INCENTIVIZING FOREIGN DIRECT INVESTMENT IN NIGERIA: A LEGAL CRITIQUE OF EXTANT FISCAL AND TAX REGIMES

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Abstract

Globally, taxation is seen as an avenue for economic development. Developing countries compete to attract multinational companies to promote their economic and domestic markets. Fiscal incentives and attractive tax policies have long been recognized as the instruments used by governments of developing countries to ensure economic growth and investment. Foreign investors are usually skeptical in investing in developing countries because of the presence of political, economic or social instability associated with such countries. Accordingly, developing countries strive to encourage investors by introducing beneficial tax policies to ameliorate these risks. This paper critically examines the different tax incentives used by mostly developing countries to attract foreign investors/ investment. A comprehensive review of the factors that are considered to impact the attraction of Foreign Direct Investment (FDI) and the identification of relevant FDI determinant will also be discussed. More light will be shed on factors that will promote foreign direct investment. The paper examines the legal regime for investment promotion in Nigeria such as the Nigerian Investment Promotion Commission Act (NIPC) and its key sections that affects foreign investors. The paper finds that though the NIPC Act 2004 has coordinated and established foreign businesses in Nigeria, there is a need to review this Act to create a balance with the present demands of investors and trends in developed countries.

Key Words: *Foreign direct investment, tax incentives, taxation, NIPC Act*

1. Introduction

In recent times, bilateral and unilateral investment treaties have become the internationally acceptable instrument for encouraging *Foreign Direct Investment* (FDI) in developing countries. The impact of *FDI* on developing countries has increased the capital flow, organizational, managerial and marketing practices and technical knowhow, consequently increasing economic growth in the country.[1] Developing countries have introduced different methods to attract *FDI* such as creating less stringent measures in the admission and establishment of *FDI* projects, providing security for the return of investment profits earned in host countries and giving tax incentives.

Tax incentives have been one important instrument in the encouragement of *FDI* in developing countries. It is an incentive that decreases the tax obligations on investors in order to inspire them to invest in a particular sector of the economy. Foreign direct investment incentives may be defined as those measures put in place to favour specific investors or enterprises by the government of the host country to encourage the rate of return of the *FDI* undertaken or to

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[1] Rajan S.R. 'Measures to attract FDI, Investment Promotion, Incentives and Policy intervention.' *Economic and Political Weekly*, vol. 39, no. 1, 2004, pp. 12–16. *JSTOR*, www.jstor.org/stable/4414454(last visited on 10th of July 2019)

redistribute its cost or risks.[2] The positive and negative effect on developing countries has created concerns over the years in considering if it is worth the cost. Generally, investors would consider other relevant factors such as the location, access to raw materials and the availability of skilled labour in a given country before considering if any tax incentives offered are beneficial to the particular project envisaged.[3]

For some developing countries that engage in tax competition, this may be detrimental to the economy in a bid to attract foreign investors. This competition can be seen when countries offer attractive tax condition to investors through the application of low tax rates to reduce the tax burden. This creates a competitive tax regime among countries that strive to offer the lowest and the most attractive tax incentive. Generally, tax competition has resulted in uneconomical allocation of resources, effective tax rates to be greatly reduced, trade and investment patterns have been inaccurate, and it could also result in lower labor cost and unstable revenue.[4]Considering the general belief that FDI create more employment opportunities and increases the economic revenue, this assumption is sometimes not entirely accurate because in most cases tax incentives cause more revenue loss than an increase in the revenue collection to the host countries. In most cases, Incentives are granted based on competition with other countries and not based on its effect on the local economy and its effect on the tax base of the country.[5]Countries also encourage investment either domestically by foreign entities or abroad by its firms by entering into bilateral treaties, an example is the *Double Taxation Treaty*.[6] It restricts the ability of developing countries to tax corporate income from foreign investors which can only be recovered if there is an increase of FDI.[7]

There is a need to have a fiscal regime that is stable, flexible and efficient to attract investment through tax incentives and allowances by balancing the needs of the government and that of the investor. It is necessary to examine how these tax incentives have helped to promote and sustain foreign direct investment. It is imperative to address this issue not only for the host government who need this investment for economic development but also to serve as an assurance to investor in their decision for the most favorable tax climate. This paper will equally look at different tax incentives and its benefit to an investor. In addition, this paper will critically examine the *NIPC Act* and its obligation to an investor. It is also imperative that the Act is reviewed to meet with current demands and sustainability in investment. This paper enlists recommendations for future *FDI* policies that may assist government in providing a tactical framework for skill development, thereby increasing investment growth rate.

