast or near sea transport routes to leverage international transportation.

Free Trade Zones in Nigeria: The Legal Framework

Free Trade Zones in Nigeria: The Legal Framework

- Applicable laws include:

NEPZA (No. 63 of 1992, now Cap. N107, LFN 2004)

OGEFZA (No. 8 of 1996, now Cap. O5, LFN 2004)

CITA, Cap. 21 - Amendment Act (No.11 of 2007)

VATA, Cap. V1 - Amendment Act (No. 12 of 2007)

FIRS Establishment Act 2007

- Regulations:

Investment Procedures, Regulations and Operational Guidelines for Free Zones In Nigeria (2004)

OGEFZ Regulations (2003)

- Policy Statements?

The Legal Framework: Setting the Context

- Income tax on Nigerian companies governed mainly by CITA, Cap.C21, 2004 LFN: tax payable at 30% on profits accruing in, derived from, brought into or received in Nigeria (*sections 9 & 40*).
- *Section 13 CITA* permanent establishment tests – foreign cos liable to Nigerian tax on profits: (a) there is fixed base in Nigeria and the profit is attributable to that fixed base; (b) habitually carries on business in Nigeria through an agent; (c) executes a turnkey contract; or (d) where the trade or business is between the foreign entity and an affiliated company.
- *Petroleum Profits Tax Act (PPTA), Cap. P13 2004 LFN* defines the tax regime for exploration and production companies at 85% (67.75% till amortisation of pre-production expenses) and 50% for PSCs. Incentives under MOUs for JVs and PSCs (PPTA and Deep Offshore & Inland Basins PSC Act, Cap. D3 2004 LFN).

The Legal Framework: Setting the Context (cont'd)

- Withholding tax (WHT) applicable to specified transactions and at specific rates depending on beneficiary of payment. Final tax for dividends, interests and loans. Otherwise its advance payment of tax and available as credit against ultimate tax liability. Lower WHT rates (7.5%, instead of 10%) for treaty residents. Whole or partial exemption from WHT on foreign loans depending on tenor.
- All Nigerian companies must pay Education Tax at 2% on their assessable profits pursuant to the *Education Tax Act, Cap.E4, 2004 LFN 2004*.
- VAT at 5% is levied as consumption tax on supply of goods and services, unless VAT exempt or zero rated items (*sections 2 & 3 VATA, Cap. V1, 2004 LFN*).
- Capital Gains Tax (CGT) applies to gains on disposal of property at 10% of net gain, but sale of shares and stocks exempt from CGT.

The Legal Framework: Setting the Context (cont'd)

- Nigerian investment liberalized since mid 1990s:
 - Exchange Control Repeal Act 1995
 - Nigerian Enterprises Promotion Repeal Act 1995
 - Nigerian Investment Promotion Commission (NIPC) Act No. 16 of 1995, now Cap. N117 LFN 2004)
 - Foreign Exchange (Miscellaneous & Monitoring Provisions) Act (No. 16 of 1995, now Cap. F34, LFN 2004)
- Some Other Developments
 - Return to democracy in 1999. Not a magic wand - President Obasanjo's globe trotting didn't bring in much FDI.
 - Banking consolidation
 - Mobile telecoms revolution
 - Decaying infrastructure – power sector particularly bad
 - Corruption and anti-corruption: still major issue for business

Free Trade Zones in Nigeria: The Legal Framework

- Review of NEPZA & OGEFZA Provisions
 - Section 1 of the NEPZA
 - (a) empowers the President to designate areas as “export processing zones” on the recommendation of the Nigerian Export Processing Zones Authority (“the Authority”). Calabar EPZ was the 1st to be so designated in 1992.
 - (b) Zones may be managed by public or private entities or combination of both under supervision of the Authority.
 - (c) The Authority may amend, vary, or add to the limits of a Zone, etc.
 - By section 1 OGEFZA, the President designated Onne/Ikpokiri area of Rivers State as OGEFZ.

