



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 25th January, 2006

1. The Senate met at 10: 10 a. m. The Senate President read Prayers.
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Tuesday, 24th January, 2006 and approved same.
By unanimous consent, the Votes and Proceedings were adopted.
3. **Message from the President:**
The Senate President announced that he had received a letter from the President, Commander-in-Chief which he read as follows:



PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA

PRES/134

17 January, 2006

*The Senate President, Senate
Chambers, National Assembly
Complex, Three Arms Zone,
Abuja.*

Dear President of the Senate,

**PRESENTATION OF CHEMICAL WEAPON
PROHIBITION BILL 2005**

I hereby present, for formal consideration and passage into law by the Senate, the attached Bill which seeks to prohibit the development, production, transfer and use of chemical weapons in Nigeria by the establishment of a National Authority and for the effective implementation of the Chemical Weapons Convention in Nigeria and other matters connected therewith.

I hope the Bill will receive prompt attention of Distinguished Members of the Senate.

Yours sincerely.

*Signed OLUSEGUN
OBASANJO*

4. Presentation of Bill:

Public Building Regulation and Control Act (Amendment) Bill 2006 (SB. 273) — *Read the First Time.*

5. Confirmation of Appointment:

Motion made and Question Proposed: That the Senate do refer to the Appropriate Committee the request by Mr President, Commander-in-Chief for the Confirmation of the Nomination of Hon. Justice F. F. Tabai Justice of the Court of Appeal (*Bayelsa State*) for appointment as Justice of Supreme Court of Nigeria (*Senate Majority Leader*).

Question put and agreed to.

Request accordingly referred to the Committee on Judiciary, Human Rights and Legal Matters to report within two (2) weeks.

6. Confirmation of Appointment:

Motion made and Question Proposed: That the Senate do consider the request by Mr President, Commander-in-Chief for the Confirmation of the Nomination of Dr (Mrs.) Grace Ooja Ogwuehe (*Benue State*) as a Minister of the Government of the Federal Republic of Nigeria (*Senate Majority Leader*).

Question put and agreed to.

Request to be considered when all necessary documents on the nominee are available

7. National Institute for Reproductive Health Bill (SB. 241) 2006:

Motion made and Question Proposed: That the National Institute for Reproductive Health Bill be read the Second Time (*Senate Majority Leader*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to the Committee on Health to report within four (4) weeks.

8. Conference Committee on the National Park Service Act (Amendment) Bill 2006 (SB. 134):

Motion made and Question Proposed: That the Senate do consider and adopt the Report of the Conference Committee on the National Park Service Act (Amendment) Bill 2006 (*Senator Mohammed Ahmed*).

Debate:

Question put and agreed to.

Report presented and adopted.

9. Committee on States, Local Government Administration:

Report on Border Communities Development Agency Act (Amendment) Bill 2006 (SB. 47):

Motion made and Question Proposed: That the Senate do resolve into Committee of the Whole to resume consideration of the Report (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

Clause 9: Offices and premises of the Agency Cap. 202 LFN 1990:

For the purposes of providing offices and premises necessary for the performance of its functions under this Act, the Agency may subject to the Land Use Act, take lease of any interest in land or other property and may sell or dispose of such interest held by it.

Committee's Recommendation:

That the provision in Clause 9 be retained (*Senator Iyabode Anisulowo*) — *Agreed to.*

Question that Clause 9 as recommended stand part of the Bill put and agreed to.

PART iii — STAFF OF **THE** AGENCY

Clause 10: Appointment of the Executive Secretary of the Agency:

- (1) There shall be for the Agency, an Executive Secretary who shall be appointed by **the** President of the Federal Republic of Nigeria.

Committee's Recommendation:

Immediately after the word "Nigeria" in line 2 *insert* the words "who is also a Member and Secretary to the Board" (*Senator Iyabode Anisulowo*) — *Agreed to.*

- (2) The Executive Secretary shall be the Chief Executive and Accounting Officer of the Agency and be responsible for the execution of the policy and the day-to-day administration of the affairs of the Agency.
- (3) The Executive Secretary shall hold office-
 - (a) for a term of four years in the first instance and may be re-appointed for a further term of 4 years and no more; and
 - (b) on such terms and conditions as may be specified in his letter of appointment.

Committee's Recommendation:

Insert new sub-clauses 10(4) and (5) as follows:

- "(4) Notwithstanding the provisions of section 5(3) of this Act the Executive Secretary of the Agency, may at any time be removed from office by the President for inability to discharged the functions of his office (whether arising from infirmity of mind or body or any other charge) or for misconduct.
- (5) The Executive Secretary of the Agency may resign his appointment by a notice in writing under his hand, addressed to the President and shall on the date of the receipt of the notice by the President cease to hold the office of the Executive Secretary" (*Senator Iyabode Anisulowo*) — *Agreed to.*

Question that Clause JO as recommended stand part of the Bill put and agreed to.

