



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

ORDER PAPER

Thursday, 15 January, 2009

1. **Prayers**
2. **Approval of the Votes and Proceedings**
3. **Oaths**
4. **Announcements (if any)**
5. **Petitions (if any)**

PRESENTATION OF BILLS

1. Cyber Security and Data Protection Agency (Establishment, etc.) Bill, 2008 (HB. 154) (*Hon. Etim Bassey*) — *First Reading*.
2. Use of Sirens (Regulation) Bill, 2008 (HB. 161) (*Hon. Iorwase Herman Hembe and others*) — *First Reading*.

PRESENTATION OF REPORTS

1. **Joint Committee on Finance, Appropriations, Works, Loan and Debt Management, Capital Market and Justice:**
Hon. John Owan Enoch
"That this House do receive the Report of the Joint Committee on Finance, Appropriations, Works, Loan and Debt Management, Capital Market and Justice on the Federal Government proposal to issue FGN \$500 Million Naira Denominated Bond in the International Capital Market".
2. **Committee on Public Petitions:**
Report on the Petition by Port Harcourt Flour Mills:
Hon. C. I. D. Maduabum:
"That this House do receive the Report of the House Committee on Public Petitions on the Petition by Port Harcourt Mills against the Bureau of Public Enterprises (BPE)".
3. **Committee on Public Petitions:**
Report on the Petition by Mr Silas Omubo:
Hon. C. I. D. Maduabum:
"That this House do receive the Report of the House Committee on Public Petitions on the Petition by Mr Silas Omubo against the Nigerian Postal Service (NIPOST)".
4. **Committee on Public Petitions:**
Report on the Petition by Adokson Engineering Company Limited:
Hon. C. I. D. Maduabum:
"That this House do receive the Report of the House Committee on Public Petitions on the Petition by Adokson Engineering Company Limited against the Bureau of Public Procurement (BPP)".

5. Committee on Public Petitions:

Report on the Petition by Mr Nathaniel Itelimo:

Hon. C. I. D. Maduabum:

"That this House do receive the Report of the House Committee on Public Petitions on the Petition by Mr Nathaniel Itelimo against the Nigerian Police".

ORDERS OF THE DAY

BILLS

1. A Bill for an Act to Establish the Chartered Institute of Cost Management Accountants of Nigeria and for Matters Connected Therewith, 2009 (HB. 72) — *Third Reading*.
2. A Bill for an Act to Prohibit Marriage between Persons of Same Gender, Solemnization of Same and for other Matters Related Therewith, 2008 (HB. 150) — *Second Reading*.
3. A Bill for an Act to Amend the National Minimum Wage (Amendment) Act, 2000 and for Other Matters Connected Therewith, 2008 (HB. 84) — *Second Reading*.

CONSIDERATION OF REPORTS

4. **A *d-hoc* Committee on the Activities of the Department of Petroleum Resources (DPR), Nigerian National Petroleum Corporation (NNPC) and its subsidiaries:**

Hon, Igo Aguma:

"That this House do consider the Report of the Ad-hoc Committee on the Activities of the Department of Petroleum Resources (DPR), Nigerian National Petroleum Corporation (NNPC) and its subsidiaries on the Investigation of Due Process of the Allocation of Oil Blocks by the Department of Petroleum Resources (DPR) and approve the Recommendations therein".

Recommendations:

- (i) That the office of the Honourable Minister of Petroleum Resources effectively held by the President from assumption of office in 1999 until January 2007 is ultra vires the express provisions of sections 138 and 147 (2) of the Constitution of the Federal Republic of Nigeria 1999;
- (ii) That this constitutional anomaly potentially undermines the legal due process of the Bid Rounds as it can be contended that there was no Minister constitutionally recognised that oversaw the Bid Rounds in accordance with section 2 of the Petroleum Act;
- (iii) That the practice of the President holding the office of the Minister of petroleum should end. It is unconstitutional;
- (iv) That the legal and commercial implications of such a conclusion are obvious, dangerous and potentially destabilising or the oil and gas industry in Nigeria and could hamper the flow of much needed international financial capital/investments into the sector;
- (v) It is therefore recommended that the Provisions of Sections 138 and 147 (2) of the Constitution of the Federal Republic of Nigeria 1999 and section 2 of the Petroleum Act be strictly complied with in the award of oil blocks. Specifically, the office of Minister of Petroleum Resources by whatever name called should be separate and distinct from the office of the President and Commander-in-Chief of the Federal Republic of Nigeria;
- (vi) That the *Ad-Hoc* Committee notes the potential for loss of Revenue to the Federal Republic of Nigeria caused by the staggered payments of signature bonus and appreciates the reasons given for the practice. However it observes that the practice is not in keeping with the Guidelines for the respective Bid rounds and amounts to preferential treatment of winners at the conclusion of the Bid Round. The Ad-Hoc Committee finds that staggered payment of signature bonus is no more than granting interest free credit on Nigerian Oil Blocks. It therefore recommends that signature bonuses must be paid in full at the time of the execution of the Production Sharing Contract (PSC) to avoid the kind of loss of revenue that occurred in OPL 250 where Shell Nigeria Exploration and Production Company of Nigeria (SNEPCO) paid a signature bonus of \$75 million out of a total signature bonus of US\$200 million. Even this field has been abandoned by Shell Nigeria Exploration and Production Company of Nigeria (SNEPCO), the signature bonus balance of US\$125 million should be recovered;