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[2] United Nations Conference on Trade and Development, ,*Tax incentives and Foreign Direct Investment: A Global survey*,New York and Geneva 2000,at http://www.unctad.org/en/docs/iteipcmisc3_en.pdf (last visited on 10th of July 2019)

[3]Ibid.

[4] Andres E. BazoPisani., *Do developing Countries Tax incentives Attract Investment or create Disaster*,at https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1319815 (last visited on 22nd July 2019)

[5] ibid

[6]Otto, J and Cordes, J., The Regulation of Mineral Enterprises: A Global Perspective on Economics, Law and Policy (Rocky Mountain Mineral Law Foundation 2002)

[7]Neumayer, E., *Dodouble tax treaties increase foreign direct investment to developing countries,* the Journal of Development Studies, Vol 43(8), at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=766064 (last visited on 22nd July 2019)

2. Factors that facilitate FDI

The determining factors for the flow of FDI in any particular country will depend largely on the profit that will be made on investment and the assurance surrounding the return of investment. Therefore, investors compare the different risk of return of investment they are exposed to in any particular country before deciding with other factors in mind. FDI flows declined sharply in developed countries and economies in transition. It reached the lowest point since 2004, declining by 27percent. While flows to developing countries remained stable, rising by 2 percent. As a result, developing economies accounted for a growing share of global *FDI*, at 54 percent from 46 percent in 2017.Global *Foreign Direct Investment* (FDI) flows continued their slide in 2018, falling by 13 per cent to $1.3 trillion from a revised $1.5 trillion in 2017. The decline- the third consecutive year's fall in FDI- was mainly due to large scale repatriations of accumulated foreign earnings by *United States Multinational Enterprises* (MNEs) in the first two quarters of 2018 following tax reforms introduced by that country at the end of 2017.[8]

FDI flows to Africa rose by 11 percent to $46billion despite declines in many of the larger recipient countries. The increase was supported by continued resource - seeking inflows, some diversified investments and a recovery in South Africa after several years of low level inflows. In contrast, investment in some of the other large recipients, including Nigeria, Ethiopia and Egypt declined in 2018.[9]It is also expected that the implementation of the *African Continental Free Trade Area* (AfCFTA) will accelerate economic growth in Africa and increase foreign direct investment. The elimination of tariffs under the agreement could help market-seeking *FDI*. Regional integration could also encourage foreign investment that targets value addition to local commodities and natural resources, as well as increased intra- African investment. Majority of the new investment policy measures are directed towards liberalization, promotion and facilitation. Many countries have streamlined their administrative procedure, entry restrictions and new fiscal incentives for foreign investors in a variety of industries, all aimed at attracting investment. Equally, some countries are developing new model treaties and guiding principles to shape future treaty making.

Special economic zones are widely used in most developed and developing economy. Governments facilitate industrial activities within these geographically delimited areas through fiscal and regulatory incentives and infrastructure support. Developing countries tend to establish integrated zones aimed at industrial development. Special economic zones contributes to growth and development of the country, industrial upgrading and diversification, they attract investment, create jobs and boost exports. It is also common to have International cooperation on zone development in some developing countries which is built through bilateral partnerships or as part of development cooperation programs. Some of these zones offer fiscal incentives, relief from customs duties and tariffs, business friendly regulations with respect to land access, permits and licenses or employment rules and administrative streamlining and facilitation.[10]

