

INTRODUCTION

The first ever JK Gadzama & Partners Public Lecture took place on Thursday, 6th March 2008 at the Transcorp Hilton Hotel, Abuja. The lecture was delivered by **Oba Nsugbe QC, SAN, FRSA**. The topic was **WTO-WOT WAY FOR THE LEGAL PROFESSION IN NIGERIA**. The objective was to sensitise the general public especially the legal profession on current international rules relating to cross border practice. The highlights of the lecture are contained in the power point presentation reproduced below.

WTO poses a number of serious questions for Nigeria's legal profession.

- The way in which the profession answers those questions will have far-reaching ramifications, not just for law, but for the country as a whole.
- As a country, and as lawyers, we face a quandary, namely how to have our cake and eat it too whilst appearing to all the world as if we are not:
 - Protectionist
 - Insecure
 - Down-right greedy

Urgent Need For

- Honest reflection and appraisal
- Rigorous but detached analysis of the real issues
- Preparation and articulation of a clear and cohesive strategy for the role of legal services in an increasingly liberalised global market in Nigeria's best interests.

Question

"WTO - WOT WAY FOR THE NIGERIAN LEGAL PROFESSION?"

Answer

- WTO WOT DAY FOR THE NIGERIAN LEGAL PROFESSION
- Real issue is not when but how we liberalise legal services in Nigeria's best interests

Globalisation

- Encompasses the integration of the world's economies through trade, financial flows, the exchange of technology and information and the movement of people.
- Also touches upon the margins of sociology, economics, politics and law
- Transcends religious, cultural and socio-economic frontiers

WTO Failures

WTO has failed to deliver:

- Real and tangible benefits for the world's poorest nations
- Significantly increased market access or export trade for developing nations
- True integration of the developing nations into the multi-lateral trading system operated by the developed nations

China and Africa

- China has invested heavily in African oil Trade between China and African nations jumped 39% to \$32.17bn (£18bn) in the first 10 months of 2005, official Chinese customs figures have revealed.
- Representing a record high, analysts said the surge was fuelled by China's increased imports of African oil, most notably from Sudan.

China's African investments

- Africa is also buying more Chinese-made goods.
- China is investing heavily in African oil exploration to help meet its rapidly-growing consumption. (2006)

In 2005:

- China's exports to Africa totaled \$15.25bn, while the country's imports from Africa were \$16.92bn.
- Africa has become more important for China as a source of the raw materials needed by the Chinese manufacturing sector
- Since the 2000's China-Africa Forum, China has scrapped tariffs on 190 kinds of imported goods from 28 of the least developed African countries, and Chinese firms have greatly increased investment in Africa most notably in the oil sector.
- In the first 10 months of 2005 alone, Chinese companies invested a total of \$175m in African countries, according to the official figures.
- Chinese firms are also taking on significantly more construction projects in Africa, most notably infrastructure works.
- Some analysts say China is doing this to aid trade and the movement of goods.

Nigeria and China

- Nigerian-Chinese relations are huge, strategic and growing exponentially.
- Both nations agreed to establish a strategic partnership featuring mutual political trust, mutual economic benefit and mutual support in international affairs in 2005.
- Nigeria and People's Republic of China on 13 October 2005 signed a contract agreement for the construction of water schemes for 19 states and the Federal Capital Territory (FCT) at the cost of N695 million.
- During President Hu Jintao's visit to Nigeria in April 2006, Nigeria and China signed four Agreements and three Memoranda of Understanding (MOUs) on a range of programmes to enhance their economic ties, including:
 - i The financing agreement of N8.36 billion (\$500 million) concessionary export grants to support the development of infrastructure by China Export Import Bank.
 - ii The provision of about N670 million (40 million Chinese Yuan) for the training of 50 Nigerian officials and medical personnel on comprehensive malaria prevention and control
 - iii The supply of anti-malaria drugs worth N83.6 million (5 million Chinese Yuan) in support of the Roll-Back-Malaria programme.
 - iv An agreement centred to set up a team of experts for the Nigeria-China friendship cultural project.
 - v A Memorandum of Understanding on the provision of National Information Communication Technology Infrastructure Backbone between the Federal Ministry of Science and Technology and Huawei Technologies
China is now one of Nigeria's top ten trading partners with Chinese businessmen showing increasing interests in investing in Nigeria.
- China has set up over 30 solely owned companies or joint ventures in Nigeria actively involved in the construction, oil and gas, technology, service and education sectors of the Nigerian economy.
- Among projects already undertaken or still in progress include the rehabilitation of Nigerian railway, the sportsmen hostel with the Abuja Sports Complex and the construction of the head quarters of the Nigerian Communications Commission.