The Legal Framework (cont'd)

- Review of NEPZA & OGEFZA Provisions (cont'd)
 - Section 2 of both laws vests regulatory oversight in the Authority/OGEFZ Authority respectively. In practice, the Authority supervises both.
 - Section 3 sets out membership of respective governing boards. *Common membership* includes representatives of the NPA, Customs, NACCIMA, MAN, etc. *Specialised* – CBN, Ass of Nigerian Exporters *vs.* reps of Petroleum Ministry, Rivers SG
 - Functions (sections 4 & 5 respectively), almost similar, principally “*administration of the Authority and management of the Zones/EFZ*”. *Other notables are:* licensing of approved enterprises (3rd Schedule NEPZA), establishment of customs, police, immigration and similar posts in the Zones, *recommendation to Government of additional incentive measures for the Zones.*

- Review of NEPZA & OGEFZA Provisions (*cont'd*)
 - Sale and purchase transactions between approved enterprises and Nigerian customers, equivalent to import and export transactions, so related rules and regulations apply (*sections 11 & 12*)
 - Goods intended to be disposed in the customs territory not removable without consent and payment of applicable duties (*sections 12(7)*).
 - *Sections 14* prohibits retail trade – note recent TINAPA incident: ‘approval’ of Authority may not be approval of Customs.
 - Articles imported with customs duty cessions subject to strict data requirements (*sections 15*) – for ‘audit trail’ purposes. *FZ (Tariffs) Order 2002* – all products registrable.

- Review of NEPZA & OGEFZA Provisions (*cont'd*)
 - Non- recognition of difference between products utilizing local raw materials *vis a vis* imported ones for export purposes. Cf. China: reduced rate of taxation of products not re-exported, based on quantum of local/imported components.
 - Inspecting agent to be appointed for FZ to inspect goods imported from the FZ into Nigeria for use by an approved enterprise within the FZ (*sections 12(9)*).

- Review of NEPZA & OGEFZA Provisions (*cont'd*)
 - Sections 24(2)/23(2) empowers Minister to modify application of any enactment in the Zone where same restricts or interferes with smooth running of the Zone, etc. - Constitutional?
 - Enterprises to submit returns as may be required to the Authority. Transfer of shares, etc must be approved.
 - Authority may with Ministerial approval, make regulations for implementation of the Acts (ss. 27 & 25).
 - Pursuant to *FZs (Monitoring & Regulation) Order 2002*, the Authority shall monitor management of FTZs and:
 - license all FZs in Nigeria; issue certificates of valuation of assets or investments (instruments of ownership).
 - formulate and publish, operating standards to be observed in the FTZs;
 - recommend *sub-zone status* for appropriate enterprises.

The Nigerian FTZ Incentive Scheme

(fiscal, regulatory, infrastructural incentives)

The Incentive Scheme

- a. exemption from all Federal, State, LG taxes, levies and rates (*sections 8*). Cf. *section 23(s) CITA amendment (2007)/ s.13 VAT Amdmt Act* (imports into FTZ VAT exempt).
- b. Licensing of approved enterprises without complying with local incorporation under *section 54 CAMA*; same constitutes company registration in the Zones (*sections 10*).
- c. Legislative provisions pertaining to taxes, levies, duties and foreign exchange obligations not applicable within the Zones. E.g. no CGT on disposal of assets in the Zone.
- d. No import or export licences required. *Quaere* – ‘incentive’?

The Incentive Scheme (cont'd)

- e. Repatriation of foreign capital investment at any time, with capital appreciation thereon.
- f. Offshore remittance of profits and dividends.
- g. Up to 100% foreign ownership of businesses in the Zones.
 - generally available to all foreign investors under NIPC and FEMMP Acts since 1995. Cf. China's "no participation limit" in FTZs.
- h. 100% of the products may be sold in Customs Territory against valid permit and on payment of appropriate duties:
 - how is this an incentive?
 - Ss. 18(1)(e) (25%) vs. 2004 NEPZA & 2003 OGEFZ Regulations – 100%. CITA Amdmt Act 2007 (s.23(s)).
 - 75% import duty rebate on *value added special product* intended for customs territory – OGEFZ (*Special Import Provs*) Order 2003.

The Incentive Scheme (cont'd)

- i. Rent free land at construction stage, thereafter rent to be determined by the Authority.
- j. No strikes and lock-outs for 10 years after commencement of operations in a Zone – *spent provision for the 1st generation EPZs?*
- k. Authority to simplify all investment authorizations – only issuing agency for all approvals and cancellation of all licenses – *cf. section 4(a) &(h) NIPC Act.*

NEPZA Regulations stipulate quick turnaround for various approvals – e.g. consideration/notification of approval of licensing applications within 5 working days; building permits to be approved within 4 working days, etc.

