

CHAPTER FIVE



Registration with Statutory Bodies



5.1.1 REGISTRATION OF TRANSFER OF TECHNOLOGY

In this present era of globalization and liberalization in the world economy, a nation must be able to harness her ideas, inventions, innovations and creative works towards technological advancement and global competitiveness. To nurture national talents, Nigeria requires identification of her researchers and inventors; creation of an enabling environment and initiation of strategies to protect all the stakeholders and their creative works. The Federal Government of Nigeria, in recognition and appreciation of the above facts, established the Federal Ministry of Science and Technology with its various parastatals and agencies to carry out such activities. The National Office for Technology Acquisition and Promotion (NOTAP) is one of these parastatals. NOTAP renders a number of technology-related services to industries, entrepreneurs, researchers, inventors and innovators in the areas of technology transfer agreements; intellectual property rights promotion; provision of the state of the art technology information; commercialization of research and development results; research-industry linkage; monitoring, consultancy and extension services; technology advisory services, etc.

The National Office for Technology Acquisition and Promotion (NOTAP) requires that contracts/agreements that deal with the acquisition or transfer of foreign technology must be registered and a Certificate of Approval or Certificate of Refusal of registration issued. A registerable instrument of transfer of technology that is not registered with NOTAP is not void, but non-registration of such an agreement/instrument means that profits, royalties and other repatriation will not be done by the Central Bank of Nigeria CBN.

Documents Required for Registration

- Completed application form
- Completed NOTAP questionnaire
- Completed TAA pre-qualification form
- Draft copy of the Technology Transfer Agreement to be registered
- Company's Memorandum and Articles of Association
- Certificate of Incorporation
- Completed monitoring form – for Renewal Agreement
- Annual Report
- Tax Clearance Certificate (TCC) and Tax Identification Number (TIN)
- Performance bond for advance payment
- Engineering drawings, Feasibility Study Report etc., where

- applicable
- Approval/ licenses obtained from appropriate authorities and bodies e.g.
- NCC for agreements on communications
- NNPC for agreements on oil exploration
- NBC for agreements on broadcasting rights, etc
- Transferor/licensor profile

Official Website – <http://www.notap.gov.ng>

5.1.2 REGISTRATION WITH THE NIGERIAN INVESTMENT PROMOTION COMMISSION (NIPC)

As part of the government's efforts to ensure the ease of doing business in Nigeria, the NIPC was established by NIPC Act No.16 of 1995 to promote, co-ordinate, and monitor all investment activities in Nigeria. The Commission performs these duties by publishing and announcing investment opportunities as well as incentives to attract foreign investors. Thus, in order to effectively perform this duty, the NIPC set up the 'One-Stop-Investment Center' (OSIC) for coordinating all investment activities and a place where regulatory authorities can converge in order to discharge their duties and make the process of incorporating any form of business very easy for investors. Apart from this, the NIPC has a lot of incentives for any company that falls under the "Pioneer Status", and a "Pioneer Status Certificate" is usually issued.

Another benefit of registering with the NIPC is that The Nigerian Investment Promotion Commission Act ensures that no foreign-owned enterprise or establishment shall be expropriated or nationalized by any government in Nigeria after the due registration with the NIPC.

Requirements for Registering with NIPC

- The first step is to register the company with the Corporate Affairs Commission in Nigeria. A company seeking to do business in Nigeria must register with the Commission and pay stamp duties to the FIRS.
- A formal application is addressed to the Executive Secretary of the Commission, by the applicant first obtaining the duly completed NIPC Form 1 and making a non-refundable deposit.
- The form shall be completed by the company and submitted to the headquarters at Abuja along with the following

documents:

- Receipt of payment of the NIPC Form
- Memorandum and Articles of Association
- A copy of Certificate of Incorporation
- Certificate of Capital Importation for wholly owned foreign companies
- CAC Form 1.1
- Evidence of a Joint Venture Agreement (where applicable)
- Feasibility Report and Project Implementation Program of the company to carry on its business operations.
- Power of Attorney or letter of authorization where applicable
- Training programme for Nigerian Staff of the company.
- Payment of prescribed fee

Official Website – <http://www.nipc.gov.ng>

5.1.3 CAPITAL IMPORTATION

Foreign investors wishing to buy shares or import foreign capital for their business in Nigeria can either import their capital through an authorized dealer or through the debt-equity scheme. Authorised dealers are usually commercial banks in Nigeria who help investors to import their foreign capital by a currency that is convertible to the Nigerian currency i.e. the Naira, at the official foreign exchange rate. The Authorised dealers will give a “Certificate of Capital Importation” issued by the CBN to the investors. A Certificate of Capital Importation (CCI) allows any foreign investor to transfer funds unconditionally to another country. The imported funds, which must be in foreign currency, remain the money of the company to utilize as it deems fit. The instructions to the bank should state the purpose for which the funds are in-flowed (which may be as a loan or for equity), as this would be indicated on the CCI.