Globalisation is here to stay

The Eastern genie is not only out of the bottle, it has grown wings, and mutated several times over

GATS The General Agreement on Trade and Services

- In force from 1995 after eight years of liberalisation
- The first concrete step in the elaboration of a transnational framework of rules applicable to global services. It covers the majority of services worldwide including legal services
- No definition of services as such but GATS distinguishes among them according to mode of supply
- According to the WTO "Services Sectoral Classification List", legal services are seen as a sub-sector of "(1) business services" and "(A) professional services". The correct classification of legal services is of importance.

Article 1.2 GATS

Four Categories of Service:

- Services provided from one country to another (cross-border supply)
- Receipt of foreign services (consumption abroad)
- Installation of foreign firms in another country in order to provide services (commercial presence), and when
- A provider of service travels and provides services in another country (movement of natural person)

Alleged Pros of Liberalisation

- The encouragement of foreign direct investment and increased trade when international operators can enter markets with their known advisers
- Greater competition, innovation and commercialism.
- Increased specialist services and know-how with a genuinely global reach and experience
- Employment of local lawyers
- Transfer of expertise and know how to local market
- Quid pro quo access to foreign markets for Nigerian Lawyers
- The introduction of new areas of work for local lawyers
- An acceleration of growth in legal providers (both foreign and local) and a step closer to a genuine export of legal services

Alleged Cons of Liberalisation

- A fear that allowing foreign lawyers into the country will take jobs and work from local lawyers
- Local firms would be forced out of business by larger and better resourced foreign competition
- The presence of foreign law firms would cause a major increase/decrease in fees and disrupt the local market
- Foreign law firms will have a suffocating effect on the ability of local law firms to develop capacity in handling high-value transactions and the meagre advisory work on local law currently referred to local lawyers will cease
- Foreign firms will have an unfair advantage in that they may be subject to less stringent and/or different practice requirements to domestic firms, which distorts the market and prevents a level playing field
- The avowed benefits of liberalisation are unproven and exaggerated and its destructive effect on local markets and labour is more likely
- There is a risk of unqualified lawyers entering the market on a temporary or permanent basis and creating disciplinary problems
- Foreign Lawyers are only looking to boost their own coffers by seeking out new markets

Which Way Forward?

An Urgent Need for:

- Honest reflection and appraisal
- A rigorous but detached analysis of the issues which is evidence based
- A detailed assessment of the nature and extent of Nigeria's legal needs in meeting and benefiting from globalisation
- As close an alignment as possible of the economic need with the legal one
- The preparation of a multi faceted strategy to meet that need which is appropriately phased and time lined to include a staggered and appropriately controlled introduction of foreign lawyers to the Nigerian market as appropriate
- An overhaul of the way in which we educate our lawyers and where possible and appropriate, a targeting of education and training to match the need for greater specialisation and commercialisation of legal practice
- An increased focus and professionalism in the way in which we deliver our services through methods such as continuous training, peer review and new and innovative modes of commercial practice and advocacy

BAR NEWS

- (1) The 10th Anniversary Celebration of The Chartered Institute of Arbitrators(UK), Nigeria Branch
Dates: **23rd - 24th April, 2008**
Venue: **Nigerian Law School, Ozumba Mbadiwe Str., Victoria Island, Lagos**
- (2) NBA NEC Meeting
Dates: **29th - 30th May, 2008**
Venue: **Warri, Delta State**
- (3) Nigerian Bar Association (NBA) Annual General Conference
Dates: **23rd - 29th August, 2008**
Venue: **Abuja**
- (4) International Bar Association Conference
Dates: **12th - 17th October, 2008**
Venue: **Buenos Aires, Argentina**