The Incentive Scheme (cont'd)

1. Import of goods into the Zones for purposes of approved activity exempt from customs duty.
- m. Liberalized regime for employment of expatriates (sections 20/Para 3(4)(b) & (8) OGEFZ Regulations - “100% foreign management”/exemption from EQ.
Quaere: cf. tax exemptions in FTZs with incentives under the Industrial Development (Income Tax Relief) Act?
 - duration/scale of the exemptions;
 - location of enterprises;
 - ‘approved’ vs. ‘pioneer’ enterprises.

In summary, FTZ exemptions more encompassing.

The Incentive Scheme (cont'd)

International Aspects:

- under the US African Growth and Opportunity Act (AGOA) 2000, goods produced in the Zones enjoy preferential tariffs in the US until 2008.
- goods produced in the Zones not subject to quotas in EU and US markets.
- Nigeria is party to Bilateral Investment Treaties (BITs) with 21 countries. Cf. with Singapore's 31 Investment Guarantee Agreements (IGAs). But NIPC Act contains investment guarantees.

Tax Implications of FTZ Transactions

Tax Implication of FTZ Transactions

- a. Purchases by Approved Enterprises in FTZs from companies in the customs territory. *Impact: No VAT; No WHT.*
- b. Sales made by Approved Enterprises to companies in the customs territory. *Impact: VAT payable by purchaser; No WHT.*
- c. Purchases/sales made from customs territory by unapproved enterprises operating within the Zones. *Impact: VAT and WHT applicable.*
- d. Imported goods conveyed through other ports outside the Zones but consigned to the Zones. *Impact: No VAT; No WHT (Customs escort proviso).*
- e. Submission of tax returns - Approved Enterprises to submit tax returns through the Authority to FIRS.

Tax Implication of FTZ Transactions

- f. Transactions with head/branch offices of Approved Enterprises in customs territory. *Impact:* Relevant tax laws applicable –except as related to purchases and sales (above) – restrict transfer pricing opportunities.
- g. Approved Enterprises having contract of supplies or design with companies in the customs area. *Impact:* VAT and WHT applicable.
- h. FIRS/SIRS periodically conduct tax audits of Approved Enterprises.

Registered Free Zones in Nigeria

REGISTERED FREE ZONES (http://www.nepza.org/reg_zones.htm)

S/N	NAME	LOCATION (STATE)	YEAR OF APPROVAL	STATUS	OWNERSHIP
1	Calabar Free Trade Zone (CFTZ)	CROSS RIVER	1992	Operational	Federal Govt.
2	Kano Free Trade Zone (KFTZ)	KANO	1996	Operational	Federal Govt.
3	Onne Oil & Gas Export Free Zone	RIVERS	1996	Operational	Fed. Govt./Private
4	Lagos Free Zone	LAGOS	2002	Under Cons.	Private
5	Tinapa Free Zone & Tourism Resort	CROSS RIVER	2004	Under Cons.	Private/Public
6	Olokola Free Zone	ONDO & OGUN	2004	Under Cons.	2 State Govts/ Private

REGISTERED FREE ZONES (http://www.nepza.org/reg_zones.htm)

7	Snake Island Integrated	LAGOS	2005	Operational	Private
8	Maigatari Border Free Zone	JIGAWA	2000	Operational	State
9	Banki Border Free Zone	BORNO	2000	Declaration	State
10	Ladol Logistics Free Zone	LAGOS	2006	Operational	Private
11	Ibom Science & Tech. Park Free Zone	AKWA IBOM	2006	Under Cons.	Public/Private
12	Living Spring Free Zone	OSUN	2006	Under Cons.	State
13	Airline Services Export Processing Zone	LAGOS	2006	Operational	Private

REGISTERED FREE ZONES (http://www.nepza.org/reg_zones.htm)

14	Lekki Free Zone	LAGOS	2004	Under Cons. - State/Private
15	Egbeda Free Zone	OYO	2001	Declaration - State
16	OILSS Logistics Free Zone	LAGOS	2004	Declaration - Private
17	Brass LNG Free Zone	BAYELSA	2007	Under Cons. - Public/Private
18	Abuja Technological Village	ABUJA	2007	Under Cons. - Public/Private
19	Specialized Railway Industrial FTZ - Kajola	OGUN	2007	Under Cons. -Public/Private
20	Imo Guangdong FTZ	IMO	2007	Under Cons. - Public/Private

REGISTERED FREE ZONES (http://www.nepza.org/reg_zones.htm)

21	ALSCON FPZ	AKWA IBOM	2007	Operational	Private
22	Calabar Free Port	CROSS RIVER	2002	Operational	Federal Govt.

Pursuant to *Part 4 of NEPZA Regulations*, the Authority has power to grant a **FZ Developers License** to a public, private or a combination of public/private entity for the establishment, operation and management of FZ in Nigeria. Developer subject to supervision, monitoring and regulation of the Authority.



