Analysis Report on the Nigerian Investment Promotion Commission Act

1. Background to the Act

The Nigerian Investment Promotion Commission (NIPC) Act was a response to Nigeria's desire to attract greater foreign direct investment (FDI) in a post-structural adjustment environment where the government sought to reduce its involvement in the economy and encourage private-sector participation. By the 1990s, Nigeria's economy needed diversification away from its heavy reliance on oil revenues. The NIPC Act was part of a broader policy shift towards liberalization, privatization, and the opening of key sectors to private investment. One of the key features of the Act is its focus on ensuring a level playing field for all investors, whether domestic or foreign. It guarantees that foreign investors can fully own companies in Nigeria (except in a few sectors restricted by national security or public interest), repatriate profits, and enjoy legal protections that prevent expropriation of their investments without adequate compensation. In addition, the Act promotes transparency and simplifies the investment process, reducing bureaucratic hurdles for investors by centralizing the registration and approval of investments under the NIPC.

The Act also highlights the Nigerian government's commitment to fostering investor confidence by providing tax holidays, investment incentives, and opportunities for public-private partnerships (PPP) in key sectors such as agriculture, infrastructure, mining, and manufacturing. The NIPC serves as a one-stop shop for investors, providing information and guidance on navigating Nigeria's business landscape, which can often be complex due to regulatory challenges at the federal, state, and local levels.

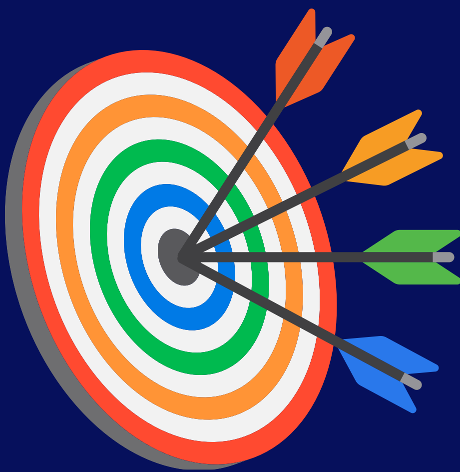
The NIPC Act represents Nigeria's strategic efforts to position itself as a competitive investment destination in Africa by enhancing investor protections, offering incentives, and promoting sustainable economic development through increased private-sector participation. The Act is a critical piece of legislation aimed at fostering economic growth by creating a favourable investment climate in Nigeria. Enacted in 1995, the NIPC Act established the Nigerian Investment Promotion Commission, a federal agency tasked with promoting, coordinating, and facilitating investments in Nigeria. The Act was designed to stimulate both domestic and foreign investments by providing clear legal frameworks, offering incentives, and ensuring investor protection.

This statutory analysis sets out to examine the provisions of the Act to uncover the extent to which the Act attracts responsible, inclusive, balanced and sustainable investments to Nigeria; towards ensuring that it conforms to international best practices including aligning with AfCFTA agreement etc. This is particularly in the light of the Business Facilitation (Miscellaneous Provisions) Act, 2023, under which some amendments have been made to the NIPC Act to enhance Nigeria's ability to attract high-quality investments, foster economic growth, and align with international agreements like the African Continental Free Trade Area (AfCFTA).

2. Rationale/Justification for the Analysis

This analysis is necessary given the far-reaching implications of the implementation of the Act for youth and women's development and growth. A comprehensive legal framework for investment has the potential to reduce the push factors for migration and propel diversified economic growth. Similarly, the technology transfer initiative which is a vital component of the current proposals for the improvement of the Act is significant in advancing opportunities for more women, youth and vulnerable groups to thrive in the evolving realities of new ways of doing business and new areas of work. Consequently, the analysis of the NIPC Act enables a better assessment of the framework for investment priorities while highlighting recommendations to strengthen what already exists. The Analysis of the NIPC Act will specifically focus on:

a. Prioritizing investments in sectors that generate employment opportunities for youth and women, thereby fostering economic empowerment.
b. Including incentives and policies that promote women-led enterprises and youth-driven startups, ensuring their active participation in economic growth.
c. By incorporating gender-sensitive and youth-focused investment strategies, the Act will contribute to inclusive development, bridging economic gaps and reducing unemployment rates.
d. Encouraging skills development and entrepreneurial initiatives through targeted investment frameworks will empower the next generation of business leaders and innovators.
e. Encouraging technology transfer initiatives that provide youth, women, and vulnerable groups with access to modern skills and digital tools.
f. Strengthening policies that promote technology-driven investments will facilitate innovation, entrepreneurship, and job creation in emerging industries.
g. Ensuring equitable access to technological advancements will empower disadvantaged groups to participate in economic activities and improve their livelihoods.
h. Supporting knowledge-sharing programs between foreign investors and local businesses will enhance local capacity, boost industrial development, and bridge the digital divide.



