



**NIGERIA GOVERNORS' FORUM SECRETARIAT
ABUJA**

INTERNAL MEMO

To: Nigeria Governors' Forum
From: Director General
Date: 25th February 2020
Subject: **STATUS AND LEGAL OPINION ON SUITS BROUGHT BY ALGON
WHICH THREATEN THE INTEREST OF THE STATES**

The above subject refers.

Following the Forum's direction at the last meeting that there be a collation of all suits instituted by or related to ALGON which threaten the interest of the States, please find attached the table outlining the status of each suit, legal opinion and further steps to be taken by the Forum.

Thank you.

STATUS AND LEGAL OPINION ON SUITS BROUGHT BY ALGON WHICH THREATEN THE INTEREST OF THE STATES.

SUIT NO:	STATUS	LEGAL OPINION	FURTHER STEPS
1 FHC/ABJ/CS/549/18 Dogra Consulting Limited Vs. Etha Pharmaceuticals Limited & 12 Ors FCT/HCMVC/563/19	<p>1. ALGON contracted with Dogra Consulting for the supply of Breast Self-Examination Devices and payments for the contract was to be made from monies belonging to LGAs in the Federation account.</p> <p>2. Dogra Consulting has obtained judgment and the Ministry of Finance is expected to pay about USD147Million to Dogra Consulting.</p> <p>3. The NGF has filed an application seeking leave to appeal the judgment and the suit is fixed for hearing on 20th May 2020.</p> <p>4. At the last adjourned date of 25th Feb, 2020, there was a Counsel representing Benue</p>	<p>1. From its constitution, ALGON is not vested with the power to receive monies belonging to the LGAs. To be able to do this, consent of the Chairmen of the 774 LGAs must be obtained. In the absence of this, it is unconstitutional for ALGON to demand payments of monies directly from the Federation account being unrecognized by the Constitution as a tier of government.</p> <p>2. Just as the NGF cannot demand that monies accruing to States from the Federation Account be paid directly to it except with the consent of the 36 State Governors, ALGON cannot lay claims to monies belonging to the Local Government Areas in the Federation Account except consented to by the 774 LGAs.</p> <p>3. So far in the suits cited, none of these consents is showed to have been obtained. Based on the above, ALGON has no rights under the constitution to</p>	<p>NOTE that ALGON has not sued NGF in any of these suits. NGF therefore does not have the legal standing to go against ALGON in furtherance of these suits. The following options are available to the NGF:</p> <p>1. Encourage the Ministry of Finance to appeal against the judgments</p> <p>2. Apply to the Courts to join the appeal against the decisions as interested parties.</p> <p>3. Institute an action against ALGON; challenging the constitutionality of their actions.</p> <p>4. States should pursue the current appeal collectively under the Forum as against the current situation where different States are instituting individual proceedings on the same subject matter.</p>

	<p>State who impressed on the Counsel to NGF to withdraw its representation for the State.</p>	<p>demand that monies belonging to LGAs be paid to them directly from the Federation Account.</p>	
<p>CV/3081LA/19 ALGON vs. HRH Eze Samuel Ezekwo & 4 Ors.</p>	<p>1. ALGON engaged the services of the Defendant to investigate and audit the tax liability of ALGON. The Defendant is seeking that payment for the services rendered be made directly from monies belonging to the LGAs in the Federation Account.</p> <p>2. Parties however entered Terms of Settlement that the Ministry of Finance pay the sum of N5Billion to ALGON while ALGON will amicably settle with the Defendants.</p>		
<p>Balmitta Industrial Ventures Limited vs. ALGON & 4 Ors.</p>	<p>1. ALGON engaged the Plaintiff to supply technological kit.</p> <p>2. Owing to non-payment, the Plaintiff obtained an injunction restraining the Ministry of</p>		

	Finance from releasing the N5Billion to ALGON unless they are first paid.	demand that monies belonging to LGAs be paid to them directly from the Federation Account.	
2 FHC/ABJ/CS/579/17Ba yelsa State Vs. Ned Nwoko and 8 ors.	<p>1. The Bayelsa State Government sued the NGF and Ned Nwoko on the basis that the NGF did not obtain its consent to pay Ned Nwoko as consultant with part of the monies belonging to Bayelsa State and accruing from the London Paris-Club refunds.</p> <p>2. Talks were ongoing with the Governor of Bayelsa and he was not averse to a withdrawal of the suit against NGF. However, the Attorney General is yet to be instructed in this regard. As such, the Court had fixed 10th, 11th and 12th March 2020 for definite commencement of trial.</p>	<p>1. The Forum should reach out to the Government of Bayelsa State, requesting that the suit be withdrawn against NGF as it is counter-productive to the interest of the Forum.</p> <p>2. Where the case is not withdrawn against NGF, the Forum may be liable to refund some monies to the Bayelsa State Government.</p>	The DG and the NGF Chairman should reach out to Bayelsa State Government in respect of this suit.

3	FCT/HC/CV/0217/17 Dr. Chris Asoluka (Doing Business Under The Name And Style Of Nipal Consulting Network) Vs. ALGON & NGF	Nipal Consulting Network is demanding for payments from the NGF accruing from the Consultancy Fees paid to the NGF for the London-Paris Club refunds. Nipal Consulting claims to have worked for the 774 LGAs on the subject matter and is entitled to be paid from the Consultancy Fees paid to the NGF for that purpose.	<ol style="list-style-type: none"> 1. The NGF contends that the Consultancy Fees were paid to the NGF for the Consultants of the States and not LGAs. 2. Trial has been concluded in the suit and parties are to file final written addresses. 	Counsel to NGF will file a final written address to buttress the arguments of the NGF in respect of our position in the suit.
4	Suit No: FHC/ABJ/CS/563/2019 AG Abia State & 36 Ors Vs. AG Federation And Anor	The Forum instituted the suit to challenge the guidelines issued by the Nigeria Financial Intelligence Unit (NFIU) on grounds of illegality and unconstitutionality. The matter was scheduled for hearing on 14th January 2020, but the court did not sit, and the suit was further adjourned to 3rd March 2020 for hearing.	The provisions of the guidelines are unconstitutional hence the matter.	<ol style="list-style-type: none"> 1. The Secretariat is following up with the Counsel to secure hearing at the next adjourned date. 2. Need to confirm the status of the implementation of the NFIU Guidelines.