International Perspectives

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- Nigerian FTZ and ECOWAS' Common External Tariff- any issues?
- **1999 WB Study** - mixed experience with EPZs/FTZs in Africa:
 - Numerous **government financed EPZs/FTZs** in Senegal, Liberia, Zaire, Botswana and Cameroon **failed** for variety of reasons.
 - However, **success stories** were **Mauritius**, Madagascar (benefiting from Mauritius overflow/ low labour costs) and Kenya.
 - **Madagascar** began in 1990; by mid 1994 had approved 90 FTZs, with half operational, employing 5% of national formal sector employment, with 1993 exports accounting for 15% of total exports.
 - **Zimbabwe** - 1st first African example of private FTZ.

- **WB: Lessons from experience with EPZs/FTZs in Africa and elsewhere in the world:**
 - encourage private sector FTZ dev't & management
 - operate public industrial estates on commercial basis
 - encourage private sector provision of infrastructure
 - develop true public/private sector cooperation and streamline regulatory processes
 - have more competitive incentive packages without crippling provisions (e.g. minimum investments)
 - re-focus strategy during start-up phases of FTZ: concentrate more on investment facilitation.
- *“The Ghana Free Zones Act clearly recognizes the importance of most of the lessons learned.”* (<http://www-wds.worldbank.org/Ghana-Trade> and

Investment Promotion Gateway Project , WB July 1999) Can we say the same?

Ghanaian Experience (cont'd)

- Constraints included lack of quality infrastructure; the high cost of doing business - cumbersome bureaucratic bottlenecks, poor implementation of government policies, expensive ports, cumbersome customs procedures and practices; limited aviation facilities, a relatively small skilled labor base, limited business skills, an underdeveloped capital markets, etc.
- Ghana's Gateway Program's development objective is to help create an enabling investment environment through three prong strategy: (a) policy reform, (b) institution and capacity building needs of investment agencies (c) investment needed for the off-site infrastructure.

Concept Document on Formation of A Pan African FTZ Association (PAFTZA):

- There were 66 economic zones in 32 African countries - ranging from large land areas with a wide range of economic activities to very small, geographically localized, industry or activity specific zones (ILO, 2003).
- The SA Department of Trade and Industry, has long advocated stronger links among the various EFZs to maximise collaboration in policy development and marketing initiatives.
- Briefing document prepared to provide basis for moving the process forward - proposal to form association of EFZs to be known as the Pan African Free Trade Zone Association (PAFTZA).
- Objectives included develop and adopt a continent-wide Charter of FTZs providing for a set of common protocols, rules and ethical practices among member countries.
- Services to be provided by PAFTZA to member countries include: database support service (accessing strategic data to create competitive conditions of trade), policy advisory service, networking, promotion and marketing.

Asian Insight:

- South Korea, Taiwan, Hong Kong and Singapore among the first to set up FTZs; poorer 3rd World countries in Southeast Asia took up the strategy a decade later.
- Generally Asian countries interested in logistics, either: improving national export competitiveness through sophisticated domestic logistics industry; establishment of int'l logistics centers or becoming regional logistics hub to serve neighbouring countries.
- The whole of Singapore arguably an FTZ with relatively few excise and import duties – world class infrastructure and connectivity are critical to its prominence in global logistics industry. Goal to be *virtual hub*, not just physical hub. Logistics contributed 8% (\$12.7 bn) to GDP in 2000.
- China, Korea have designated areas as FTZs (EDTZs, FTZs, HTIDZs, B&ECZs, EPZs), etc. of varying sizes and focus – cf. Xiamen SEZ (1,565 sq.km with 1.31m population) with Tianji FTZ (5 sq. km).

- **The Nicaraguan Example** (<http://www.wccnica.org/articles/ftz.html>):
 - **1976**: had one industrial park, with firms producing mostly clothes for the US market.
 - **1979**: arrival of the Sandinistas – investors moved their operations to other countries.
 - **1990s**: democratic government facilitated new industrial parks, foreign investors returned to Nicaragua and sector ‘exploded’.
 - **2000**: sector contributed 32% of total exports.

Is Nigerian FTZ Strategy Working?