3. Objectives of the NIPC Act

The NIPC Act aims to:

- Encourage and promote investment in Nigeria.
- Provide a favorable environment for businesses by offering incentives and removing investment barriers.
- Protect investments and ensure fair treatment of foreign and domestic investors.
- Promote responsible, inclusive, and balanced investment that benefits all sectors of society, including marginalized and underserved communities.

4. Summary of the Act

Section 1 establishes the Nigerian Investment Promotion Commission

Section 2 provides for the Governing Council of the Commission

Section 3 covers tenure of office

Section 4 provides functions of the Commission

Section 5 provides Powers of the Commission

Section 6 covers Secretary of the Commission

Section 7 covers other staff of the Commission

Section 8 provides for Staff Regulations

Section 9 covers conditions of service

Section 10 relates to Pensions

Section 11 deals with Departments of the Commission

Section 12 provides for Fund of the Commission

Section 13 vests the Commission with power to accept gifts

Section 14 confers the Council with borrowing powers

Section 15 covers annual estimates, accounts and audit

Section 16 covers annual reports

Section 17 deals with enterprises eligible for participation

Section 18 covers the application of the Act, excluding it from the negative list in section 3

Section 19. deals with the establishment of an enterprise

Section 20 relates to registration of enterprise with the Commission

Section 21 covers purchase of the shares of a domestic company by a foreign company

Section 22 provides for incentives for special investment

Section 23 provides for designation of priority areas

Section 24 covers investment guarantees, transfer of capital, profits and dividends

Section 25 provides guarantees against expropriation

Section 26 covers dispute settlement procedures

Section 27 relates to assistance to enterprise

Section 28 contains transitional provisions

Section 29 repeals the Industrial Development Co-ordination Committee Act

Section 30 empowers the Commission to make Regulations

Section 31 provides interpretation of key terms

Section 32 provides the short title of the Act

5. Content Analysis

The Nigerian Investment Promotion Commission (NIPC) Act, Cap N117 LFN 2004, outlines the framework for the promotion, coordination, and facilitation of investment in Nigeria. It plays a key role in creating an enabling environment to attract foreign direct investment (FDI) and domestic investment. This critical analysis will examine specific sections of the NIPC Act and their effectiveness in attracting responsible, inclusive, balanced, and sustainable investments. Additionally, it will assess the Act's alignment with international best practices, including the African Continental Free Trade Agreement (AfCFTA), identify defects, and propose improvements.

Section 1: Establishment of NIPC

This section establishes the Nigerian Investment Promotion Commission as a body responsible for promoting, coordinating, and facilitating investments in Nigeria.

Attracting Responsible Investment: By centralizing investment promotion under a single body, the NIPC ensures investors follow the country's regulations and guidelines. This helps foster responsible investment by providing a clear pathway for due diligence and compliance with Nigerian laws, such as environmental and labour regulations.

Deficiency: The Act does not explicitly include Environmental, Social, and Governance (ESG) standards within its mandate.

Recommendation: The Act should expand the NIPC's role to include a mandate for encouraging responsible investments that meet international ESG standards. This would ensure that foreign investors prioritize environmental sustainability, social welfare, and corporate governance.

Section 2: Governing Council of the Commission

The Chairman of the Governing Council is appointed by the President. However, the section does not provide qualifications for such appointments. This opens a wide discretion for the President to appoint persons who are not knowledgeable in investment promotion in line with the laudable objectives of the Act.

Similarly, there is no qualification for appointment as Secretary to the Commission, either in section 2 or section 6 of the Act. Section 6 only puts the Secretary on par with a Permanent Secretary but does not state qualifications for such appointments. This is a vital gap that goes to the efficiency of the Commission.

Recommendation: An amendment to provide for qualifications for the appointment of the Chairman and Secretary of the Commission

Section 3: Tenure of Office

Section 3(2) which provides for the removal of a member of Council does not provide for circumstances or grounds for such removal. This is dangerous as Council members are vulnerable for fear of removal.

