



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 20th February, 2007

1. The Senate met at 10:20 a.m. The Senate President read Prayers.
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Thursday, 15th February, 2007 and approved same.

By unanimous consent, the Votes and Proceedings were approved.

3. **Announcements:**
 - (i) **Change of Political Party:**
The Senate President read a letter from Senator J. K. Brambaifa as follows:



SENATOR JOHN K. BRAMBAIFA
(Bayelsa West Senatorial District)

The Senate President
National Assembly Complex,
Three Arms Zone, Abuja-F C
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9th February, 2007

Dear Senate President,

RESIGNATION OF MEMBERSHIP OF PDP

I write to inform you and indeed other PDP members of the Senate that on 9th February 2007, I resigned my membership of the Peoples Democratic Party (PDP).

The decision was taken after due consultation with my people at the Ward, LGA and State levels following the events and crisis that have bedevilled the party in recent times. Before now I saw PDP as the only party for the common man in this country to promote the practice of Democracy in its entire ramifications.

But today what one sees in the PDP is 'selectocracy' and the imposition of candidates with impunity. This is the order of the day. I strongly believe this is a denial for the members of the party to exercise their rights to choose candidates of their choices for effective elective representation.

This practice is no longer hidden and was featured in the recent PDF primaries and from every indication they believe they are doing the best for the party and by extension the whole country.

To this I say NO and believe strongly that democracy will only grow in this country if the RULE OF LAW is respected by everybody. It is for this reason stated above that propelled me to resign from the PDP and join the Democratic Peoples Party (DPP).

DPP — Justice

Justice — DPP

Please accept my best regards.

Signed

SENATOR JOHN K. BRAMBAIFA

(ii) Acknowledgment:

The Senate President acknowledged the presence of the Honourable Minister of State for Mines and Steel Development, Alhaji Bala Borodo in the gallery to observe the Senate proceedings.

4. Remarks by the Senate President:



*The President,
Senate of the Federal Republic of Nigeria*

TEXT OF REMARKS BY SENATOR KEN NNAMANI GCON,
PRESIDENT, SENATE OF THE FEDERAL REPUBLIC OF NIGERIA,
ON THE INDEPENDENCE OF THE ECONOMIC AND FINANCIAL
CRIMES COMMISSION (EFCC) DELIVERED TO SENATORS AT
THE SENATE CHAMBER ON TUESDAY, 20. FEBRUARY 2007

"No Corrupt Politician is More Important than the other"

Distinguished Senators, I would like to start this comment with the evergreen words of an Italian poet, a moral philosopher and political thinker, Dante Alighieri (1265 - 1321); "The hottest places in Hell are reserved for those who in the time of moral crisis preserve their neutrality." For the sake of our democracy and history, it is therefore expedient that I address you on the increased role of the Economic and Financial Crimes Commission (EFCC) as the nation prepares for general elections this April.

A few weeks ago, the EFCC released a list of persons who it claimed to have indicted of corrupt practices and who are perhaps not eligible to hold public offices. This list has been the subject of much controversy throughout our country. There are credible reports that some persons who were initially on the list were removed while persons who were not on the EFCC list were later added by other authorities. On the basis of this list, the Presidency quickly set up an Administrative Panel. The Administrative Panel has found some persons guilty. Relying on a White Paper from the findings of the Administrative Panel, the Independent National Electoral Commission (INEC) has threatened to disqualify some candidates from participating in the April general elections.

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Some politicians who are listed by the EFCC as corrupt are questioning the good faith of the agency. They allege that they have been persecuted because of their political interests and affiliations. It is reported that the EFCC submitted its list of indicted persons to the Presidency for consideration and approval. The involvement of the Presidency has created a moral challenge on the EFCC to justify its independence in indicting some politicians and not others who it had earlier declared to be corrupt. The allegation of double standard and political manipulation is undoubtedly and unfortunately, seemly supported by the conspicuous omission on the list of some persons who EFCC, and even the Code of Conduct Bureau had earlier charged to Court and Tribunal, respectively, for corrupt practices. Some of these persons have now been given flags as candidates for the April elections. The Senate is watching very closely this development in the electoral process.

