



# Presidential Jets Seizure: Lesson for FG

Quite clearly, the President Bola Tinubu led federal government has no blame in the global embarrassment meted out to Nigeria, following the seizure of the country's presidential jets in Paris, France, recently.

Zhongshan Funcheng Industrial Investment Co. Limited had approached French Court over disputes with the Ogun State Government and granted leave to seize offshore assets of the federal government. The issue in dispute dates back to 2007, when a contract was signed between Zhongfu, a subsidiary of Chinese Investment Company, Zhongshan Funcheng Industrial Investment, and the government of Ogun State to develop a free trade area. By the terms of the agreement, Zhongfu was to own 60 per cent of the Joint Venture. The problem began three years later, as according to Zhongfu, the Ogun State government, instituted a "campaign of illegal acts" forcing it to quit the agreement. The company began arbitration proceedings against Nigeria in 2018, but in 2021, a three-person arbitration panel in London awarded the company \$70m in damages to be paid by the Nigerian government. It was the back and forth of failed negotiations between the Ogun State government and the company that culminated in the recent French Court order granted the company. It was Ibikunle Amosun, who as governor of Ogun State between 2011 and 2019 that terminated the original Chinese contract. His recent statement on the impasse raises a lot of questions, just as it provides the federal government with lessons that should occasion a new template for sub-nationals that enter into contractual dealings with foreign companies. Amosun's statement, which gave the reason for the termination of the contract, is not only absurd but clearly x-rays the incompetence of leadership at the sub-national level.

"There were claims and counter claims as to whom between the two was the lawful representative of the original joint venture, Guangdong Province, China and consequentially who had the right to manage the Zone. "Zhongfu International Investment FXE, pretending to be a concerned and genuine tenant and zone stakeholder, volunteered very damaging and destructive information about the official representatives of Guangdong Province, the Joint Venturer and lawful Zone Managers, China Africa Investment FXE and subsequently requested to be appointed as Interim Zone Managers. "Based on the information at the disposal of the Government at the time, Zhongfu International Investment FXE was on 15/03/2012 appointed as Interim Zone Manager pending further evaluation. The whole idea was to ensure that someone was in charge and thereby prevent unwholesome and untoward development in the zone pending the completion of our fact-finding exercise. "Unknown to Ogun Government at the time, Zhongfu International Investment FXE merely sought to de-market China Africa Investment FXE and to surreptitiously covert the State-owned assets of Guangdong Province in China together with the zone ownership and management rights of their

business rival," he said.

Amosun said his government later discovered "that the information and claims by Zhongfu International Investment FXE against China Africa Investment FXE were tissue of lies" It is worrisome that a state government would proceed to terminate a contract initiated by a previous government, without due consultations with the previous government and/or application of internal and external forensic experts available to it on demand.

The statement by Otunba Gbenga Daniel on the on-going dispute further underscores the incompetence or otherwise of the Amosun government at the time. Daniel was governor of Ogun State between 2003-2011 and initiated the contract in 2007. "We need to establish clearly that Otunba Gbenga Daniel, or his administration is not in discussion on the matter before the courts and arbitration, neither were the terms or proprietary of the Agreement for the establishment of the FTZ, rather it is the termination of a Management Contract. The Judgments in all the courts are very clear on this," he said.

Clearly, there was no synergy between the Daniel and Amosun governments.

But the issue at heart is the termination of Agreement, even as it also exposes glaring lapses that puts the federal government in jeopardy, when sub-nationals fail to comply with the processes and legal imperatives of foreign Agreements.

We were saddened at the disclosure by the Minister of Foreign Affairs, Ambassador Yusuf Tuggar that the Ogun State Government's agreement with the Chinese company was made without the Federal Government's knowledge. "This is part of the problem when sub-national actors like state governments take it upon themselves to go into agreements, go into international arrangements, without recourse to the Ministry of Foreign Affairs, without recourse to the Federal Government, and then when it goes awry, we are left with the problem to deal with" he said.

We believe there are lessons here for the federal government. The federal government needs therefore, to urgently revisit the instruments that codify and enable sub-nationals to enter into foreign agreements, especially as the federal government always bears the can. For example, it is clear that the Amosun government took the decision to terminate the contract without seeking for clarification and permission from the federal government. It is therefore our position, that to forestall future occurrences, the federal government should revisit the instruments that allow sub-nationals enter into foreign agreements and redesign such instruments with provisions that make it mandatory to seek clarifications and actions by sub-nationals, before taking fundamental decisions such as termination of contracts. The federal government must seal such or other loopholes going forward.

*Culled from the PLENARY of 18 August 2024*