Recommendation: Amend the section to provide for grounds for removal

Section 4: Functions of the Commission

Section 4 of the Nigerian Investment Promotion Commission (NIPC) Act outlines a comprehensive framework for the NIPC's functions in promoting and coordinating investment activities in Nigeria. However, despite its broad scope, several deficiencies could limit its effectiveness in attracting foreign investment and aligning with international best practices. These deficiencies highlight areas where the NIPC's mandate could be modernized to reflect global trends in investment promotion, transparency, and investor protection.

Deficiencies in Section 4

a. **Lack of Specific Provisions on Investor Protection**

Section 4 of the NIPC Act focuses largely on investment promotion, coordination, and support, but it lacks explicit provisions on investor protection mechanisms. International best practices in investment promotion emphasize the need to safeguard the rights and assets of foreign investors, including clear dispute resolution frameworks and protection against expropriation or unfair treatment.

Recommendation: The Act should incorporate clear provisions for the protection of investors' rights, including access to dispute resolution mechanisms, guarantees against arbitrary actions by government authorities, and protection of intellectual property rights. This would align Nigeria's investment framework with global standards and build investor confidence.

b. **Absence of Specific Framework for Public-Private Partnerships (PPPs)**

The Act lacks specific provisions for promoting Public-Private Partnerships (PPPs), which are crucial for attracting foreign investments, particularly in infrastructure development. In many countries, well-defined PPP frameworks are a major tool for attracting foreign capital into large-scale projects.

Recommendation: The Act should be amended to explicitly include the promotion and facilitation of PPPs, providing clarity on regulatory frameworks, risk-sharing mechanisms, and project financing options. This would align Nigeria with international best practices where PPPs play a key role in investment strategies.

c. **No Specific Focus on Digitalization and Technological Investments**

Issue: Section 4 does not mention the promotion of digitalization, technology-driven sectors, or investments in the tech industry, which are increasingly critical to modern economies. Foreign investors are particularly interested in sectors such as fintech, digital infrastructure, e-commerce, and renewable energy technologies, all of which are growth areas globally.

Recommendation: The Act should include provisions encouraging investments in technology-driven sectors, digital infrastructure, and innovation. This would attract foreign investors interested in high-growth sectors and align Nigeria with global investment trends.

d. **Weak Emphasis on Environmental, Social, and Governance (ESG) Standards**

The NIPC Act does not incorporate language that reflects modern Environmental, Social, and Governance (ESG) considerations, which are increasingly important for foreign investors. ESG factors influence investment decisions as many investors are now focusing on sustainability, corporate governance, and social responsibility when evaluating opportunities.

Recommendation: The Act should be updated to promote investments that align with ESG principles, such as sustainable development projects, renewable energy, and socially responsible initiatives. This would position Nigeria as a forward-thinking investment destination in line with global trends.

e. **Limited Engagement with International Financial Institutions and Global Investment Platforms**

The Act emphasizes domestic promotion activities (exhibitions, conferences, etc.), but it does not explicitly mandate the NIPC to engage with international financial institutions (e.g., World Bank, IFC, IMF) or global investment platforms that can provide substantial investment capital, expertise, and credibility.

Recommendation: The Act should be amended to include provisions for closer engagement with international development finance institutions, multilateral agencies, and global investment forums. This would enhance Nigeria's visibility in the global investment space and provide access to larger pools of capital and technical assistance.

f. **Inadequate Focus on Policy and Regulatory Stability**

While the Act empowers the NIPC to advise the government on policy matters, it does not place enough emphasis on ensuring a stable and predictable policy environment, which is critical for attracting long-term foreign investments. Investors seek countries with consistent and clear regulations, as well as predictable fiscal policies.

Recommendation: The Act should emphasize the importance of creating a stable and predictable policy framework, with a mandate to engage government agencies and legislators to avoid sudden policy shifts that could deter investors. It should include provisions that facilitate the NIPC's role in advocating for stable regulatory environments.

g. **Lack of Clear Incentives for Long-Term Investments**

Although Section 4 mentions the provision of information on incentives, there is no clear framework in the Act that guarantees specific long-term investment incentives such as tax holidays, guarantees for large-scale investors, or special economic zones with favorable terms.