[8]Unctad World Investment Report 2019, https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2460 (last visited 10 September 2019)
[9]ibid
[10]Unctad World Investment Report 2019, Special Economic zones available at https://unctad.org/en/pages/PublicationWebflyer.aspx?publicationid=2460 (last visited 10 September 2019)

Also the Nigeria government have entered into a number of *Double Taxation Agreements* (DTAs) with many countries as a way of encouraging foreign trade and investment and providing relief from double taxation in respect of taxes which are payable on any taxable profit in Nigeria and any taxes of similar character imposed by the laws of the foreign country involved. These reforms are being pursued across various regions and by countries at different levels of development. In Nigeria we have the *Oil and Gas Free Zone* and the *Nigeria Export Processing Zones* which all come with various incentives. Very few countries regularly access the performance and economic impact of zones. Doing this is very important to find a remedy to unsuccessful zones especially when there has been a significant level of public investment in zone development.

Generally, the determinants of FDI explain the variations of FDI inflow in any particular country. It is noteworthy that host countries whose policies and environment offer attractive incentives stand better chance for an increased inflow of FDI. In the broader sense, they still consider locational advantages in their interaction with ownership, specific and internalization advantages in the decision making of country of investment.[11]

3. Kinds of tax incentives.

Most governments in an effort to attract the inflow of *FDI* have taken measures such as making the entry and establishment of *FDI* projects simple, assurance of repatriation of investment and profits, settlement of investment disputes amicably and by providing tax incentives. Basically, tax incentive may be defined as 'any measurable economic advantage afforded to specific enterprises by or at the direction of the government, in order to encourage them to act in a certain manner'.[12] These measures are placed to reduce the risk an investor is exposed to and to encourage investment in a particular sector. In most cases, countries provide special incentives that are beneficial with restrictions attached.[13] The following are some of the tax incentives:

a) Reduced Corporate Income Tax Rate

The government of the host country may set a lower corporate income tax rate as an exception to the general tax regime in order to attract FDI to a specific sector of the economy. In Nigeria, the *Companies Income Tax Act (CITA)* is the principal legislation for the taxation of profits of companies accruing in, derived from, brought into, or received in Nigeria. Section 1 of the *CITA* establishes the *Federal Board of Internal Revenue*, whose operational arm is the *Federal Inland Revenue Service* which is empowered to administer taxation of companies under the *Act*. Resident companies are liable to *Corporate Income Tax* (CIT)[14] on their worldwide income while non -residents are subject to *CIT* on their Nigeria source income. The *CIT* rate is 30%, assessed on a preceding year basis (i.e. tax is charged on profits for the accounting year ending in the year preceding assessment). In regards to business profits, a foreign company that has a fixed

[11] United Nations Conference on Trade and Development, *Tax incentives and Foreign Direct Investment: A Global survey*, New York and Geneva 2000, at http://www.unctad.org/en/docs/iteipcmisc3_en.pdf (last visited on 10th July 2019)
[12] Ibid
[13] Ibid.
[14] This covers tax chargeable on all companies operating in Nigeria. Companies Income Tax Act (CITA) CAP 60 LFN 1990.

base or a permanent establishment in Nigeria is taxable on the profits attributable to that fixed base. It is required to register for *CIT* and file its tax returns. [15]

b) Interest deduction

In most cases, income tax laws make possible a complete / partial deduction of loan interest payment while calculating taxable income. The government in most cases will look for means to limit either the total allowable debt to equity ratio. Also, it is noteworthy that the government often times place restrictions in this valuable tax deduction. Furthermore, loans most times were offered to an affiliate by Head Company at a higher rate than the commercial interest rate which leads to reduction of government tax revenues.[16]

i. **Mitigation:** This can be mitigated by restrictions in the tax laws or in the general agreement. This simply states that the interest rate should be at a competitive commercial rate for the sake of calculating interest.

