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President Muhammadu Buhari (2015- present) names his new cabinet. Kemi Adeosun is the new finance minister, Emmanuel Ibe Kachikwu junior petroleum minister, and Babatunde Fashola head of the newly merged power, works and housing ministry. Nigeria remains near the bottom of the World Bank's Doing Business index, in 170th position of 189 ranked countries. Negotiations continue after the Nigerian Communications Commission (NCC) imposes a \$5.2 billion fine on MTN Nigeria Communications Ltd.

Buhari names new cabinet

President **Muhammadu Buhari** (2015- present) on 11 November appointed his new cabinet.¹ The cabinet is smaller than that of predecessor president **Goodluck Jonathan** (2010-2015) with only 36 ministers.² This is the smallest possible cabinet under the constitution, which requires one minister from each of Nigeria's 36 states. Buhari has awarded key portfolios to ministers from south-western states which his **All Progressives Congress (APC)** dominated in the general election (see *ARC Briefing Nigeria March 2015*).

"Ministers from the south-west of the country appear to have been assigned key areas (finance, power, works and housing, as well as communications) which is to that zone's political advantage."³

The appointment process took seven months amid increasing concern about policy drift and Buhari's stalling reform process. However, the process allowed for careful deliberation and therefore an increased likelihood of stability.⁴

"Selection was more carefully done than in the past; they put consideration into it. The government took some time to evaluate the people they're bringing in. It might not be the best but this was a better selection process than it used to be. It will help the socio-economic landscape in the short to medium term."⁵

The appointment of the government will re-energise Buhari's political and economic reform process.

"The ministers have a lot of energy; you will see a lot of movement from critical ministries: finance, power, works, housing, transport. All these chaps will work like crazy; people will be surprised at how much will be achieved by the time Buhari leaves office."⁶

The lengthy appointment process resulted in few surprises. As expected, former **Ogun State** finance commissioner and investment banker **Kemi Adeosun** is finance minister.⁷ Adeosun was an accountant with **PricewaterhouseCoopers LLP in London (United Kingdom)** and an investment

¹ Vanguard, 11 Nov 2015.

² Vanguard, 11 Nov 2015.

³ Source, lawyer, Abuja

⁴ Source, political consultant, Lagos

⁵ Source, businessman, Lagos

⁶ Source, former state attorney general, Abuja

⁷ Vanguard, 11 Nov 2015.

banker at **Lagos**-based investment bank **Chapel Hill Denham Ltd.**⁸ At her senate confirmation hearing, Adeosun backed the **Central Bank of Nigeria's (CBN)** foreign exchange restrictions and questioned the value of a currency devaluation.⁹ Nevertheless, Adeosun has a reputation as a reformer, having improved the financial position of Ogun State.¹⁰

*"With her track record we expect her to come up with fiscal policies that will address the current economic doldrums."*¹¹

Adeosun's appointment is, however, divisive due to questions about her relative inexperience in government.¹²

*"Adeosun's finance portfolio came as either a pleasant surprise or a disappointment depending on who you spoke to. Especially with her age [48] taken into account. She is either too inexperienced or a breath of fresh air. She has a steep learning curve to contend with but can rely on other members of the economic team for support."*¹³

Nigerian National Petroleum Corp (NNPC) CEO **Emmanuel Ibe Kachikwu** is junior petroleum minister.¹⁴ Buhari has not formally named a petroleum minister and is expected to retain the oil portfolio himself.¹⁵ Buhari only appointed Kachikwu as NNPC CEO in August.¹⁶ Kachikwu was formerly vice chairman and general counsel of **Exxon-Mobil (Africa)** and before that held a number of positions at **Texaco Nigeria Ltd.**¹⁷ Kachikwu has a positive reputation as a reform-minded technocrat who put in place the structures to begin the long overdue reform of the NNPC.¹⁸

Okechukwu Enelamah is the new industry and investment minister. Enelamah is the CEO of Nigeria-based private equity company **African Capital Alliance.**¹⁹ Former **Lagos State** governor **Babatunde Fashola** heads the newly merged power, works and housing ministry. Lagos infrastructure improved markedly under Fashola, despite the federal government limiting funds to the opposition state (see *ARC Nigeria Briefing March 2015*). However, Fashola was unable to curb the corruption and delays that negatively affected projects.²⁰

*"Having Fashola in an infrastructure-heavy ministry is seen by some as equivalent to having a minister whose sole focus is on Lagos, the economic nerve centre of the country. Under previous administrations Lagos State experienced a level of neglect characterised by bickering over repair/maintenance of federal government infrastructure within the state. With better synergy between the central and Lagos governments it is expected that this will be resolved to the benefit of the city state."*²¹

Current Lagos State governor **Akinwunmi Ambode** – considered a front for Fashola to retain influence within the state²² – welcomed the appointment of his predecessor.²³ However, there is concern that Fashola may focus disproportionately on Lagos.

⁸ Bloomberg, 14 Oct. 2015.

⁹ Bloomberg, 14 Oct. 2015.

¹⁰ Bloomberg, 11 Nov 2015.

