

Ajaokuta: At last, FG settles contractual dispute with foreign investor group

The Federal Government of Nigeria has settled the long-standing contractual dispute with a foreign investor group in the steel space of \$5.258 billion for \$496m, Attorney General of the Federation and Minister of Justice, Abubakar Malami, SAN has said. This was made known by Dr. Umar Jibrilu Gwandu, Special Assistant on Media and Public Relations Office of the Attorney General of the federation and Minister of Justice, in a statement made available to newsmen on Sunday. The mediation proceedings, according to the statement, was under the International Chamber of Commerce's (ICC) Alternative Dispute Resolution (ADR) framework led by Mr. Phillip Howell-Richardson. The settlement agreement came into effect on 19 August 2022.

Nigeria succeeded in reducing the claim in mediation brought by the international firm of King and Spalding, legal representatives of the Global group, by 91%. A claim for over \$10 billion was threatened in arbitration before the International Chamber of Commerce, International Court of Arbitration, Paris, in respect of five major contracts of 2004-2007 – covering steel, iron ore, and rail. It might be recalled that the seeds of the disputes can be traced to five contracts entered into by the 1999 -2007 administration that gave complete dominance over the Nigerian steel space to one company group, the Global Steel group. However, in 2008 a new administration proceeded to terminate these contracts contrary to legal advice supplied by the Federal Ministry of Justice, which cited the termination cost in the form of damages. The statement noted that had the government of that day not terminated the Ajaokuta Share Purchase Agreement on 1 April 2008 and waited for just 55 days to terminate, it would have terminated lawfully and the Government would have collected more than 26 million USD from Global Steel. This was because the firm appeared unable to pay the first tranche for the Ajaokuta shares before the first anniversary of the agreement (25 May 2008). This failure would have given Nigeria a right to over \$26m as liquidated damages under cl.12 of the Ajaokuta Share Purchase Agreement.

Global steel, in consequence, took the FGN to the International Chamber of Commerce, International Court of Arbitration, Paris, commencing arbitration in 2008. Although the Federal Government negotiated a settlement in May 2013, the previous administration failed to implement its settlement agreement. In May 2020, Global threatened a resumption of the arbitration and announced an anticipated claim in damages of over \$10-14 billion against the Nigerian State in respect of the affected 5 contracts. The administration of President Muhammadu Buhari, however, took decisive steps to resist this claim, rather

They are the use of institutional mediation, choice of FGN counsel, the use of financial advisers with reputational capital, the importance of not discouraging foreign investment, fiscal responsibility, transparency, and the recognition that joined-up government produces superior outcomes.

The FGN engaged PwCNigeria to do a comprehensive review to ensure taxpayers are protected. Also, Dr Tunde Ogowewo, a barrister (and senior academic at King's College London), represented the FGN and advised the government throughout the process. The Attorney-General of the Federation and Minister of Justice,



than pass it on to a future administration with ballooning interest. With this development, Malami said President Muhammadu Buhari has now rescued the steel industry from interminable and complex disputes as well as saving the taxpayer from humongous damages. The Minister also stated that one of the lessons to be learnt included that the future arrangements – sale or concessions – must be carried out in the national interest and in compliance with the law.

The Office of the Attorney General of the Federation and Minister of Justice grappled with the inherited problem by adopting a blueprint of seven principles for the cost-effective resolution of contractual disputes wherever they occur.

Abubakar Malami stated of Dr Ogowewo's report: "FGN Counsel's Report on Case Reference 15539/VRO/AGF/ZF/TO/AZR/SPN" – of over 1,000 pages provided a guide on how to avoid such contractual disputes and, where they occur, how to reach cost-effective savings for the benefit of the Nigerian taxpayer." Malami, therefore, reiterated the commitment of President Muhammadu Buhari-led Federal Government of standing firm to continue to make assiduous efforts in protecting the public interest and ensuring that Nigeria is not denuded of its resources through whatever means.