'Jury is out'

Counting the Cost

- “30 Silver Coins” Paradox: has Government given away too much? Cf. *NLNG Tax Incentives Act/NNDC Levy/Udoma Committee on Review of Concessions & Waivers*.
- Preliminary issue: meaningful analysis difficult - absence of accurate, current data on monetary value of FTZ incentives since inception, *vis a vis* impact of FTZs on local and national economy.
- Difficult to see how NEPZA can perform duty (in s. 4(g)) - “*recommendation to the Federal Government of additional incentive measures for the Zones*” - without scientific data to evaluative adequacy or otherwise of incentives.
- Internal and external studies are both necessary. NEPZA still largely “civil service”, e.g. on access to information.
- cf. Costa Rica: *Cost-Benefit Analysis of the FTZ System: The Impact of FDI in Costa Rica* (2005 Study - OAS Trade, Growth & Competitiveness Studies) done for Foreign Trade Corporation of Costa Rica.

Counting the Cost

- “NEPZA News. THIS IS A TEST NEWSREEL INFORMATION MAY BE DATED” <http://www.nepza.org/microNews/index.php>
- As at December 2007, the value of investments in Nigeria’s pioneer EPZ was only \$100 million. Cf. with another view that private sector investments reached \$220m (as at 2004).
- After 1st private EPZ (Lekki), many major investors now seeking FTZ status for locations of their business, e.g. OKLNG, Brass LNG, AKLNG.
- How much have we seen in the so called ‘four priority areas of development’:
 - i. Metallurgical/Engineering Industries
 - ii. Agriculture (Forest-based/agro-allied)
 - iii. Chemical/Petrochemical Sector
 - iv. Construction Sector

Cost Benefit Analysis (CBA)

- Costa Rican Study:

- “Very few successful FTZ experiments in the world.”
- CBA of FTZs success in shift of FDI towards high skill operations providing employment opportunities in higher productivity/wage activities.
- Linkage effects: 150 local firms producer/suppliers to MNCs in FTZs. (Increasing firms’ competitiveness by drawing them into global markets; “indirect exporters”). Relationships result in improvements in product quality.
- Almost 50% of FDI to Costa Rica came in through FTZ program.
- 200 FTZ enterprises in 2000, up from 56 in 1990.
- 8% contribution to GDP in 2003 (compared with 0.5% in 1990).
- 53.7% of Costa Rican exports in 2003 (1990, 6.5%).
- Workers employed by MNCs in FTZs: 7,000 in 1990 vs. 35,000 in 2002. 16% relative weight in overall industrial employment in Costa Rica as at 2002.
- 17% real wage growth between 1990 – 2002 attributable to growth in demand for labour by MNCs who pay 20% higher than locals. Equivalent to \$836 million additional income.
- 28% of owners, 36.2% of managers, 28% of engineers and 31% of technicians working for local firms had previously worked for MNCs.
- The Net Direct Benefit (NDB) of FTZs amounted to \$727.2 million in 2002.
“ In general terms, the investment that the country has made to attract FDI and to administer the system has been more than compensated by the direct benefits flowing from the operation of MNCs operating in the FTZs.”

Cost Benefit Analysis (CBA)

- Costa Rican Study:

- Ratio between NDB and expenses incurred to attract FDI and administer the FTZs estimated at 69:1.
- NDB from high-tech multinationals higher than non-high tech – confirming official policy to attract FDI into high tech activities, which make more intensive use of skilled workers.
- Comparative 2001 study showed Costa Rica more competitive than neighbors in income tax exemptions, lagged behind in R&D incentives, land acquisition, strategic partnership facilitation.
- Competitive tax incentives may be offset by other countries' financial incentives like grants, subsidies and credit facilities.
- Costa Rican tax incentives not a cost because largely customs duty exemptions (neutrality principle) and temporary relief from income tax. **WITHOUT THESE EXEMPTIONS, FIRMS MIGHT NOT HAVE COME TO COSTA RICA.**
- Demand for labour, associated wages, pension contributions, consumption of public utilities, acquisition of locally produced goods and services, licensing fees, lease rentals are net revenues to the system.

Cost Benefit Analysis (CBA)

- Irish & UAE Positive Highlights:
 - Shannon Free Zone: Largely responsible for Ireland's status as the fastest growing economy in Europe - haven for US foreign investment for Europe and globally. Irish economy reportedly grown over three times the European and twice the U.S. average in the 1990s.
 - Jebel Ali Free Zone: foundation for the UAE's successful diversification from oil to commerce.