Distinguished Senators, there is no doubt that the National Assembly supports the war against corruption hence we quickly passed the EFCC Act and the ICPC Act. We have always indicated our preparedness to provide every required legislative support to make sure these independent agencies succeed in the mandates we bestowed on them. Just last week, while receiving a delegation of the Inter-Governmental Action Group Against Money Laundering in West Africa (GIABA), I applauded the EFCC and urged it to make sure no corrupt politician escapes prosecution. By so doing, it will safeguard its independence and credibility. My support for the EFCC is principled. I believe that corruption, if unchecked, will negate every effort at sustainable economic growth and compound the poverty crisis already in existence in Nigeria.

Distinguished Colleagues, as federal legislators who enacted the law that established and empowers the EFCC to fight economic and financial crimes, we must take special interest in how the EFCC discharges its mandates. We must be worried when there is credible evidence that its independence is being eroded. By the principles of constitutional democracy such an agency that is created by an Act of the legislature to undertake specifically defined purposes becomes an independent agency, and not part of the Presidency. Because they are supposed to be independent from control by the executive, these agencies are often referred to as the 'Fourth Branch' of government. The EFCC Act 2004 does not authorize the agency to submit list of indicted persons to the Presidency but only permits it to go to court and prosecute persons alleged to have engaged in economic and financial crimes.

Because of the importance of the fight against corruption to our reputation in the international community and our aspiration to become an economic power in the world, we must be vigilant to protect the independence of the EFCC, and strengthen its capacity to stamp out the virus of corruption from the polity. Independence of the EFCC will secure the support of Nigerians on the war against corruption. As long as the war against corruption is perceived to be waged against some corrupt politicians and not all corrupt, politicians, Nigerians will continue to doubt the good faith of the EFCC. It will be very damaging to the credibility of the EFCC if it allows itself to be controlled by any other authority in prosecuting the war against corruption. The law subjects it only to the judicial review of courts, not the prescriptions of any other branch of government.

We have responsibility as legislators to inquire into the conduct of the EFCC to ensure that the clear mandate we gave the agency is not abused. It is a clear abuse of its mandate for the EFCC to submit its list of indicted candidates to the Presidency for consideration or review. Although, independent agencies are created to carry out executive functions, they are not just a department of the executive branch of government.

*Distinguished colleagues, it is very expedient for the National Assembly to strengthen the independence of this very important agency by removing any opportunity for political office-holders to compromise the independence of the agency. Section 3 (2) of the EFCC Act weakens EFCC's independence by permitting Mr. President to remove any member of the Commission for good or no reason. This is a terrible provision. We are obviously confronted with a dangerous scenario of **he who sacks the piper dictates the tune**'. The provision completely destroys the independence of the EFCC by not providing security of tenure for members of the Commission. Guaranteed tenure of members is one sure way of securing the independence of an agency like EFCC. Under S.I 57 of the Constitution, several federal agencies and commissions like the Code of Conduct Bureau, the National Judicial Council, and the Revenue Mobilization Allocation and Fiscal Commission have secure tenures, as the Presidency cannot remove their members contrary to Section 3(2) of the EFCC Act without the check and balance of legislative approval. The most urgent task in order to secure the independence of the EFCC and avoid the violation of the right of equal protection under the law is to amend Section 3(2) of the Act and any other necessary provision so that members of the EFCC can discharge their duties without fear or favour, affection or ill-will*

My distinguished colleagues, it is our responsibility as Senators to review the circumstances of the recent list of indicted persons by the EFCC to ensure that the power exercised by the EFCC was not compromised contrary to the provisions of the EFCC Act. We need to inquire why some persons who EFCC charged to court for corrupt practices were not listed as disqualified from elective office while persons not yet charged to court are now faced with disqualification.

We run a government of law. Section 17 of the Constitution guarantees equal rights and justice to every Nigerian. It is a violation of the Constitution to penalize some citizens and let others off the hooks when they are all equally indicted. We must ensure that the law does not respect the social or political pedigree or affiliation of any citizen. It is my sincere wish that this Senate would devote time to review the 'politics' of the EFCC list and independence of the anti-graft agency to protect our integrity as a legislative House who want only the best for the nation and her people.

*The war against corruption must not only be fair and uncompromised, it must be seen by all to be so. I repeat, no corrupt politician should be allowed to go unpunished because **no corrupt politician is more important than the other.***

Thank you.