ii. **Loss carried forward/backward:** If a fiscal regime allows lost incurred in a year to be carried to a subsequent, profitable, year then it is called 'Loss carried forward'. This measure is particularly valued by investors whose projects are expected to run losses in the first few years as they try to penetrate the market. However, some jurisdictions give room for a loss to be carried back in time and the tax return is then adjusted in that particular year, called 'Loss carry backward'.[17]

c) Tax holidays

They are common form of tax incentives used by developing countries to attract *FDI*. Under a tax holiday, newly established firms are exempt from paying corporate income tax for a specific period of time. Tax holidays also eliminate tax on net revenues from investment projects over the period, which may encourage investment depending on the case.[18] While some companies would see tax holiday as an attractive incentive, for others, its existence may not have any impact on the company's project. Companies engaged in long term investment keep records of capital expenditure during the holiday period in order to comply with the tax system following the tax holiday.

d) Investment Allowance

These are deductions from taxable income based on some percentage of new investment (depreciation). They tend to lower the effective price of acquiring capital. Both investment allowances and investment tax credits are given as a specified percentage of qualifying investment expenditures.

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[15] Corporate taxes on corporate income, http://taxsummaries.pwc.com/ID/Nigeria-Corporate-Taxes-on-corporate-income accessed on the 7th September 2019.

[16] Otto, J., *Mineral Sector Taxation Methods: A Global Review*, Seminar Paper SP3(DUNDEE,SCOTLAND: CEPMLP,1992)

[17] United Nations Conference on Trade and Development, *Tax incentives and Foreign Direct Investment: A Global survey*, New York and Geneva 2000, at http://www.unctad.org/en/docs/iteipcmisc3_en.pdf (last visited on 10th July 2019)

[18] United Nations Conference on Trade and Development, *Tax incentives and Foreign Direct Investment: A Global survey*, New York and Geneva 2000, at http://www.unctad.org/en/docs/iteipcmisc3_en.pdf (last visited on 10th July 2019)

e) Capitalized Cost Allowance

In this case there is a deduction on the taxable income in the form of capitalized cost. Capitalized cost can be defined as cost incurred at a point in time but considered as a later cost for tax purposes, probably when the project starts to earn revenue. It effect is to lower the companies tax liabilities. E.g. Depreciation, amortization and depletion allowances.[19] Depreciation allowances applies to cost of tangible assets, they are usually taken for purchases of equipment and plant, amortization are taken for costs related to feasibility and engineering studies while depletion allowances are applicable where resources are owned by private individuals.[20] Accelerated depreciation or accelerated amortization refers to when the company take these tax deductions earlier than the general years allowed. Companies prefer to take these deductions earlier because of inflation and for reinvestment purposes.[21]

f) Tax credit

This is mostly offered by the government to promote her special objective. The difference between a tax credit and tax deduction is- a tax deduction is the amount deducted from project revenues to calculate the amount of income subject to taxation, whereas, a tax credit is directly subtracted from the actual amount of tax payable as shown below:

Tax Credits:	Income tax payable	– tax credit	=	tax payable
	↓			↓
	Tax base stays same			tax liability reduces

Note that the taxable income for 'Tax Deduction' always changes its tax base.[22]

g) Reinvestment credit

Reinvestments credits are offered by the government to encourage investors to reinvest the profit earned from the project back into the same or another operation within the country. However, governments have the option of restricting the cash that flows out of the country, through the withholding tax. Some other countries have chosen the method whereby profits reinvested within the country are given some kind of tax allowance or tax credit.

h) Reduced taxes on dividend and interest paid abroad

Government will generally levy taxes on dividends remitted abroad by foreign investors. These taxes may be reduced in order to attract foreign investment. Typically, the lower the dividend tax, the greater the tax incentives. On the other hand, the lower the dividend tax, the lower the penalty for remitting dividends, and the lower the incentive to reinvest profits.

