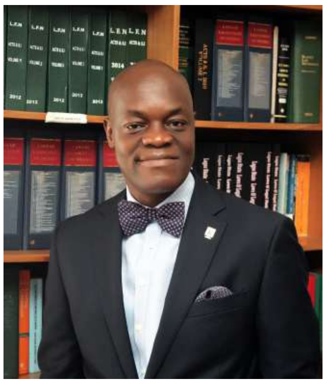
Nigeria: Opportunity Beckons

'Taxspectives' by **Afolabi Elebiju** | Originally published in *ThisDay Lawyer, 9th June 2015, p.11*



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Introduction

My October 2014 article with the above caption was published in *Guide to Investment & Export 2014* (p.80): http://www.britishchambers.org.uk/business/international-trade/export-publications/global-trader-guide-to-investment-and-export-guide-ebook.html. Following the outcome of the 2015 elections, indeed, "opportunity beckons" for the incoming APC administration to put the "change" mantra (the fulcrum of the party's electioneering campaigns), to work. Apparently, the prospect of change was an attractive proposition to Nigerians, making them withdraw their mandate from the incumbent President in preference for someone (and his team) they consider likely to make change happen. Nigeria, serially rated as a global leader in the "most happy countries" index, and Nigerians, have never been more optimistic.

I attended the 2014 New Year's Eve (cross-over service) at Redemption Camp, where Pastor E.A. Adeboye, prophesied, "*after the 2015 elections, God says Nigerians will say 'all's well that ends well'*". This has not only proven to be spectacularly true, given fears that Nigerian could implode post election, but what we (unexpectedly) witnessed was the statesmanship of former President Jonathan's concession to then President-Elect (now President Buhari) that immediately calmed the polity. Since then our optimism and faith in what is possible regarding Nigeria's future has been trending up. One cannot but be inspired by the President's speech today (29/5/2015) underpinned by the sentiment that there are challenges, but: "*daunting as the task may be, it is by no means insurmountable.*"

My own optimism can be seen from excerpts of the '*Opportunity Beckons'* article, reproduced below.

Article Excerpts

"Long described as the 'Giant of Africa', Nigeria became Africa's largest economy in 2014. Foreign investors on the ground have always had a country-optimistic outlook; returns on their investment provide the most compelling evidence. Recently, a global CEO stated that their market leadership of the country's brewery sector is because they 'invest ahead of the curve.' Successful bidders for Nigerian mobile licenses in 2001 (and subsequent entrants) have earned stellar returns whilst building a major global telecoms market – growing teledensity from 0.4% to 93.70% as at May 2014. In the battle for continental supremacy between Vodacom and MTN, the latter's entry into Nigeria has been decisive.

Nigeria's current realities demonstrate that there is no better time to invest than now. Despite our positive demographics and liberalization of the investment environment under the military, many multinationals exited the country. With democratic rule and improving demographics, investors have better comfort, reflecting in Nigeria's status as an emerging markets investment powerhouse.

Nigeria's massive infrastructural deficit represents significant investment opportunities in almost all sectors. What is critical is a robust risk management strategy, including engaging Nigerian advisers with requisite mastery of the business regulatory terrain and having the 'right' partners whose vision/ethics align with the foreign investors.

Power sector privatization and agricultural sector reforms evidence intent of Nigerian government to facilitate private sector led growth. Lessons learnt from telecoms sector signposts many transformational possibilities, albeit public sector reforms have been slow. Although the Ministry of Trade & Investment has been championing business reforms, this has not significantly improved Nigeria's position in Global Competitiveness Index/Ease of Doing Business rankings.

The 2015 elections (and for the incumbent, the desire to leave a legacy if re-elected) should provide the necessary impetus for exponential growth. McKinsey's Nigeria Renewal: Delivering Inclusive Growth in Africa's Largest Economy (July 2014) exemplify ammunition for discerning investors to be part of Nigeria's growth story."

Now that Change is Here

Given the outcome of the elections, it still holds true (as stated in the article) that *"the 2015 elections… should provide the necessary impetus for exponential growth."* Tax is clearly part of the mix, given dwindling revenues from crude oil sales as a result of fall in oil prices (which may remain flat for a while), and wholesale effects of "change" in tax administration and compliance. The signals that the new administration is giving - that top level appointments will mostly be technocrats - is reassuring and a serious indication that new administration is poised to really drive change.