¹¹ Source, financial analyst, Lagos

¹² Source, energy sector specialist, Lagos

¹³ Source, energy sector specialist, Lagos

¹⁴ Vanguard, 11 Nov 2015.

¹⁵ Vanguard, 11 Nov 2015.

¹⁶ This Day, 30 Sept 2015.

¹⁷ Vanguard, 4 Aug 2015.

¹⁸ Source, consultant, Abuja

¹⁹ This Day, 12 Oct 2015.

²⁰ Source, western diplomat, Lagos

²¹ Source, energy sector specialist, Lagos

²² Source, western diplomat, Lagos

²³ Daily Post, 19 Nov 2015.

Fashola I think is a practical person – his tenure in Lagos showed his character in decision making. He did not shy away from making decisions. We just hope that he takes good ones. Buhari needs to understand that Fashola's knowledge is limited to Lagos and the south-west."²⁴

The other powerful former governor in Buhari's cabinet is **Chibuike Rotimi Amaechi (Rivers State)** who was appointed transportation minister. While this is a lower profile portfolio than expected, Amaechi will retain influence through his responsibility for key infrastructure projects.²⁵ Amaechi has a positive reputation for delivering infrastructure projects, notably roads and bridges, from his time as governor.

Zainab Shamsuna Ahmed heads the newly merged budget and national planning ministry.²⁶ Ahmed is the executive secretary of the **Nigeria Extractive Industries Transparency Initiative** and the former managing director of the **Kaduna Industrial and Finance Co.**

Buhari is expected to give his ministers a degree of autonomy rather than micromanage.

*"Buhari is known for and good at delegating: he assigns responsibilities to individuals and expects them to deliver results."*²⁷

Buhari will have little tolerance for those ministers who fail to meet his targets.

*"A careful look at the president's team reveals a deliberate attempt to select the best hands to help him run the affairs of this country. And the team leaders will have to adjust to the fact that his intolerance for indolence is legendary."*²⁸

Buhari also reshuffled the permanent secretaries who had headed up government ministries since he took office in May. **Fatima Mede** is the new permanent secretary in the budget and national planning ministry.²⁹ **Mahmoud Isa Dutse** is the new permanent secretary in the finance ministry.³⁰

Nigeria remains near bottom of World Bank's Doing Business index

Nigeria improved marginally in its ranking in the **World Bank's Doing Business** index, rising from 170 in its 2015 report to 169 in *Doing Business 2016*, but remains a challenging environment in which to operate.³¹ The *Doing Business* report provides objective measures of business regulations and their enforcement across 189 countries, in an effort to identify legal and regulatory barriers facing investors.³² The most notable improvement for Nigeria was a 13-place rise from 33 to 20 for protecting minority rights, the highest ranked **sub-Saharan African** country in this category.³³

The World Bank noted that Nigeria has strengthened minority investor protections through the requirement that related-party transactions are subject to external review and require the approval of disinterested shareholders.³⁴ The improvement is largely the result of the **Securities and Exchange Commission (SEC)** and **Nigerian Stock Exchange (NSE)** proactively seeking to uphold minority rights. NSE rules that prohibit interested parties including shareholders, directors or proxies from voting on transactions they stand to benefit from came into force on 1 November 2014.³⁵ This is despite the **Companies and Allied Matters Act 1990** ensuring that all shareholders can vote at any

²⁴ Source, former state attorney general, Abuja

²⁵ Source, political consultant, Lagos

²⁶ Vanguard, 11 Nov 2015.

²⁷ Source, lawyer, Abuja

²⁸ Source, newspaper editor, Lagos

²⁹ This Day, 11 Nov 2015.

³⁰ This Day, 11 Nov 2015.

³¹ www.doingbusiness.org

³² www.doingbusiness.org

³³ www.doingbusiness.org

³⁴ www.doingbusiness.org

³⁵ www.iflr.com

general company meeting. The SEC in February 2014 published draft regulations similarly barring beneficiaries or shareholders from voting on transactions that will benefit them.³⁶

The reforms followed SEC interventions to protect minority rights in the face of majority shareholder-led attempts to restructure companies. In 2013, majority shareholder United Kingdom-based **GlaxoSmithKline Plc** looked to increase its share in subsidiary **GlaxoSmithKline Consumer Nigeria PLC** from 46 to 75% through a tender offer.³⁷ Minority shareholders were concerned that this would result in GlaxoSmithKline Nigeria delisting from the NSE.³⁸ The NSE prohibited GlaxoSmithKline from voting on the proposed restructuring, and increasing the share price.³⁹

Nigeria's lowest rankings are for trading across borders (182), getting electricity (181) and registering property (181). These rankings were not substantially different from 2015, showing the persistence of business bottlenecks in Nigeria. Electricity especially is a long-standing investor concern.