[19] Otto, J., *Mineral Sector Taxation Methods: A Global Review*, Seminar Paper SP3(Dundee,Scotland: CEPMLP,1992)
[20] Ibid
[21] Ibid
[22] A tax base is defined as the total value of assets, properties or income that can be taxed b a taxing authority.

i) Preferential treatment of long-term capital gains

Some countries accord preferential tax treatment for appreciation in value of capital (assets) held by enterprises if the capital or asset is held over a fixed period of time usually six months to a year. Short term capital gains are usually taxed as ordinary income. Preferential tax treatment of long term capital gains is intended to encourage investors to retain funds for longer periods.

j) Zero or reduced tariff

The government can grant two types of tariff incentives. On one hand they can reduce or eliminate tariffs on imported capital equipment and spare parts for qualifying investment projects. This has the effect of reducing the cost of investment. On the other hand, they can increase tariffs on the final products of the investor in order to protect the domestic market from import competition.

k) Tax Reductions/ Credit for Foreign Hard Currency Earnings

Most developing countries encourage export in order to earn much needed foreign hard currency. This also applies in other industries in the services sector (e.g. tourism and hotels) are provided tax reductions or credits based on earnings of such hard currency.

4. The Nigerian Investment Promotion Commission Act (NIPC)[23]

The Nigerian government has put in place a conducive environment for the active participation of foreigners who want to do business in Nigeria. In doing this it has put in place certain laws, rules and regulations to help guide foreigners in their conduct of business in Nigeria such as the Companies and Allied Matters Act (CAMA)[24], Foreign Exchange (Monitoring and Miscellaneous Provisions) Act[25], Investment and Securities Act (Amendment) Bill 2019, Immigration Act (Amendment) Bill 2019.etc

The main agency that oversees the participation of foreign nationals in business enterprises in Nigeria is the Nigerian Investment Promotion Commission Act (NIPC) which is established by the NIPC Act. It regulates all foreign investment in Nigeria and every foreign investor must go through the *Commission* for proper documentation. The government of Nigeria is committed to encouraging and attracting foreign investment into key sectors of the economy which will significantly impact development and be beneficial to the country in terms of employment, skill and technology transfer, economic growth and diversification, industrial and sectorial development, export development and import substitution. The *NIPC* is working tediously with other arms of the government to provide and disseminate up –to- date information on incentives available to investors in Nigeria.

The *NIPC* is also working with other agency of the government to increase the awareness of investment opportunities in Nigeria amongst investors, to promote investments in Nigeria to

[23] Cap N117 LFN 2004.
[24] *Cap C20 LFN 2004*
[25] *Cap F34 LFN 2004*

domestic and foreign investors and to facilitate new and incremental investments. Some of its investment policies and protection to investors are contained in these sections;[26]

- Section 17 and 18 of the *NIPC Act* liberalises ownership of investment of any national in any enterprise except enterprises with activities listed on the negative list which are prohibited for both foreign and Nigerian investors. This negative list includes; production of arms, ammunition, production of and dealing in narcotic drugs and psychotropic substances, production of military and para- military wears and accoutrement , including those of the Police and the Customs, Immigration and Prison services and such other items as the *Federal Executive Council* may from time to time determine.

- Section 22 of the *NIPC Act* dealing on special incentives, empowers the *NIPC* to negotiate in consultation with appropriate Government agencies, special incentives for strategic or major investments.

- Section 24 of the *NIPC Act* on free transferability of capital and returns provides that a foreign investor in an enterprise shall be guaranteed unconditional transferability of funds through an authorized dealer in a freely convertible currency:
  a) Dividends or profits (net of taxes) attributable to the investment;
  b) Payment in respect of loan servicing where a foreign loan has been obtained;
  c) The remittance of proceeds (net of all taxes) and other obligations in the case of sale or liquidation of the enterprise or any interest attributable to the investment.

- Section 25 of the *NIPC Act* provides guarantees to investors against nationalization and expropriation. Where an acquisition is made in national interest or for public purpose, the investor shall be entitled to:
  a) payment of fair and adequate compensation;
  b) a right to access to courts for the determination of the investors interest or amount of compensation to which the investor is entitled.
  c) payment of compensation without undue delay and authorization for its repatriation in convertible currency, where applicable.