Recommendation: The Act should specify a range of attractive and predictable long-term investment incentives that are in line with international best practices, such as tax exemptions, duty-free imports of machinery, or land allocation benefits for significant foreign investors. These incentives would provide clarity to investors and enhance Nigeria's competitiveness.

h. **Limited Role in Trade Facilitation**

The NIPC's mandate in the Act does not explicitly include trade facilitation or the reduction of bureaucratic bottlenecks, both of which are crucial for enhancing Nigeria's attractiveness as an investment destination. Excessive bureaucracy and unclear trade procedures are significant deterrents to foreign direct investment.

Recommendation: The Act should include provisions that give the NIPC a clear role in streamlining investment procedures and eliminating bureaucratic delays. This would involve working with customs, immigration, and other regulatory agencies to ensure smoother entry and operations for foreign investors, in line with global best practices.

i. **Insufficient Emphasis on Collaboration with Sub-National Governments**

The Act does not provide a clear framework for the NIPC to collaborate effectively with state and local governments in promoting investment at the sub-national level. Given Nigeria's federal structure, investments are often hindered by unclear relationships between federal and state-level regulations.

Recommendation: The Act should include provisions that promote stronger collaboration between the NIPC and state/local governments, ensuring that foreign investors receive consistent information

and are not hindered by conflicting policies at different levels of government. This would help create a unified investment strategy nationwide.

j. **Absence of Robust Performance Monitoring and Evaluation (M&E) Mechanisms**

While the Act mentions that the NIPC should evaluate its impact on investments, it lacks detailed provisions for establishing robust performance monitoring and evaluation (M&E) mechanisms to track its success, efficiency, and the quality of investments attracted to Nigeria.

Recommendation: The Act should mandate the creation of a formal M&E framework that allows for the systematic tracking of investment outcomes, feedback from investors, and the impact of promotional activities. This would provide data-driven insights to improve investment promotion strategies.

Section 17: Enterprises eligible for participation

This section allows for 100% foreign ownership in any sector of the Nigerian economy, except those specified in the negative list (such as security services or certain agricultural activities).

Alignment with AfCFTA: The provision for foreign participation aligns with Nigeria's obligations under AfCFTA, which seeks to create a single market for goods and services across Africa. By permitting foreign ownership, Nigeria encourages cross-border investments, particularly in sectors like manufacturing and services, which are crucial under AfCFTA.

Deficiency: The Act lacks explicit provisions to facilitate AfCFTA-aligned investments, such as cross-border trade incentives or streamlined customs processes for foreign investors seeking to export from Nigeria to other African countries.

Recommendation: The NIPC Act should be revised to align explicitly with AfCFTA provisions. This could include offering incentives for investments that promote regional trade, as well as simplifying customs procedures for businesses looking to take advantage of AfCFTA's continental market access

Section 20: Registration of Enterprise

Section 20 of the NIPC Act was amended by section 54 of the Business Facilitation Act 2023, which inserted a new subsection (3) immediately after the existing subsection (2) as follows:

> ***"(3) Notwithstanding the provisions of subsections (1) and (2), an enterprise registered in Nigeria, which subsequently acquires foreign participation after the commencement of business, shall, within three months of such acquisition, register with the Commission."***

While section 20 outlines the process for registering enterprises with foreign participation before commencing business or, in the case of enterprises that later acquire foreign participation, within three months of such acquisition. While this section provides a clear framework for registration, there are several weaknesses that could hinder its effectiveness, particularly in terms of encouraging foreign investment and ensuring ease of doing business.

Weaknesses of Section 20 of the Act

a. **Ambiguity in the Definition of "Foreign Participation**

Section 20 does not clearly define what constitutes foreign participation. Is it based on ownership

percentage, control, or influence? This ambiguity could create confusion for businesses and lead to inconsistent application or enforcement.

Recommendation: The Act should define "foreign participation" more explicitly, perhaps by including specific thresholds (e.g., ownership of 10% or more equity by foreign investors) or providing examples of what qualifies as foreign participation, such as control over key decision-making processes.

b. **Potential Delays in Registration Process**

Although the provision states that the NIPC shall register an enterprise within fourteen working days, it lacks penalties or enforcement mechanisms if this timeline is not met. In practice, delays could occur due to bureaucratic inefficiencies, leading to uncertainty for foreign investors.

Recommendation: The Act should include a penalty or enforcement mechanism for cases where the NIPC fails to meet the 14-day registration deadline. Additionally, automatic or provisional registration could be granted if the Commission fails to respond within the stipulated timeframe, thus minimizing delays and improving ease of doing business.

c. **Limited Mechanism for Appeal or Review**

Section 20 does not provide any mechanism for an applicant to appeal or review a decision made by the NIPC if the registration is denied or delayed. Foreign investors may face difficulties if their application is rejected without clear reasons or a path for recourse.