Signed

Senator Ken Nnamani, GCON

President,

Senate of the Federal Republic of Nigeria

5. Matter of Urgent Public Importance:

Rules 42 and 52:

Motion made and Question Proposed: That the Senate do debate forthwith the issues raised in the Senate President's remarks in view of their importance to Nigerian polity (*Senate Majority Leader*).

Question put and agreed to.

Debate

The following Senators made contributions:

- (i) Senator Adeleke O. Mamora
- (ii) Senator Victor K. Oyofe
- (iii) Senator Mohammed Abba Aji
- (iv) Senator Lawal Shuaibu
- (v) Senator Uche Cbukwuemerije
- (vi) Senator Daniel I. Saror
- (vii) Senator Farouk B. Bunza
- (viii) Senator Omar Hambagdad
- (ix) Senator Saidu Dansadau
- (x) Senator Idris I. Kuta
- (xi) Senator Dalhatu S. Tafida

Motion made and Question Proposed: That the Senate do constitute an Ad-hoc Committee to look into the issues raised in the Senate President's Remarks with the following Terms of Reference:

- (a) to look into the Act establishing the EFCC
- (b) to look into the original list of Indicted Politicians by the EFCC
- (c) to look at any other issue(s) that will strengthen the operations of the EFCC, and
- (d) to submit its report on or before Thursday, 22nd February 2007 (*Senate Majority Leader*).

Question put and agreed to.

The following Senators were named as Chairman and Members of the Ad-hoc Committee

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|-------|----------------------------|---|----------|
| (i) | Senator Lawal Shuaibu | — | Chairman |
| (ii) | Senator Uche Chukwuemerije | — | Member |
| (iii) | Senator David C. Brigidi | — | Member |

(iv)	Senator Adeleke O. Mamora	—	Member
(v)	Senator Isaiah C. Balat	—	Member
(vi)	Senator Fred I. Orti	—	Member
(vii)	Senator Abubakar Sa'ad Mohammed	—	Member

6. Matter of Urgent Public Importance:

Rising on Rule 42, Senator Uche Chukwuemerije invited the attention of the Senate to some unpleasant statements credited to Mr President, Commander-in-Chief. He sought and obtained the leave of the Senate for the Matter to be debated the next legislative day.

Matter to stand over to the next legislative day.

7. Presentation of Bill:

Nigeria Bank for Commerce and Industry Bill 2007 (SB. 349) — *Read the First Time.*

8. Committee on Independent National Electoral Commission (INEC):

Conference Report on the Electoral Act (Amendment) Bill 2007 (HB: 293):

Motion made and Question Proposed: That the Senate do receive and adopt the Conference Report on the Electoral Act (Amendment) Bill 2007 (*Senator Nicholas Y. Ugbane*).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do adopt the Conference Committee Report on the Electoral Act (Amendment) Bill 2007 (*Senate Majority Leader*).

Question put and agreed to.

Report accordingly adopted.

9. Committee on Finance:

Conference Report on the Federal Inland Revenue (Establishment, etc) Bill 2007 (SB. 175):

Motion made and Question Proposed: That the Senate do receive and adopt the Conference Report on the Federal Inland Revenue (Establishment, etc) Bill 2007 (*Senator Effiong D. Bob*).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do adopt the Conference Committee Report on the Federal Inland Revenue (Establishment, etc) Bill 2007 (*Senate Majority Leader*).

Question put and agreed to.

Report accordingly adopted.

10. Committee on Finance:

Conference Report on the Companies Income Tax Act (Amendment) Bill 2007 (SB. 178):

Motion made and Question Proposed: That the Senate do receive and adopt the Conference Report on the Companies Income Tax Act (Amendment) Bill 2007 (*Senator Effiong D. Bob*).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do adopt the Conference Committee Report on the Companies Incomes Tax Act (Amendment) Bill 2007 (*Senate Majority Leader*).

Report accordingly adopted.

11. Committee on Finance:
Conference Report on the National Automotive Council Act (Amendment) Bill, 2007(SB. 179):
Motion made and Question Proposed: That the Senate do receive and adopt the Conference Report on the National Automotive Council Act (Amendment) Bill 2007 (*Senator Ejfiong D. Bob*).