Nature of a CCI

The CBN introduced electronic CCIs, also known as e-CCIs, in September 2017, before which CCIs had been issued in hardcopy. E-CCIs are issued, managed, and monitored via an electronic platform administered by the CBN, to which the commercial banks and investors have access. The e-CCI was introduced to address the problems such as misplaced or inadvertently destroyed CCIs that resulted in investors being unable to repatriate the proceeds of their investment. Benefits of the e-CCI regime include:

- A convenient means of safekeeping and tracking CCIs.
- Ease of monitoring the status of a CCI application, as all CCI applications must be made on the CBN e-CCI platform.
- An investor can track all of the CCIs issued to it by multiple

banks.

On the other hand, capital can also be imported by purchasing the debt instrument of Nigeria on any stock exchange in the world. The investor will in turn get the naira equivalent of the face value of the purchased instrument in Nigeria which can be used for investment. This method of capital importation is known as the Debt-Equity Scheme.

The requirement for obtaining a CCI depends on the nature of the importation, i.e. whether or not the purpose of importing the cash is for investment equity or as loan.

Requirements for obtaining CCI for importation of cash as an Investment Equity

- An application letter will be sent to the chosen commercial bank
- The application letter will be accompanied by the following documents
 - i. A copy of Certificate of Incorporation
 - ii. A copy of the Board resolution authorising the importation of the capital
 - iii. Particulars of the foreign investors
 - iv. The business sector of the beneficiary company
 - v. Any other relevant documents required by the authorised dealers or the CBN.

Requirements for obtaining CCI for the importation of capital as loan

- An application letter will be sent to the chosen commercial bank
The application letter will be accompanied by the following documents
 - i. A copy of Certificate of Incorporation
 - ii. A copy of the Board resolution authorising the importation of the capital
 - iii. Particulars of the foreign investors
 - iv. The business sector of the beneficiary company
 - v. Schedule of the loan agreement stating the tenor and the interest rate
 - vi. Any other relevant documents required by the authority

5.1.4. CAPITAL REPATRIATION

The position of the Law in Nigeria is that a foreigner can invest in any business enterprise with foreign currency by capital importation through an authorised dealer (usually a Nigerian Commercial Bank). Thus, whenever an investor imports capital the authorized dealer is required by law to give such an investor a Certificate of Capital Importation which will entitle the investor to some benefits. One of

these benefits is the unrestricted transferability of returns or proceeds of their investment and capital repatriation from Nigeria to the desired country in an event of liquidation.

Once a foreign investor has the CCI, such an investor can repatriate the following capital without restriction:

- Dividends, rent, royalties, profits (net of taxes) attributable to the investment. Dividend payments are subject to withholding tax at 10% as final tax (7.5% for qualifying recipients in a treaty country).
- Payment of interest and capital on foreign loans. A Tax Clearance Certificate is required to remit dividend and interest out of the country.
- The remittance of proceeds (net of taxes) and other obligations in the event of a sale or liquidation of the enterprise or any interest attributable to the investment.

5.2 CONSUMER PROTECTION

5.2.1 STANDARD ORGANISATION OF NIGERIA

The Standard Organization of Nigeria (SON) is the apex body in charge of standardization in Nigeria. The agency is in charge of all the products, processes and scientific study of measurement standards in Nigeria. The Standard Organization of Nigeria was created in 1971 by the Enabling Act No. 56 of 1971. It currently operates under the SON Act No. 14, 2015. The primary responsibility of the Standard Organization of Nigeria is to make sure that products that are locally manufactured in Nigeria have the required level of satisfaction desired by consumers. The ultimate goal of the Standard Organization of Nigeria is to keep improving life through quality standardization and quality assurance. They keep working towards making sure that products in Nigeria and the ones exported meet the satisfaction of consumers within and outside Nigeria.

Benefits of Registering Products with the Standard Organization of Nigeria

- Product traceability in the Nigerian market
- Easy detection of counterfeit products
- Creates a barrier on the circulation of substandard goods
- The official SON Product Registration Logo and number are displayed on registered products to show compliance and acceptability.

Official Website – <http://www.son.gov.ng>

5.2.2 National Agency for Food and Drug Administration and

Control (NAFDAC)

The National Agency for Food and Drug Administration and Control (NAFDAC) was established by Decree No. 15 of 1993 as amended by Decree No. 19 of 1999 and now the National Agency for Food and Drug Administration and Control Act Cap N1 Laws of the Federation of Nigeria (LFN) 2004 to regulate and control the manufacture, importation, exportation, distribution, advertisement, sale and use of food, drugs, cosmetics, medical devices, packaged water, chemicals and detergents (collectively known as regulated products). The Agency was officially established in October 1992. NAFDAC consists of the Director General's Office and fourteen (14) directorates overseeing the functions of the Agency.

Registration Requirements

- Submit all documents for registration and application letter in accordance with the issued guidelines at first instance for any of the service to be rendered by NAFDAC.
- Provide NAFDAC with the relevant information and description of the facility for inspection where it relates to registration and importation of NAFDAC regulated products.
- Provide samples of the products to be registered when notified by NAFDAC for laboratory analysis.
- Ensure all payments are made as at when due.
- Ensure all documents are complete and with the appropriate description to prevent unnecessary delays.