Recommendation: A clear appeal process should be included, allowing applicants to challenge decisions of the NIPC through either an internal review or an independent tribunal. This would give foreign investors more confidence in the fairness and transparency of the registration process.

d. **Lack of Provision for Streamlining Procedures**

Section 20 does not specify any measures to streamline the process or integrate with other regulatory bodies that a foreign enterprise may need to interact with, such as tax authorities, immigration, or the Corporate Affairs Commission (CAC). This could result in overlapping or duplicative procedures, increasing the administrative burden on foreign investors.

Recommendation: The NIPC registration process should be integrated with a one-stop shop system, whereby an enterprise can register with the NIPC and simultaneously complete other required procedures, such as tax registration, labor compliance, or immigration approvals. This would simplify the process for foreign investors and enhance the ease of doing business.

e. **Inflexible Timeline for Post-Commencement Registration**

The three-month timeline for enterprises that acquire foreign participation after commencement of business may be too rigid for some companies, particularly those undergoing complex mergers, acquisitions, or foreign partnerships. In these cases, the timeline might be difficult to meet due to legal complexities, valuation assessments, or compliance requirements in multiple jurisdictions.

Recommendation: The Act could provide for extensions or offer some flexibility based on the specific circumstances of the enterprise. For example, it could allow enterprises to request additional time for registration when dealing with complex foreign acquisitions or mergers, as long as there is transparent communication with the NIPC.

f. **Inadequate Deterrents for Non-Compliance**

There is no mention of penalties or consequences for enterprises that fail to register within the

prescribed timeframes. This could encourage non-compliance, particularly for companies that may not see immediate repercussions for failing to register.

Recommendation: The Act should include clear penalties for non-compliance with the registration requirement, such as fines or the suspension of business activities. A structured enforcement mechanism would ensure that all foreign-participating enterprises adhere to the law.

g. **No Explicit Mention of Technology-Driven Solutions**

The Act does not mention the use of technology-driven platforms for registration, which could make the process more efficient and user-friendly. Many foreign investors expect an online, transparent, and easy-to-navigate system, especially in a competitive global investment environment.

Recommendation: The Act should mandate the establishment of an online registration platform that allows for seamless application, submission of documents, and tracking of registration status. This would reduce administrative bottlenecks, improve investor experience, and align Nigeria with global best practices in digital investment facilitation.

h. **Potential for Bureaucratic Discretion**

Section 20 gives the NIPC discretion to determine whether all documents have been "duly completed and submitted," but it does not provide a clear checklist or guideline for the documents required. This opens the door for inconsistent or arbitrary decisions, potentially leading to increased bureaucracy or corruption.

Recommendation: The Act should provide a detailed checklist of required documents and a clear framework for decision-making to minimize discretion. This would enhance the transparency and predictability of the registration process, reducing opportunities for undue bureaucratic interference.

i. **No Provision for Monitoring and Post-Registration Follow-Up**

While the Act covers registration, it does not provide mechanisms for monitoring foreign participation post-registration. Enterprises could potentially change ownership structures without notifying the NIPC, leading to inaccurate data on foreign investments.

Recommendation: The Act should include a requirement for periodic reporting or audits of enterprises with foreign participation to ensure continued compliance. This would allow the NIPC to maintain accurate data on foreign investments in Nigeria and prevent abuse of the system.

Remark: While Section 20 of the NIPC Act provides a framework for registering enterprises with foreign participation, it has several weaknesses that could undermine its effectiveness in attracting and retaining foreign investment. Addressing issues related to ambiguity, transparency, potential delays, and integration with other regulatory bodies would significantly enhance the ease of doing business and investor confidence in Nigeria. By incorporating clear definitions, streamlined procedures, technology-driven solutions, and robust monitoring mechanisms, the Act could better align with international best practices and create a more favorable investment climate for foreign investors.

Section 22: Incentives for Special Investment

This section was substituted with section 55 of the Business Facilitation Act 2023.

The new Section 22 of the NIPC Act, which focuses on strategic investments, represents a positive step toward enhancing the attractiveness of Nigeria as an investment destination. It allows for the

specification of priority areas of investment, the negotiation of specific incentive packages for strategic investments, and ensures transparency by requiring the publication of criteria and incentives. However, while this provision is an improvement, there are key considerations to ensure it is sufficient to attract foreign investment and align with the African Continental Free Trade Area (AfCFTA) Agreement.