Question put and agreed to.

Report presented and Laid.

Motion made and Question Proposed: That the Senate do adopt the Conference Committee Report on the National Automotive Council Act (Amendment) Bill 2007 (*Senate Majority Leader*).

Question put and agreed to.

Report accordingly adopted.

12. Committee on Finance:
Conference Report on the Value Added Tax (Amendment) Bill 2007 (SB. 180):
Motion made and Question Proposed: That the Senate do receive and adopt the Conference Report on the Value Added Tax (Amendment) Bill 2007 (*Senator Effiong D. Bob*).

Question put and agreed to.

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Report presented and Laid.

Motion made and Question Proposed: That the Senate do adopt the Conference Committee Report on the Value Added Tax (Amendment) Bill 2007 (*Senate Majority Leader*).

Question put and agreed to.

Report accordingly adopted.

13. Ad-Hoc Committee on Fiscal Responsibility Bill 2007 (SB. 226):
Report of the Ad-hoc Committee on Fiscal Responsibility Bill 2007:
Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to resume consideration of the Report of the Ad-hoc Committee on Fiscal Responsibility Bill 2007 (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

FISCAL RESPONSIBILITY BILL 2007

A BILL FOR AN ACT TO PROVIDE FOR PRUDENT MANAGEMENT OF THE NATION'S RESOURCES, ENSURE LONG-TERM MACROECONOMIC STABILITY OF THE NATIONAL ECONOMY, SECURE GREATER ACCOUNTABILITY AND TRANSPARENCY IN FISCAL OPERATIONS WITHIN A MEDIUM TERM FISCAL POLICY FRAMEWORK, AND THE ESTABLISHMENT OF THE FISCAL RESPONSIBILITY COMMISSION TO ENSURE THE PROMOTION AND ENFORCEMENT OF THE NATION'S ECONOMIC OBJECTIVES AND OTHER MATTERS CONNECTED THEREWITH

PART II — THE MEDIUM-TERM EXPENDITURE FRAMEWORK

- Clause 11: Medium-Term Expenditure:
 (1) The Federal Government after consultation with *the* States shall-
 (a) not later than six months from the commencement of this Act, cause to be prepared and laid before the National Assembly, for their consideration a Medium-Term Expenditure Framework for the next

- (b) thereafter, not later than four months before the commencement of the next financial year, cause to be prepared a Medium-Term Expenditure Framework for the next three financial years.

Committee's Recommendation:

Insert a new Subclause 2 as follows:

"(2) The Frame-work so laid shall be considered for approval with such modifications if any, as the National Assembly finds appropriate by a resolution of each House of the National Assembly" (*Senator Udoma U. Udoma*) — *Agreed to.*

- (3) The Medium-Term Expenditure Framework shall contain-
- (a) A Macroeconomic Framework setting out the macroeconomic projections, for the next three financial years, the underlying assumptions for those projections and an evaluation and analysis of the macroeconomic projections for the preceding three financial years;
 - (b) A Fiscal Strategy Paper setting out:
 - (i) the Federal Government's medium-term financial objectives,
 - (ii) the policies of the Federal Government for the medium-term relating to taxation, recurrent (non-debt) expenditure, debt expenditure, capital expenditure, expenditure, borrowings and other liabilities, lending and investment.
 - (iii) the strategic, economic, social and developmental priorities of the Federal Government for the next three financial years.
 - (iv) an explanation of how the financial objectives, strategic, economic, social and developmental priorities and fiscal measures set out pursuant to paragraphs (i). ii) and (iii) of this subsection relate to the Economic Objectives set out in section 16 of the Constitution;
 - (c) An Expenditure and Revenue Framework setting out-
 - (i) estimates of aggregate revenues for the Federation for each financial year in the next three financial years, based on the predetermined Commodity Reference Price adopted and tax revenue projections;
 - (ii) aggregate expenditure projection for the Federation for each financial year in the next three financial years.
 - (iii) aggregate tax expenditure for the Federation for each financial year in the next three financial years, and
 - (iv) minimum capital expenditure floor for the Federation for each financial year in the next three financial years;
- Provided that, the estimates and expenditures provided pursuant to paragraph (d) of this subsection, shall be-
- (i) based on reliable and consistent data certified in accordance with section 13 (2) (b) of this Act,
 - (ii) targeted at achieving the macroeconomic projections set out in pursuance of paragraph (a) of subsection (2) of this section,
 - (iii) consistent with and derive from the underlying assumptions contained in the Macroeconomic Framework, the objectives, policies, strategic priorities and explanations in the Fiscal Strategy Paper;