- (vii) That the Federal Government should put machinery in place to recover all outstanding signature bonuses, subject to the express provisions of the Production Sharing Contracts (PSCs), from the winners of blocks who are in default of payment within a reasonable time but not exceeding 60 (sixty) days from the date of adoption of this Report. At the expiration of that time frame the award should be revoked regardless of whether or not the blocks are either in development or production as the non-payment of signature bonus is a breach of the fundamental condition of the award of the block;
- (viii) That Such blocks as in (vi) above should be returned to the basket;
- (ix) That the regime of payment of signature bonuses and all other fees should be audited and properly investigated with a view to identifying if payments were made; if such payments represent true value and whether they were made as at when due; identify and confirm any diverted payments; identify any acts of criminality and fraud in the process;
- (x) That there was a general lack of compliance with the Guidelines for the Bid Rounds and the Marginal Fields award of 2004. The reason for this is that there was an absence of direct reporting between the officers charged with administering the Bid process and the Minister who was in fact the President. The political buffers namely the Presidential Adviser and the Special Adviser on Petroleum interfaced between these officers and the Minister. The Officers did not have the opportunity of independent and or direct Ministerial confirmation of actions that distorted the system. The Committee therefore recommends that pending the enactment of statutory regulation of the bid process direct reporting mechanisms must be established between the organs of government charged with administering the bid process and Minister in charge of Petroleum matters;
- (xi) That to enshrine best practices, due process and transparency, there should be statutory regulation of the process of the award of oil blocks with clear sanctions for its violation. Any discretion, Ministerial or Presidential should be confined within clearly delineated and known parameters;
- (xii) That Aggrieved participants in the Bid Process in consonance with the principles of the rule of law should have a clear right to administrative and judicial review of grants of oil blocks within a clearly defined time limit. This would create in the administrators a sense of responsibility borne out of the realisation that they are accountable for their actions;
- (xii) That the practice of "forced mergers" of companies on the bid floor should cease. The practice violates paragraphs 14-16 of the First schedule of the Petroleum Act particularly in circumstances where the merger is created for the purposes of bringing companies into a block won by a third party;
- (xiii) That the introduction of the Right of First Refusal (RoFR) into the 2005, 2006 and 2007 Bid Rounds distorted the due process and transparency of these Bid Rounds. The leadership of the Department of Petroleum Resources (DPR) who administered the Bid Rounds agree with this conclusion. They also agree with our recommendation that any licensing round that involves blocks with RoFR should be conducted separately;
- (xv) That pursuant to (xiii) above a clear set of rules and/or regulations should be enacted divorced from the principle of the "Right of First Refusal" for the grant of oil blocks based on downstream/strategic investments. These rules and or regulations should be universal and open to all potential investors, local or foreign. It should specify reciprocal obligations and specify sanctions for non-performance after the grant of the oil block. The advantage of this recommendation is that it removes the distortions and the current latitude for abuse inherent in the existing policy;
- (xvi) That all the Companies that participated in the Bid Rounds without the payment of the mandatory registration and bid processing fees for each block on which they bidded should pay those fees within a reasonable time but not later than 60 (sixty) days from the date of adoption of this Report. It is irrelevant whether the companies won the said blocks or not;
- (xvii) That the rules and regulations for Local Content participation in the process should be clearly developed and enacted. It is also recommended that it should be renamed "Nigerian Content" and the vehicle "Nigerian Content Vehicle";
- (xviii) That due diligent provision should be enshrined in the regulatory process that places responsibility on the administrators of the system to undertake such due diligence to establish the identity and bona fides of potential investors;