Clause 11: Removal of Executive Secretary from Office by the President:

- (1) Notwithstanding the provisions of section 5 - (3) of this Act, the Executive Secretary of the Agency, may at any time be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other charge) or for misconduct.
- (2) The Executive Secretary of the Agency may resign his appointment by a notice in writing under his hand, addressed to the President and shall on the date of the receipt of the notice by the President cease to hold the office of the Executive Secretary.
- (3) The Board shall appoint for the Agency a Secretary who shall possess such qualification and experience as are appropriate for a person required to perform the functions of that office under this Act.
- (4) subject to the provisions of this section, the Secretary shall hold office on such terms as to emoluments and otherwise as may be specified in his letter of appointment.

Committee's Recommendation:

Leave out the provision in sub-clause 11(3) and (4) (*Senator Iyabode Anisulowo*) — *Agreed to.*

Question that Clause 11 as recommended stand part of the Bill put and agreed to.

- Clause 12: Appointment of Heads of Departments of the Agency:
- (1) The Commission may appoint Heads of Departments for the Agency who shall be professionals in border issues and such other persons to be officers and employees of the Agency to assist the Secretary in the exercise of the functions of the Agency under this Act.

Committee's Recommendation:

Immediately after the word "the" in line 1 *leave out* the word "Commission" and *insert* the word "Board" instead thereof (*Senator lyabode Anisulowo*) — *Agreed to.*

- (2) The remuneration and tenure of office of the Heads of Departments and the other officers and employees of the Agency shall be determined by the Board after consultation with the Federal Civil Service Commission.
- (3) Notwithstanding the provisions of subsection (1) of this, the Heads of Departments or any of the officers and employees of the Agency may be appointed by the Agency by way of transfer of secondment from any the Public Services in the Federation.

Question that Clause 7 as recommended stand part of the Bill put and agreed to.

- Clause 13: Pension Cap. **346 LFN** 1990:
- (1) Service in the Agency shall be approved service for the purpose of the Pensions Act and accordingly, employees of the Agency shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pensions Act.

Committee's Recommendation:

Immediately after the words "purpose of the" in line 1 *leave out* the words "Pensions Act" and *insert* the words "Pensions reform Act No. 2 of 2004" instead thereof (*Senator lyabode Anisulowo*) — *Agreed to.*

- (2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms, which preclude the grant of a pension, gratuity or other retirement benefit in respect of that office.
- (3) For the purposes of the application of the provisions of the Pensions Act, any power exercisable by a Minister or other authority of the Federal Government other than the power to make a regulations under section 23 of the Pensions Act is vested in and shall be exercisable by the Board and not by any other person or authority.

Committee's Recommendation:

Leave out the provision in sub-clause 13(3) (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 13 as recommended stand part of the Bill put and agreed to.

PART IV - FINANCIAL PROVISIONS

- Clause 14: **Funds of the Agency:**
- (1) The Agency shall establish and maintain a fund into which shall be paid and credited-
 - (a) a take-off grant from the Federal Government;
 - (b) annual subvention from the Federal Government;
 - (c) Such counter-part funding as may be provided, from time to time by a State or Local Government;
 - (d) loans and grants-in-aid from national, bilateral and multilateral agencies;

- (e) rents, fees and other internally generated revenues from services provided by the Agency;
- (f) 7.5 per cent of the total revenue allocation due to the Federal Government deductible at source;
- (g) 15 per cent of the total monthly statutory allocation due to member States of the Agency deductible at source;
- (h) 55 per cent of the monies due to member States of the Agency from the ecological Fund;
- (i) 10 per cent of the monthly statutory allocation due to the border Local Governments

Committee's Recommendation:

Leave out the provisions in sub-clauses 14(f) to (i) and renumber existing sub-clause as (f) (Senator lyabode Anisulowo) — Agreed to.

- (j) all other sums accruing to the Agency, from time to time.

Question that Clause 14 as recommended stand part of the Bill put and agreed to.

Clause 15:

Expenditure of the Agency:

The Agency may from time to time apply the proceeds of the Agency-

- (a) to the cost of administration of the Agency
- (b) to the paying of the emoluments, allowances and benefits of members of the Board and reimbursing members of the Board or of any Committee set up by the Board for such expenses as may be expressly authorised by the Board;
- (c) to the payment of the salaries, fees or other remunerations or allowances, gratuities and pensions and other benefits payable to the officers and other employee of the Agency but no payment of any kind under this paragraph {except such as may be expressly authorised by the Board} shall be made to any person who is in receipt of emoluments from the Federal or a State Government;
- (d) for the development and maintenance of any property vested in or owned by the Agency; and
- (e) for and in connection with all or any of its functions under this Act.