- (d) A Consolidated Debt Statement setting out and describing the fiscal significance of the debt liability of the Federal Government and measures to reduce any such liability;
- (e) A statement describing the nature and fiscal significance of contingent liabilities and quasi-fiscal activities and measures to offset the crystallization of such liabilities;

Committee's Recommendation:

That the provision in Clause 11 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 11 do stand part of the Bill, put and agreed to.

Clause 12:

Aggregate expenditure Ceiling:

- (1) The estimates of aggregate expenditure and the aggregate amount appropriated by the National Assembly for each financial year shall not be more than the estimated aggregate revenue plus a deficit, not exceeding three per cent of the Estimated Gross Domestic Product or any sustainable percentage as may be determined by the National Assembly for each financial year.
- (2) The aggregate expenditure for a financial year may exceed the ceiling imposed by the provisions of subsection (1) of this section, if in the opinion of the President there is a clear and present threat to national security or sovereignty of the Federal Republic of Nigeria.

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Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 12 do stand part of the Bill, put and agreed to.

Clause 13:

Preparation of the Medium-Term; Expenditure Framework:

- (1) The Minister shall be responsible for the preparation of the Medium-Term Expenditure Framework.
- (2) In preparing the draft Medium-Term Expenditure Framework, the Minister—
 - (a) may hold public consultation, which shall be widely publicized, on the Macroeconomic Framework, the Fiscal Strategy Paper, the Revenue and Expenditure Framework, the strategic, economic, social and developmental priorities of government, and such other matters as the Minister deems necessary;

Provided that, such consultations shall be open to the public, the press and any citizen or authorized representatives of any organization, group of citizens, who may attend and be heard on any subject matter properly in view;

- (b) shall seek inputs from the—
 - (i) National Planning Commission.
 - (ii) Joint Planning Board.
 - (iii) National Commission on Development Planning.
 - (iv) National Economic Commission.
 - (v) National Assembly,
 - (vi) Central Bank of Nigeria, and

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v (vii) Revenue Mobilisation Allocation and Fiscal Commission;
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- (ix) any other relevant statutory body as the Minister may determine; and
- (c) shall consider and reflect as may be deemed appropriate the input of the bodies and persons referred to in subsection (a) and (b) of this section.

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Udoma U. Udoma*) — Agreed to.

Question that Clause 13 do stand part of the Bill, put and agreed to.

Clause 14: Time Limit for Presentation of Medium-Term Expenditure Framework to Federal Executive Council:

- (1) The Minister shall before the end of the second quarter of each financial year, present the Medium-Term Expenditure Framework to the Federal Executive Council for consideration and endorsement.
- (2) The Medium Term Expenditure Framework as endorsed by the Federal Executive Council shall take effect upon approval by a resolution of each house of the National Assembly.

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator Udoma U. Udoma*) — Agreed to. »

Question that Clause 14 do stand part of the Bill, put and agreed to.

Clause 15: Publication of Medium-term Expenditure Framework in the Gazette:

The Medium-Term Expenditure Framework as approved by the National Assembly shall be published in the Gazette.

Committee's Recommendation:

That the provision in Clause 15 be retained (*Senator Udoma U. Udoma*) — Agreed to.

Question that Clause 15 do stand part of the Bill, put and agreed to.

Clause 16: Adjustments to the Medium-Term Expenditure Framework:

- (1) Subject to subsection (2) of this section, the President may cause adjustments' to be made to a Medium-Term Expenditure Framework.
- (2) Any adjustments to a Medium-Term Expenditure Framework shall be limited to-
 - (a) the correction of manifest error; and
 - (b) changes in the fiscal indicators, which in the opinion of the President are significant.

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Udoma U. Udoma*) — Agreed to.

Question that Clause 16 do stand part of the Bill, put and agreed to.