*"The obstacles include gas availability and pricing, the ability of the market to sustain itself, vandalism and theft. Financing is a concern. The government's power intervention fund recently stopped the disbursement of funds due to concerns about the distribution companies' ability to repay. They have attributed this to the current tariff regime which needs to be reexamined."*⁴⁰

The Nigeria ranking is also indicative of the exclusion of factors related to political risk and macroeconomic stability. While Nigeria's political risk profile has improved following the successful March 2015 general election, the economy remains overly dependent on the oil sector. The CBN remains reluctant to loosen monetary policy. In October, former CBN governor **Lamido Sanusi** criticised his successor **Godwin Emefile's** refusal to devalue the naira as well as the CBN's foreign currency restrictions. A devaluation of the naira may be coming.

*"They will do the adjustment when they do the budget. They need the fiscal space. They will look to **Angola's** managed devaluation [in progress since June] for inspiration."*⁴¹

A close working relationship between the **Budget Office** and the **National Planning Commission (NPC)** has allowed work to begin on next year's budget earlier than usual.⁴² Delays to the Nigerian budget are the norm due to disputes between the executive and the legislative. To avoid this, new Budget Office director general **Yahaya Gusau** has started informal consultations with the national assembly before the submission of the budget.⁴³ The NPC and the Budget Office have completed work on an initial planning document which forecasts 3.4% growth in 2015 and 4.4% in 2016.⁴⁴ Crude oil output is projected to increase from 2.11 million barrels per day (bpd) to 2.20 million bpd.⁴⁵ The initial planning document calls for the private sector to play a greater role in infrastructure development. Vice president **Yemi Osinbajo** on 20 October announced a planned \$25 billion infrastructure investment fund combining both state and private financing.⁴⁶

³⁶ www.sec.gov.ng

³⁷ This Day, 23 Jul 2013.

³⁸ This Day, 23 Jul 2013.

³⁹ This Day, 23 Jul 2013.

⁴⁰ Source, power sector consultant, Lagos

⁴¹ Source, investment adviser, UK

⁴² FBN Capital, 15 Oct 2015.

⁴³ FBN Capital, 15 Oct 2015.

⁴⁴ FBN Capital, 15 Oct 2015.

⁴⁵ FBN Capital, 15 Oct 2015.

⁴⁶ Bloomberg, 20 Oct 2015.

MTN Nigeria faces \$5.2 billion fine

The **Nigerian Communications Commission (NCC)** imposed a \$5.2 billion fine on **South Africa-based MTN Group Ltd** subsidiary **MTN Nigeria Communications Ltd** on 27 October.⁴⁷ While a compromise settlement is probable, the scale of the fine will deter future investment in the Nigerian telecommunications sector. The NCC imposed the fine after MTN Nigeria failed to comply with a directive to disconnect unregistered SIM cards before August.⁴⁸ Nigeria is MTN Group's largest market, accounting for 37% of total revenue.⁴⁹ MTN first entered Nigeria in 2001. The NCC sanction resulted in a 22% decrease in the company's share value on the **Johannesburg Stock Exchange (JSE)** and a suspension in trading on 2 November.⁵⁰ MTN Group originally had until 16 November to pay the fine but the Nigerian government has pushed it back indefinitely to allow negotiations to continue.

Relations between MTN Group and the NCC remain positive. On 2 November, the NCC approved the renewal of MTN Group's operating and digital mobile licence until August 2021.⁵¹ MTN Group had to pay \$94.2m by 31 December to secure the licence extension. The extension increases the likelihood that MTN Group and the NCC will successfully negotiate a compromise over the level of the penalty.

The rapid growth in Nigeria's telecommunications market requires investment to meet its infrastructure requirements. Overly aggressive regulatory oversight will undermine investor confidence in the sector as well as wider sentiments. The MTN fine follows fines imposed in the banking sector on **Stanbic IBTC Holdings Plc**, **United Bank for Africa Plc** and **First Bank of Nigeria Ltd**.

"It is ironic that MTN finds itself in this position, as it was influential in defining the regulations at the outset. The interface between government and business is increasingly via the regulator."⁵²

Implications

Clarity about government policy and direction will only emerge slowly as both ministers and civil service appointees take time to settle in. The merging of ministries will increase uncertainty, with turf wars further delaying decision making. Whether or not the government is successful in implementing Buhari's reform agenda will largely depend on his management, especially of the politically ambitious former governors. While the government will likely prove stable, limited reshuffles are probable as ministers struggle to address the structural and political challenges that face Nigeria.

Nigeria is a persistently challenging environment in which to operate. The World Bank ranking is symptomatic of wider investment concerns. It is worth noting that the index excludes corruption and macroeconomic concerns that undermine business confidence and will continue to deter risk averse investors from Nigeria.

There are two prevailing views of the current impasse between the NCC and MTN: the size of the fine risks damaging Nigeria's efforts to shake off its image as a risky frontier market for international investors; the fine shows Nigerian regulators are keen to enforce the laws. The ongoing negotiations and the nature and size of the eventual penalty will determine which of these views prevails.

⁴⁷ Nigeria Guardian, 27 Oct 2015.

⁴⁸ Nigeria Guardian, 27 Oct 2015.

⁴⁹ Bloomberg, 2 Nov 2015.

⁵⁰ Business Day, 2 Nov 2015.

⁵¹ Bloomberg, 2 Nov 2015.

⁵² Source, consulting executive, UK

About Africa Risk Consulting:

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