Committee's Recommendation:

That the provision in Clause 15 be retained (Senator lyabode Anisulowo) — Agreed to.

Question that Clause 15 as recommended stand part of the Bill put and agreed to.

Clause 16:

Power to borrow:

- (1) The Agency may from time to time borrow by overdraft or otherwise such sums as it may require for the performance of its functions under this Act.
- (2) The Agency shall not without the approval of the President, borrow money which exceeds at any time the amount set by the President.
- (3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the President.

Committee's Recommendation:

That the provision in Clause 16 be retained (Senator lyabode Anisulowo) — Agreed to.

Question that Clause 16 as recommended stand part of the Bill put and agreed to.

Clause 17: Annual Estimates and Expenditure:

- (1) The Agency shall not later than 30th September in each year submit to the President an estimate of its expenditure and income including payments to the Agency for the next succeeding year.
- (2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause the accounts to be audited within 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

Committee's Recommendation:

That the provision in Clause 17 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 17 as recommended stand part of the Bill put and agreed to.

Clause 18: Annual Reports:

- (1) The Agency shall prepare and submit to the Federal Executive Council, through the President, not later than 6 months after the end of each year, a report in such form as he may direct on the activities of the Agency during the immediate proceeding year and shall include in the report a copy of the audited accounts of the Agency for that year and the Auditor's report on the accounts.
- (2) The President shall upon receipt of the report referred to in subsection (1) of this section cause a copy of the report and audited accounts of the Agency to be submitted to each House of the National Assembly.

Committee's Recommendation:

That the provision in Clause 18 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 18 as recommended stand part of the Bill put and agreed to.

PART V — LEGAL PROCEEDING**Clause 19: Limitation of suits against officers of the Agency Cap. 349 LFN 1990:**

The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Agency.

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 19 as recommended stand part of the Bill put and agreed to.

Clause 20: Services of documents:

A notice, summons or other documents required or authorised to be served upon the Agency under the provisions of this Act or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post addressed to the Executive Secretary at the principal office of the Agency.

Committee's Recommendation:

That the provision in Clause 20 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 20 as recommended stand part of the Bill put and agreed to.

Clause 21: Restriction on execution against property of the Agency:

- (1) In any action or suit against the Agency, no execution or attachment of process shall be issued against the Agency unless not less than three months notice of the intention to execute or attach has been given to the Agency.
- (2) Any sum of money which by the judgment of any court has been awarded against the Agency shall subject to any direction given by the court where notice

Committee's Recommendation:

That the provision in Clause 21 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 21 as recommended stand part of the Bill put and agreed to.

Clause 22:**Indemnity of Officers:**

A member of the Board or the Executive Secretary, any officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding whether civil or criminal, if the proceeding is brought against him in his capacity as a member, Executive Secretary, officer or employee of the Agency.

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 22 as recommended stand part of the Bill put and agreed to.

Clause 23:**Provision for take-off:**

Notwithstanding the provisions of section 4, the National Boundary Commission may provide take-off office accommodation, staff and all the necessary facilities needed for the carrying out the functions of the Agency under this Act.

Committee's Recommendation:

That the provision in Clause 23 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 23 as recommended stand part of the Bill put and agreed to.

Clause 24:**Regulations:**

The Agency may with the approval of the president, make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act.

Committee's Recommendation:

That the provision in Clause 24 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 24 as recommended stand part of the Bill put and agreed to.

Clause 25:**Power to accept gifts:**

- (1) The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.
- (2) The Agency shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the functions of the Agency.

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 25 as recommended stand part of the Bill put and agreed to.

Clause 26:**Investment Cap. 449 LFN 1990:**

The Agency may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investment Act or in such other securities as may from time be approved by the President.

Committee's Recommendation:

That the provision in Clause 26 be retained (*Senator lyabode Anisulowo*) — *Agreed to.*

Question that Clause 26 as recommended stand part of the Bill put and agreed to.

Clause 27:**Exemption from tax:**

.. .. .

- (1) The Agency shall be exempted from the payment of income tax on any income accruing from investment made by the Board for the Agency or otherwise.

- (2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Agency of the Board.

Committee's Recommendation:

Leave out the provisions in Clause 27 and renumber existing Clauses (Senator lyabode Anisulowo) — Agreed to.

Clause 28:

Secrecy:

- (1) A member of the Board or the Executive Secretary or any other officer or employee of the Agency shall-
- (a) not for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Board or as the Executive Secretary, officer or employee of the Agency;
 - (b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duty under this Act;
 - (c) not disclose any information referred to under paragraph (b) of this subsection, except when required to do so by a court or in such other circumstances as may be prescribed by the Board from time to time.