[http://www.onnefreezone.com/maps/presentations to nba.pdf](http://www.onnefreezone.com/maps/presentations%20to%20nba.pdf)

Counting the Cost - Nigeria

- **Tax incentives** –without them firms might not have come, but now that they have come...
- **Personal income taxes (PIT)** payable by employees of approved enterprises – incentives apply to firms, not employees. Cf. **Korea** – flat 17% PIT for foreign CEOs and executives of foreign companies; exemption from obligatory employment of veterans, disabled and the elderly.
- **Employment of locals:** concerns about Lekki EPZ (\$267 million investment in 1st Phase, proposed 15 sq. km coverage & total investment of \$5 billion). *“...as with other announced Chinese projects in Africa, whether or not Nigeria will ever see a... FTZ in Lagos where 300,000 Nigerians are employed is a matter of speculation, if not skepticism. ... According to a Nigerian report, ‘Chinese companies are notorious for their tendency to bring in their own workers as opposed to hiring locally. This policy does not in any way address issues of unemployment in the host nations. Safety standards within their industries are another area of concern.’ ”*
- **OGEFZ** – instability in Niger Delta a major inhibitor to goal of being service hub to entire Gulf of Guinea. Cf. with Equatorial Guinea’s **Bioko** – likelihood of overshadowing Onne as a major oil and gas hub. In tandem with unfortunate trend whereby **Angola** is now leading African oil producer.
- **Infrastructure** is always a major issue - **MTN** siting W&C African Regional HQ in Ghana, although has more subscribers in Nigeria than in entire region combined; **ETI (Ecobank)** doing same for its Shared Services Center. Cf. **Singapore’s HQ Programme** – incentive packages commensurate with scale and value of HQ operations.

Counting the Cost

- For Lekki EPZ, LASG acquired over 16,000 hectares of land, home to twenty-six villages. Complaints about compensation. This is pursuant to February 2005 MOU with Chinese Consortium to commence proposed development of the EPZ.
- MOU makes no reference to environmental impact assessment studies (EIAs) and social impact assessment studies (SIAs), required by law for such a magnificent project prior to its development.
- Activists insisting on Government's responsibility to devise how the project would not escalate humanitarian challenges and crisis in the areas.
- LASG set up a 15-member Committee in 2005 to devise the modalities for establishing a vibrant FTZ in Lagos.

Spotlight on Calabar EPZ & OGEFZ

- CFTZ generated N282 million for the Federal Government as customs duties between January and November 2003.
- Total (private sector) investments reached \$220 million mark in 2004.
- Government has invested about \$500 million into the Zone which since its inception, has provided jobs for 4,700 persons.
- 70 companies have registered to do business in the CFTZ, with 15 being fully operational, manufacturing and exporting diverse products; while about 15 are still under construction.
- Infrastructure - fully functional Fire Service station, the NITEL exchange offering “one-dial phone services”, presence of banks like FBN, Nexim Bank and UBN. Good road network (most of the roads are dual carriage ways), and an uninterrupted power supply, a water Treatment plant, etc.
- OGEFZ, managed by DMS International Ltd, is the only Free Zone in the world dedicated solely to the oil and gas industry.
- Planned to be a “mix” of various types of Free Zone, at various stages in its evolution: firstly, a Free Port, then an FTZ and ultimately, a Specialized EPZ.
- More than 30 international oil and gas companies, including many global corporates, are now registered as FZ users and cargo throughput has increased rapidly.

Free Trade Zones & Nigeria Tax Regime

Spotlight on Calabar EPZ & OGEFZ

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“Tax incentives no longer a main characteristic. Emphasis now on value added services – the FTZ product requires continual upgrading like any product produced therein.”

- Recent Developments in FTZs and Port Hinterlands in Asia & Europe, p. 72.

SA client example - considered locating in Calabar FTZ, but ultimately sited its operations in Lagos.

Nigeria: How Are We Faring in the FDI Race?

Global Competitiveness Index 2007 – 2008. Nigeria ranked 95th (10th in Africa) behind Tunisia (32), South Africa (44), Mauritius (60), Morocco (64), Botswana (76), Egypt (77), Algeria (81), Libya (88), Namibia (89).

WEF, Global Competitiveness Report 2007 – 2008 - <http://www.gcr.weforum.org/>

Per Business Competitiveness Index, Nigeria is 89th (9th in Africa), behind Tunisia (25), South Africa (34), Mauritius (55), Kenya (62), Morocco (63), Egypt (70), Botswana (75) and Tanzania (80).

- 88th in overall quality of business environment.

Thank You.

Questions?

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