

# British Nigeria Law Forum

## Legal Practice in Nigeria: A CLOSED SHOP?

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# BNLF

- Views from the rank and file of legal practitioners in Nigeria, as expressed at the Nigerian Bar Association (Section on Business Law) Conference, held at the Transcorp Hilton Hotel, Abuja, 11-14 March, 2007
- Theme: Law and Economic Development in Africa

# Globalisation of Legal Services- What should Nigeria do?

- World Trade Organisation (WTO) established in 1995, as a successor to the General Agreement on Tariffs and Trade (GATT 1947)
- 150 members, including Nigeria & UK
- WTO Agreement comprises 5 separate agreements one of which is General Agreement on Trade in Services, “GATS”

# GATS

- GATS establishes a set of rules for world trade in services, a set of obligations for each member country and mechanisms for ensuring compliance with those obligations

# GATS –Specific Commitments

- Cross-border supply
- Consumption abroad
- Commercial presence (foreign lawyer establishing an office in the host country)
- Presence of natural persons (foreign lawyer enters a country to provide legal services)

# GATS

- GATS *permits* discriminatory treatment against foreign lawyers
- GATS *requires* members to make such discriminatory measures transparent by listing in a country's Schedule of Specific Commitments

# GATS- Proposal from Australia

- Limited licensing based on separate categories of law:
  - Home Country Law
  - Host Country Law
  - International Law
- No court appearance
- No nationality requirement

# GATS-Proposal from India

- Legal services provided only by Indian citizens, who are enrolled as advocates
- Citizens from countries who permit Indian nationals to practise on the basis of reciprocity, but must hold a recognised law degree
- International firm not allowed to establish offices in India
- Indian advocates not permitted to enter into profit sharing arrangements with persons other than Indian advocates

# GATS-African Nations

- Sierra Leone , Lesotho, South Africa, Rwanda and Gambia have deposited consultation papers/commitments
- Federal Ministry of Commerce responsible for submitting Nigeria's position
- NBA Working Party

# Concerns of the Rank and File

- Would globalisation mean the withering away of the Nation State and National Governments?
- Will the movement towards economic integration have adverse consequences for the people of the less developed countries?
- Would market forces protect people from their governments?
- Does globalisation cater for the developing and underdeveloped economies, as it would the developed ones
- Does it champion ideals such as independence, equality freedom etc?

# Responses

- Keep the door closed to foreign lawyers:
  - Nigerian lawyers unable to compete with the resources of global firms, who would hold sway over the most lucrative work
- Keep the door closed, until Nigerian lawyers have the capacity:
  - Mergers and cooperation between local law firms
  - Education and training
  - Federal and State Govts to instruct Nigerian law firms

# Proposals

- Federal Min. of Commerce to work with NBA in submitting a paper
- NBA and Council of Legal Education to recognise the expertise of Nigerians practising abroad
- NBA to consult BNLF, IBA in response to “Threat of Globalisation”- Has the horse already bolted?