Committee's Recommendation:

Leave out the provisions in sub-clause 28(c) and renumber existing sub-clause 28(2) as sub-clause 28(1) (c) (Senator lyabode Anisulowo) — Agreed to.

- (c) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine not less than N20,000 or imprisonment for a term not exceeding 2 years or to both fine and imprisonment (Senator lyabode Anisulowo) — Agreed to.

Question that Clause 28 as recommended stand pan of the Bill put and agreed to.

Clause 29:

Interpretation:

In this Act-

"Agency" means Border Communities Development Agency established under section 1 of this Act;

Question, That the meaning of the word "Agency " be as defined in the Interpretation to this Act, put and agreed to.

"Board" means the Governing of the Agency Established under section 2 of this Act;

Question, That the meaning of the word "Board" be as defined in the Interpretation to this Act, put and agreed to.

"Chairman" means the Chairman of the Board of the Agency;

Question, That the meaning of the word "Chairman" be as defined in the Interpretation to this Act, put and agreed to.

"Executive Secretary" means the Executive Secretary of the Agency;

Question, That the meaning of the words "Executive Secretary" be as defined in the Interpretation to this Act, put and agreed to.

"Fund" means the Fund established under section 9(1) of this Act;

Question, That the meaning of the word "Fund" be as defined in the Interpretation to this Act, put and agreed to. ■

"Member" means a member of the Board of the Agency and includes the Chairman;

Question, That the meaning of the word "Member" be as defined in the Interpretation to this Act, put and agreed to.

"President" means the President **Commander-in-Chief of the Armed** Forces of the Federal Republic of Nigeria.

Question, That the meaning of the word "President" be as defined in the Interpretation to this Act, put and agreed to.

This Act may be cited as the Boarder Communities Development Agency (Establishment etc.) Act 2006

Section 1(3) FIRST SCHEDULE

1. Adamawa

3. Bayelsa

5. Borno

7. Delta

9. Katsina

11. Kwara

13. Niger

15. Ondo

17. Rivers

19. Taraba

21. Zamfara

2. Akwa-Ibom

4. Benue

6. Cross River

8. Jigawa

10. Kebbi

12. Lagos

14. Ogun

16. Oyo

18. Sokoto

20. Yobe

Question, That Paragraph 1 stand part of Schedule 1 to the Bill, put and agreed to.

Section 2 (3)

SECOND SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD ETC.

Proceeding of the Board Cap. 192 LFN 1990

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees.

Question, That Paragraph 1 stand part of Schedule 2 to the Bill, put and agreed to.

2. At every meeting of the Board, the Chairman shall preside and in his, absence the members present at the meeting shall appoint one of their members to preside at the meeting.

Question, That Paragraph 2 stand part of Schedule 2 to the Bill, put and agreed to.

3. The quorum at a meeting of the Board shall consist of the Chairman or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule and six other members.

Question, That Paragraph 3 stand part of Schedule 2 to the Bill, put and agreed to.

4. The Board shall for the purposes of this Act, meet not less than three times in each year and subject thereto, the Board shall meet when ever it is summoned by the Chairman, and if required to do so by notice given to him by not less than five other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

Question, That Paragraph 4 stand part of Schedule 2 to the Bill, put and agreed to.

5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Question, That Paragraph 5 stand part of Schedule 2 to the Bill, put and agreed to.

6. (1) Subject to its standing orders, the Board may appoint such number of standing and ad-hoc Committees as it thinks fit to consider and report on any matter with which the Agency is concerned.
- (2) A committee appointed under this paragraph **shall-**
- (a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board), and a person, other than a member of the Board, shall hold office on the committee in accordance with the terms of his appointment; and
- (b) be presided over by a member of the Board.
- (3) The quorum of any Committee set up by the Board shall be as may be determined by the Boards.
- (4) A Decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

Question, That Paragraph 6 stand part of Schedule 2 to the Bill, put and agreed to.

Miscellaneous

7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the Executive Secretary or any other person generally or specifically authorized by the Board to act for that purpose.

Question, That Paragraph 7 stand part of Schedule 2 to the Bill, put and agreed to.

Clause 30: Short Title:

This Act may be cited as the Border Communities Development Agency (Establishment etc.) Act 2006

Committee's Recommendation:

That the provision in Clause 30 be retained (*Senator Iyabode Anisulowo*) — *Agreed to.*

Question that Clause 30 as recommended stand part of the Bill put and agreed to.

Chairman to report **Bill.**

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole resumed consideration on the Report of the Committee on States and Local Government Administration on Border Communities Development Agency Act (Amendment) Bill 2006 and approved as follows:

Clause 9		As Recommended
Clause 10		As Recommended
Clause 11	—	As Recommended