News from the Firm

- (1) The Firm successfully held its 1st Public Lecture on Thursday, March 06, 2008 at the Lagos Osun Hall of the Transcorp Hilton Hotel, Abuja. The theme for the lecture was **WTO: WOT WAY FOR THE LEGAL PROFESSION IN NIGERIA”?** and the Guest Lecturer was Mr. Oba Nsugbe, QC, SAN, FRSA. The event was well attended by the **creme de la creme** of the Legal Profession (**both bench and bar**), the diplomatic Corps, Government and its parastatals, business concerns and the media. PhotoNews on page 4 of this edition.
- (2) The Firm wishes to announce that one of its staff has left to begin a promising career on the Bench. Ms F.S Oyefeso was recently appointed Judge of the Customary Court, Abuja. We wish her every success in her new career even as we pray for her elevation to the higher bench soon.
- (3) In the same vein, Mr. A. C. Ozioko has joined the Abuja Office of the Firm. Mr. Ozioko has 10 years post-call experience and specializes in Litigation and Commercial Law Practice. We welcome him to our Firm and wish him the best of times.
- (4) We wish to congratulate Mr. Oludayo Philips Famakin-Johnson of our Lagos Office who just passed the examination for admission as Associate Member of the Chartered Institute of Arbitrators (UK). Similarly, our Principal/Founding Partner, Chief Joe-

Kyari Gadzama, MFR, SAN was recently elected as the Vice Chairman of the Abuja chapter of the Chartered Institute of Arbitrators (UK).

- (5) The Abuja office of the Firm recently hosted six students of the Funtaj International Secondary School who were attached to the office from Monday, March 10, 2008 to Friday, March 14, 2008 for job observation/training. The essence of the attachment was for the students who all aspire to be Lawyers in future to familiarize themselves with the workings of a Law Office and the Legal Profession in general. We wish them success in all their endeavours and pray that they achieve their ambitions of being members of the learned profession in future.



Chief Joe-Kyari Gadzama, MFR, SAN in group photograph with Students of Funtaj Int. School, Kuje, Abuja on job observation/training with the chambers.

PICTURES FROM THE 1ST PUBLIC LECTURE OF THE FIRM:



Sitting from right - Mr. Fabio Baiardi, Charge d'affaires, Swiss Embassy, Hon. Justice Nikki Tobi, CON, JSC of the Supreme Court of Nigeria and Hon. Justice Ishaq Bello of the FCT High Court



FROM LEFT Mr. Fabio Baiardi of the Swiss Embassy, Mr. Oba Nsugbe QC, SAN (The Guest Lecturer), Chief Mrs. Sena Anthony (Coordinator, Corporate Secretariat and Legal Division, NNPC), and Chief Joe-Kyari Gadzama, MFR, SAN, and Mr. Fidelis Oditah, QC, SAN in the background.



Sitting front row: Dr. S.I. Ameh, SAN
Second row from right Alhaji I.H. Dikko, Legal Adviser, Federal Ministry of Culture, Tourism and National Orientation; Otunba Lanre Ipinmisho, Director General, National Drug Law Enforcement Agency (NDLEA); Prof. G.M. Nwagbogu, Dean, Faculty of Law, Madonna University, Okija, Anambra State and a cross section of participants at the lecture.



From Left Mr. Olisa Agbakoba, OON, SAN, (President, Nigerian Bar Association, NBA), Mr. Oba Nsugbe QC, SAN, (The Guest Lecturer), Dr. Tahir Mamman (D.G. Nigerian Law School, Abuja), Hon. Justice Ishaq Bello of the FCT High Court, and Chief Joe-Kyari Gadzama, MFR, SAN.

Partners in the Firm:

1. **Chief Joe-Kyari Gadzama MFR, SAN**
FCIArb., CEDR Accredited Mediator
LL.B (Hons), Unimaid, BL
Principal/Founding Partner
2. **Professor Bolaji Owasanoye**
LL.B Hons), Uni-Ife, LL.M
Consulting Partner
3. **Alhaji R.O. Yusuf**
LL.B (Hons), Unilag, BL
Partner
4. **Lawan Abana Esq.**
LL.B (Hons), Unimaid, BL
Partner
5. **Uchenna Chikelue Esq.**
LL.B (Hons), Unical, BL
Partner
6. **G.U. Nwaneri Esq.**
LL.B (Hons), UNN, LLM(Unilag), BL, ACIArb.
Partner

Established in 1989 JK Gadzama & Partners is one of Nigeria's leading law Firms with a diverse portfolio of public and private sector clients and national and international transaction experience.

DISCLAIMER: The information contained in this Newsletter is not legal advice. Please consult a lawyer for legal assistance.

This newsletter is downloadable from our website: www.gadzama.com