Strengths of Section 22

a. **Focused Investment Prioritization**

By allowing the NIPC to specify priority areas of investment and the applicable benefits, this provision ensures that investments are directed toward sectors critical for Nigeria's economic development, such as technology, infrastructure, and renewable energy. These sectors are also aligned with the goals of the AfCFTA to foster industrialization and intra-African trade.

b. **Negotiated Incentive Packages**

The ability to negotiate specific incentive packages for strategic investments allows Nigeria to tailor incentives for large or high-impact investments. This flexibility can make the country more competitive in attracting foreign direct investment (FDI), especially in cases where investments have the potential for significant job creation, technology transfer, or export promotion.

c. **Transparency and Clarity**

The requirement to publish criteria for determining strategic investments and details of special incentives is a critical step toward transparency. This reduces uncertainty for investors, who can clearly understand what qualifies as a strategic investment and the benefits they may be entitled to. Transparency is key in aligning with international investment best practices, as it builds investor confidence by reducing the risk of arbitrariness or corruption.

Key Deficiencies and Recommendations for Improvement

a. **Lack of Detailed Criteria for Strategic Investments**

While Section 22 mentions that the NIPC will specify the criteria for strategic investments, the current wording does not offer insight into what those criteria might be. The lack of a defined framework could create uncertainty for potential investors.

Recommendation: The Act should explicitly define or provide broad guidelines on what qualifies as a strategic investment. This could include factors such as the size of the investment, the number of jobs created, its alignment with national development priorities, and its potential to generate exports or contribute to regional trade under the AfCFTA. A well-defined framework would ensure clarity for investors and align with international standards.

b. **Risk of Inconsistent Incentive Negotiations**

While the ability to negotiate incentive packages is a valuable tool, it raises concerns about the consistency and predictability of the incentives awarded. Inconsistent application of incentives could lead to perceptions of unfairness, reduce investor confidence, and potentially open the door to corruption.

Recommendation: There should be a clear policy framework guiding the negotiation of incentives, with safeguards to ensure consistency, fairness, and transparency. The criteria for awarding special incentives should be linked to objective measures, such as investment size, export potential, or contribution to key sectors aligned with the AfCFTA Agreement.

c. **Alignment with the AfCFTA Agreement**

The AfCFTA Agreement aims to boost intra-African trade by creating a single market, with a focus on eliminating barriers to trade and investment across the continent. Section 22 does not explicitly mention alignment with regional trade agreements like the AfCFTA, which could limit its effectiveness in attracting intra-African investment.

Recommendation: Section 22 should explicitly align with the AfCFTA objectives by encouraging investments that facilitate regional trade and supply chains. The criteria for strategic investments could include considerations such as the potential for exports to other African countries, integration into regional value chains, and contribution to industrialization across the continent. Additionally, it should mention the elimination of tariffs or non-tariff barriers for investments that align with AfCFTA priorities.

d. **Incentives Beyond Traditional Tax Breaks**

The provision mentions special incentives but does not elaborate on the types of incentives that could be offered beyond what is already available under existing laws. Focusing only on tax breaks or financial incentives may not be sufficient to attract high-quality, long-term investments.

Recommendation: The NIPC should consider a broader range of incentives, including regulatory fast-tracking, streamlined licensing processes, access to land, and reduced bureaucratic hurdles for strategic investments. These non-financial incentives, especially related to ease of doing business, are critical in attracting investors who value regulatory efficiency and operational certainty.

e. **Capacity for Implementation and Monitoring**

The success of this provision depends on the NIPC's capacity to implement, negotiate, and monitor strategic investments. Without sufficient capacity or resources, the provision may not be fully utilized.

Recommendation: There should be provisions for building the capacity of the NIPC to negotiate effectively with investors, monitor compliance with negotiated incentives, and evaluate the impact of these investments. Additionally, coordination between the NIPC and other government agencies, particularly those involved in trade, industry, and finance, is essential to ensure effective implementation.

f. **Omission of Sustainability and ESG Considerations**

The provision does not address sustainability or environmental, social, and governance (ESG) criteria, which are increasingly important to global investors. ESG considerations are critical to attracting long-term, responsible investment that aligns with both global trends and the AfCFTA's goals of inclusive growth and sustainable development.