- Section 26 of the *NIPC Act* grants a foreign investor the option of recourse to international arbitration machinery for the settlement of disputes. Where there is disagreement on the method of dispute settlement to be adopted, *the International Centre for Settlement of Investment Dispute Rules* shall apply.[27]

As part of the functions of the *NIPC* to revitalize the Nigerian economy and the promotion of investment, the *NIPC* will initiate and support measures which shall enhance the investment climate in Nigeria for both Nigerian and non-Nigerian investors maintain liaison between investors and government department and make proper recommendations. Equally the *NIPC*

[26]Compendium of Investment Incentives in Nigeria, October https://nipc.gov.ng/compendium/preface/ accessed 22nd October 2019
[27]The Nigerian Investment Promotion Act, https://nipc.gov.ng/ accessed the 10th July 2019

should advise the federal government on policy matters, including fiscal measures designed to promote the industrialization of Nigeria and development of the economy.

Against this backdrop, the Nigeria government in enhancing and revitalizing the investment environment should consider the rehabilitation of its socio- economic infrastructures such as the Electricity Sector which has remained of high importance to the government of Nigeria, Telecommunication, Railways, Roads and Airports, security of life and property and Anti-corruption Commissions.

4.1 The Pioneer Status Incentives (PSI)

The Federal government of Nigeria in its effort to transform the economy is committed towards increasing investment in different sectors of the economy which will significantly increase development and benefit the country in terms of economic growth and diversification, increase in employment, sectoral and industrial development, skills and technology transfer, export development, import substitution. The essence of Pioneer Status Incentive is to reduce the cost of doing business in Nigeria by providing corporate income tax relief to qualifying companies making investments in industries designated as 'pioneer'. In other words, *PSI* seeks to enhance the survival, profitability and sustainability of beneficiary companies.

The *Pioneer Status Incentive* is a tax holiday which grants qualifying industries and products relief from the payment of corporate income tax for an initial period of three years, extendable for one or two additional years. The pioneer designation is conferred by the inclusion of the industry or product on a list approved by the *Federal Executive Council*. The Pioneer list is reviewed at most every two years for possible additions or deletions. *PSI* is founded under the *Industrial Development (Income Tax Relief) Act, No 22 of 1971*. As provided in the *Act*, an industry or product is designated as pioneer if;

a. It is not being carried on in Nigeria on a scale suitable to the economic requirements of Nigeria or at all, or there are favorable prospects of further development in Nigeria;
b. It is expedient in the public interest to encourage the development or establishment of such industry in Nigeria.

The *Nigerian Investment Promotion Council* (NIPC) recently released its *Pioneer Status Incentive* (PSI) Report for the Fourth Quarter of 2019 (the Q4 Report for 2019), which among other things, outlines the total number of applications for *PSI* received, granted and declined. The Q4 Report shows that a total of twenty-eight (28) new applications were received, whilst eleven (4) companies were granted *PSI.* In addition, four (4) applications for extension were received. The total number of *PSI* current beneficiaries as at 31st December 2019 stands at forty-two (42) companies.[28] Looking at this Q4 report there was an increase in *PSI* granted to companies compared to the last quarter.

A company incorporated in Nigeria or promoters of a company which is to be incorporated in Nigeria can apply for *Pioneer Status Incentives*. A joint venture company or a foreign wholly

[28]Quarterly Pioneer Status Incentive Reports, https://nipc.gov.ng/product/pioneer-status-incentives-report-fourth-quarter-2019/ accessed 2 May 2020

owned company must show that it will incur capital expenditure in excess of 5,000,000. An application for pioneer status must be submitted within one year of the applicant company commencing commercial production otherwise the application will be termed barred. Some of the industries listed in the official gazette include agriculture, manufacturing, mining and quarrying, electricity and gas supply, waste management, trade, construction, information and communication etc. The applicant must state clearly in the application form what impact the project will have on Nigeria in terms of employment, economic diversity and growth, skills and technology transfer, export development, import substitution etc.

4.2 Tax-based incentives

The Administering Agency of tax in Nigeria which is the *Federal Inland Revenue Service* grants several tax based incentives contained in several *Act* such as the *Personal Income tax Act*, the *Capital Gains tax Act, Companies Income tax Act, Export Incentives, Value Added tax*, Export Processing Zones Incentives. Other general tax based incentives include Exemption of profits of some companies, deductions for research and development, reconstruction investment allowance, rural investment allowance, gas utilization: Investment allowance, gas utilization: interest deduction, investment tax relief. In addition, other sector specific tax based incentives covers the Agriculture/ Agro-allied sector, Solid minerals sector, Tourism/ Hospitality, Oil and Gas.