- (xix) That all rules, regulations and data necessary for oil block acquisition should be publicly available subject to the need for the payment of fees for the acquisition of data from the National Data Repository;
- (xx) That a statutorily established body or authority charged with the responsibility to oversee all matters relating to licensing, regulation and administration of oil blocks should be established to replace the existing *ad-hoc* Technical Committee system;
- (xxi) That the powers of the Minister, the President and all other executive and legislative agencies vis-a-vis this new statutory body should be clearly defined;
- (xxii) That the *Ad-Hoc* Committee condemns in strong terms the continued retention of funds belonging to third parties without the execution of the necessary Production Sharing Contract (PSC). This does not accord with best business practices. It is recommended that this practice stop in all future Bid Rounds;
- (xxiii) That regulations should immediately be put in place for the storage, management and use of Nigerian data. Access by local or indigenous firms to such data should be given priority and at a discount;
- (xxiv) That action on the National Data Repository project must be expedited. A time frame of 12 (twelve) to 18 (eighteen) months should be set for a workable project;
- (xxv) That in line with the recommendation of the Department of Petroleum Resources (DPR), local contractors as much as possible should be used for the project;
- (xxvi) That Department of Petroleum Resources (DPR) should within 60 (sixty) days of adoption of this report by the House:
 - (a) Open a register of all persons/companies/organisations in possession of Nigeria data in a Repository or any other capacity off-shore;
 - (b) Publish to the National Assembly within a reasonable time or such time as the National Assembly shall prescribe, the contents of the said register;
 - (c) Transmit to the National Assembly with the said Register the annual cost of the maintenance of such data between 1999 and 2008; and finally;
 - (d) State how the costs are charged to Nigeria;
- (xxvii) That the Department of Petroleum Resources (DPR) should develop for eventual legislation transparent and verifiable methods of authenticating and certifying data provided by the operators;
- (xxviii) That the issue of Shell reclassification of booked reserves should be separately and thoroughly investigated. Any cover-ups on the Nigerian side should be exposed and the perpetrators prosecuted;
- (xxx) That a separate investigation should be instituted to determine if Shell earned any Reserve Addition Bonus (RAB) on the now re-classified 1.5 Billion Barrels of Oil Equivalent booked reserves. Any such earnings should be returned to the coffers of the Federal Government;
- (xxxix) That Sanctions should be developed for operators who refuse to return data or co-operate with the Federal Government on the National Data Repository project;
- (xxxi) That the Petroleum Technology Development Fund (PTDF) Act was enacted before the coming into force of the Constitution of the Federal Republic of Nigeria 1999. While it does seem that section 80 (1) of the 1999 Constitution permits the payment of Signature Bonuses into the Petroleum Technology Development Fund (PTDF) Account, sections 162 (1) and (10) of the same Constitution suggests the contrary. It is therefore necessary that section 1(b) of the Petroleum Technology Development Fund (PTDF) Act be amended to bring it in consonance with section 162 (1) and (10) of the 1999 Constitution of the Federal Republic of Nigeria;
- (xxxii) That a clear and defined account to which all signature bonuses and other sundry sums earned in the course of acreage licensing must be paid into should be statutorily defined.

5. Committee on Agriculture:**Hon. Gbenga Makojuola:**

"That this House do consider the Report of the House Committee on Agriculture on a Bill for an Act to Amend the Veterinary Surgeons Act, Cap. V3, Laws of the Federal Republic of Nigeria 2004 to Provide for Registration of Veterinary Surgeon and for Other Related Matters, 2008 (HB. 64) and approve the Recommendations therein" (*Laid: 7/10/08*).

6. Committee on Petroleum Resources (Downstream):**Hon. Clever Ikisikpo:**

"That this House do consider the Report of the House Committee on Petroleum Resources (Downstream) on a Bill for an Act to Provide for the Licensing, Regulation and Incentives for Petroleum Refineries in Nigeria and for Other Matters Connected Therewith, 2008 (HB. 27) and approve the Recommendations therein" (*Laid: 4/12/08*).

COMMITTEE MEETINGS

1.	<i>Committee</i>	<i>Date</i>	<i>Time</i>	<i>Venue</i>
	Rules and Business	Thursday, 15 January, 2009	2.00 p.m.	Committee Room 06 Assembly Complex
2.	FCT Area Councils and Ancillary Matters (<i>Meeting with Hon. Minister of FCTA</i>)	Thursday, 15 January, 2009	2.00 p.m.	Committee Room 019 New Building (House) Assembly Complex
3.	<i>Ad-hoc</i> Committee on the Increasing Incidence of Hijacking Fishing Vessels in Nigeria Territorial Waters	Thursday, 15 January, 2009	1.00 p.m.	Committee Room 08 Assembly Complex
4.	Niger Delta	Thursday, 15 January, 2009	1.00 p.m.	Committee Room 301 New Building (House) Assembly Complex
5.	Communications	Thursday, 15 January, 2009	2.00 p.m.	Committee Room 441 New Building (House) Assembly Complex