Recommendation: The Act should be amended to incorporate ESG criteria as part of the criteria for determining strategic investments. This would attract investors who prioritize responsible and sustainable investment practices, enhancing Nigeria's reputation as a destination for ethical investments.

Remark: While Section 22 of the NIPC Act is a significant improvement in attracting foreign investment, it could be strengthened by incorporating clearer criteria for strategic investments, ensuring consistency in negotiated incentives, and explicitly aligning with the objectives of the AfCFTA Agreement By addressing these areas, Nigeria can enhance its attractiveness to foreign investors and position itself as a key player in intra-African trade and investment, aligning with the goals of the AfCFTA to create a single market and boost economic growth across the continent.

In its current form, the provision provides a good foundation, but further refinement and expansion are needed to fully realize its potential in driving strategic investment and facilitating Nigeria's role as a key investment hub in Africa.

Section 25: Investment Protection

This section provides guarantees to investors, ensuring that their investments are protected from expropriation or nationalization, except in situations where the government determines it is in the public interest, with adequate compensation provided.

Conformity to International Best Practices: This section is crucial in aligning Nigeria's investment environment with international best practices. It assures foreign investors that their investments are safe from arbitrary government actions, thus enhancing investor confidence. The assurance of compensation in cases of expropriation also reflects global standards for investment protection.

Deficiency: The law lacks a clear dispute resolution mechanism for situations of expropriation or nationalization, which could delay compensation and create uncertainty.

Recommendation: The Act should include more robust dispute resolution mechanisms, such as mandatory arbitration clauses aligned with international standards. This would boost investor confidence by offering predictable outcomes in the event of investment disputes.

General Observations

- **Lack of Focus on ESG and Sustainability:** The NIPC Act does not incorporate principles of sustainability or ESG (Environmental, Social, and Governance) standards, which are critical in modern investment climates.
- **Inefficient Dispute Resolution Mechanisms:** The Act does not provide comprehensive dispute resolution mechanisms that align with international arbitration standards.
- **Narrow Scope of Investment Incentives:** The incentives in the NIPC Act are too focused on traditional sectors like agriculture and manufacturing, with limited provisions for emerging sectors such as technology and renewable energy.
- **Absence of Regional Balance in Investment Distribution:** The Act does not directly address regional disparities in investment, leading to an imbalance where certain areas (e.g., Lagos, Abuja) receive the majority of investments.
- **Weak Alignment with AfCFTA Provisions:** Although the Act encourages foreign participation, it lacks provisions that align investments with Nigeria's obligations under AfCFTA.
- The Act does not adequately address inclusiveness in terms of ensuring that vulnerable groups benefit from investment flows.
- There is no formal requirement for investors to engage in local capacity building or training programs for local populations, which limits the spread of the benefits of investment.

Recommendations

1. The Act should explicitly require adherence to ESG standards, ensuring that investments contribute to environmental protection, social welfare, and ethical governance. This would not only improve Nigeria's appeal to impact investors but also align with global standards such as the UN's Sustainable Development Goals (SDGs).

2. Nigeria should revise the Act to include international arbitration clauses, providing foreign investors with legal recourse that is transparent, timely, and in accordance with international norms, thus enhancing investor confidence.

3. The Act should offer targeted incentives for investments in new sectors, including digital technology, fintech, renewable energy, and other high-growth areas that align with Nigeria's long-term development strategy and AfCFTA's goals of fostering innovation.

4. The NIPC Act should be amended to include provisions that promote regional investment balance by offering additional incentives for investing in underdeveloped areas, such as the North East and North West regions of Nigeria.

5. The Act should be updated to explicitly support AfCFTA's objectives, including the facilitation of cross-border trade and regional value chains. This could involve offering special incentives for manufacturing and service sectors that contribute to intra-African trade.

6. Conclusion

The NIPC Act provides a foundational framework for attracting investment to Nigeria, with important sections that promote investor protection, incentives, and equal treatment. However, it requires significant reforms to meet the demands of modern investment climates, including the need for responsible, sustainable, and balanced growth. Incorporating ESG standards, modernizing dispute resolution mechanisms, expanding incentives to emerging sectors, and aligning with AfCFTA provisions will enhance the effectiveness of the Act and investment climate, positioning Nigeria as a competitive and attractive destination for both local and international investors. By focusing on sustainability, inclusiveness, and modern economic sectors, the Act can better position Nigeria as a leading destination for both local and foreign investments.

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