Equally, Partnerships with a foreign partner for zone development are increasingly common. International cooperation on zone development is a growing phenomenon. Economic cooperation with a mixture of development assistance and strategic considerations is helping the development of partnership zones with the support of investor home countries. It is an advantage for developing countries to partner with foreign partner to share development costs, tapping into the expertise and experience of partner zone developers and having access to an established network. Zones are important in promoting investment however it is not a precondition for the attraction of foreign direct investment. The incentives, infrastructure support and business facilitation it provides compensates for the poor investment climate of the country.

It is equally necessary to review the *NIPC Act* and treaties to meet up with the current demands of investors and host governments. It is necessary to consider how sustainable these laws are and if they move with trends and determinants of FDI in developed countries. Bilateral investment treaties should be reviewed to bring them in line with current development, aspirations and improved benefits in Nigeria.

5. Conclusion

Tax incentives have served as one of the means used by developing countries in the promotion of *FDI*. However in as much as tax incentives are quite attractive to foreign investors, other factors are still considered in their decision on where to invest, those factor include political stability, a reliable legal structure to provide guarantees to investors. *FDI* has equally served as another means used by developing countries for the development of basic infrastructure, creation of new job opportunities and development of the educational sector.

In developing countries, *Special Economic Zones* are important in export diversification and they help in creating jobs thereby reducing the rate of unemployment. Countries should also consider

accessing the performance and impact of these zones, accessing the zone benefits against costs of initial investment expenditures and operating costs and find lasting solution. The Nigerian government, the Special Economic Zone developers, host countries and the investment promotion bodies should ally policy making towards the *SDGs* and adopt the highest levels of environmental, social and governance *(ESG*) standards and compliance.

Tax laws should be constantly reviewed in order to repel obsolete provisions and simplify other provisions. The Nigeria tax system in particular is confronted with many challenges such as poor tax administration, corruption, tax multiplicity, regulatory challenges, structural problems in the economy and insecurity, complexity of tax laws, unavailability of tax statistics, tax evasion and avoidance, poor government supervision etc.

Future investment growth, progress and development especially in Nigeria crucially depend on the long-term availability of energy from sources that are affordable, accessible and environmentally friendly. A reduction in local air pollution and a shift towards sustainable energy future.

The implication of these is that it will greatly affect the attitude of foreign investors in their choice for favorable host country for investment. It also destroys the willingness and confidence on the part of taxpayers willing to comply with tax laws. Hence, this will affect the trust of foreign investors to invest and tax non –compliance as the result of how the tax monies is been utilized. In view of all this complexities and inconsistency, the impact and positive influence of tax revenue on economic growth will remain uncertain and debatable. Generally, tax incentives will not absolutely encourage *FDI*, the host country should provide infrastructures and institutional reforms that guarantees security of capital and protection from extortionate regulatory environment

6. Recommendations

1. An open, transparent and predictable investment climate is essential to attract investment. Nigeria has only recently started reforms to improve its general regulatory framework. Enhancing the general regulatory framework and an overhaul of the tax regime
2. In regards to *Pioneer Status Incentives* other companies should be considered that will develop and impact on the economy of Nigeria. Simplify the incentives regime and compliance monitoring. Extend the treatment and protection guarantees of the *NIPC Act* to all investors.
3. Uninterrupted energy supply is a vital issue for all countries today. In addressing this near moribund electricity issues in Nigeria to improve *FDI*, a full exploitation and promotion of renewable energy resources, energy efficiency practices as well as the application of energy conservation measures for example in construction of buildings, offices and industries.
4. The perception of corruption in Nigeria blemished its image as an investment destination. Additionally, an improvement in access to justice and dispute resolution in the commercial justice system will increase investor's confidence.