In '*2015: Necessity of a Tax Agenda*', an outline article that I never got round to publish ahead of the elections, I had stated that there is need for politicians to spend time on their tax strategy, given the funding component of actualizing electoral promises. Pressure to deliver starts immediately upon announcement of results, even before assumption of office. And Nigerians have emphatically declared with the 2015 election results that they are only interested in a 'no story' scenario – they only expect results (even if sacrifices would be called for).

Getting the most for our 'tax buck' (Naira) should become more realistic once

government begins to take the right decisions to cut waste and stifle corruption. Nigerians are not expecting to pay more taxes in order to support bloated governments or to sustain the National Assembly's record of having the most generous compensation package in the world – totally out of sync with our GDP or their productivity!

Given the dire financial condition of most States (with many several months behind in paying salaries), there may be more wholesale copying of the Lagos State IGR model; however pressures/temptations in the direction of multiple taxation should be resisted. Focus should rather be on widening the tax net to encapsulate as much as possible, the informal economy. Specific actions on lightening the tax compliance burden and Nigeria's competitiveness regarding ease of doing business, which should positively impact Nigeria's ranking (we expect a year-on year progressive improvement) in *Paying Taxes* and *Ease of Doing Business* (global surveys conducted by the World Bank Group respectively), should be taken. An earlier *Taxspectives* piece, '*Eating the Frog of Multiplicity of Taxes*' (ThisDay Lawyer, 21/10/2014) highlights some of the salient issues.

The bottom line is that when government facilitates a business friendly environment which helps businesses to do well, the Revenue and the citizenry by extension will also benefit through presumably more impactful governance from increased funds in public coffers. Coronation Capital's recent study, '*The Fourth Republic: Economy and Opportunities Beyond Politics*', showcasing the progress the Nigerian economy has made since advent of democracy in 1999 in terms of size (from 5th to 1st in Africa) and returns (market capitalization of Top 20 increasing by over 6000%) portends an even more favourable prospect for all stakeholders in the Nigerian tax economy (government, businesses/individuals and Revenue). We could have done better in the past 16 years, but given our present circumstances, we could actually do beyond expectations (albeit it may take a while for the results to start showing up).

A 'straightening out' of the tax incentives administration process, with potential claw backs where grants have not been compliant with legal provisions could be a 'quick win' for the Revenue. There are formidable grounds to argue that improper grants should not bind the FIRS, and resulting litigation if any, can only help to further advance our tax jurisprudence. The counsel of Nigeria Tax Policy (NTP) that government sparingly use tax incentives, and on demonstrable cost benefit analysis, such that emphasis should rather be as much as possible on a level playing field for businesses, may yet be the fall back. Interestingly, regulatory provisions require periodic evaluation of the cost-benefit analysis of incentives, but this has not been vigorously complied with, if at all.

We are likely to see increased voluntary tax compliance, as hopefully the federal government's body language and actions shows seriousness to use the *public fisc* to cater for the common good in a cost effective manner. This should also provide a powerful cue to State and Local Governments.

Concluding Reflections

The new administrations (Federal and State) have been handed the challenge to demonstrate the wisdom in not allowing "a crisis to go to waste" (apologies to Rahm Emmanuel) – a clear and present need to take appropriate actions in crisis situations to prevent future or worse crises.

An unrepentant believer in Nigeria, mentor of generations of Nigerian business leaders, and a powerhouse of wisdom on Nigerian affairs has an apt analysis: in lean times, Nigerian governments tends to be more rational and disciplined, but forgets lessons learnt as soon as "years of plenty" emerge. In his view, all the factors have conspired to give Nigeria the grand opportunity to now take the hard decisions, long shied away from, but that are in Nigeria's longer term interest.

Nigerians prayed, voted for, and insisted on change. Hopefully, we will all do what we can, nay what we must in the tax space to support the government in making "change" happen. Having been *"poised for greatness"* for several decades, Nigeria has at hand perhaps the greatest opportunity to begin to *"realize greatness."* According to President Buhari, *"I cannot recall when Nigeria enjoyed so much goodwill abroad as now. The messages I received … are [all] indicative of international expectations on us. At home the newly elected government is basking in a reservoir of goodwill and high expectations. Nigeria therefore has a window of opportunity to fulfill our long-standing potential of pulling ourselves together and realizing our mission as a great nation."*

In the very apt words of President Buhari in the concluding part of his inaugural speech today, Friday 29 May 2015: *"we have an opportunity, let us take it."* In other words, *"Nigeria, opportunity beckons"*!

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