Clause 17: Application to States and Local Governments:

- (1) States and Local Governments which so desire shall be assisted by the Federal Government to manage their fiscal affairs within the medium-term framework.
- (2) In planning their fiscal affairs as prescribed under subsection (1) of this section, States and Local Governments shall be guided by and adopt the provisions of sections 11, 12, 13, 14, 15 and 16 of this Act with such modification as may be appropriate and necessary.

Committee's Recommendation:

Leave out the provision in Subclause 17 (2) (Senator Udoma U. Udoma) — Agreed to.

Question that Clause 17 do stand part of the Bill, put and agreed to.

PARTIII - THE ANNUAL BUDGET

Clause 18: Annual Budget to be derived from Medium-Term Expenditure Framework:

- (1) Notwithstanding anything to the contrary contained in this Act or any other law, the Medium-Term Expenditure Framework shall be the basis for the preparation of the estimates of revenue and expenditure required to be prepared and laid before the National Assembly under section 81 (1) of the Constitution.
- (2) The sectoral and compositional distribution of the estimates of expenditure referred to in subsection (1) of this section shall be consistent with the medium term developmental priorities set out in the Medium Term expenditure Framework.

Committee's Recommendation:

That the provision in Clause 18 be retained (Senator Udoma U. Udoma) — Agreed to.

Question that Clause 18 do stand part of the Bill, put and agreed to.

Clause 19: Annual Budget to be accompanied by certain documents:

The estimates of revenue and expenditure, in this Act referred to as the Annual Budget, shall be accompanied *by-fa*) A copy of the underlying revenue and expenditure profile for the next two years;

- (b) A report setting out actual and budgeted revenue and expenditure and detailed analysis of the performance of the budget for the 18 months up to June of the preceding financial year: and
- (c) A Revenue Framework broken down into monthly collection targets prepared on the basis of the predetermined Reference Commodity Price as contained in Medium-Term Expenditure Framework;
- (d) Measures on cost, cost control and evaluation of **results** of programmes financed with budgetary resources; (e) A Fiscal Target Appendix derived from the underlying Medium-Term Expenditure Framework setting out the following targets for that financial year- (ii) target inflation rate, (ii) target fiscal account balances, (iii) any other development target deemed appropriate; and
- (f) A Fiscal Risk Appendix evaluating the fiscal and other related risks to the Annual Budget and specifying measures to be taken to offset the occurrence of such risks.

Committee's Recommendation:

That the provision in Clause 19 be retained (Senator Udoma U. Udoma) — Agreed to.

Question that Clause 19 do stand part of the Bill, put and agreed to.

Clause 20: Criteria for admission of projects and programmes into the Appropriation Bill:

- (1) Projects and programmes shall only be admitted into an Appropriation Bill if they-
 - (a) are derived from the Medium-Term Expenditure Framework:
 - (b) have complied with public procurement guidelines, or laws; and
 - (c) have undergone a cost-benefit-analysis.

- (2) **New Projects** shall only be admitted into an Appropriation Bill, if adequate funding has been provided for on-going projects and for the conservation of existing public assets.
- (3) All expenditures involving public securities or contractual debt shall be contained in the Appropriation Bill.
- (4) The refinancing of public debt shall be suited separately in the Appropriation Bill.
- (5) Liabilities arising by reason of judgment of the courts established under the Constitution shall be stated separate in the Appropriation Bill.
- (6) Provisions for borrowing with imprecise objectives in the Appropriation Bill are prohibited.

Committee's Recommendation:

Leave out the provision in Clause 20 (Senator Udoma U. Udoma) — Agreed to.

Clause 21: Preparation of the Annual Budget:

The preparation of the Annual Budget shall commence not later than 1st May in each financial year by the issuance of a Budget Call Circular in such form as the Minister may from time to time prescribe to all Ministries, Extra-Ministerial Offices, Federal Executive Bodies and other executing agencies of Government.

Amendment Proposed:

Leave out the provision in Clause 21 (Senator David Mark).

Question that Clause 21 be deleted put and agreed to.

Clause 22: Responsibility for preparation of the Annual Budget:

- (1) The Minister shall prepare and present to the Federal Executive Commission not later than first week of July in each financial year, a draft Annual Budget and the Federal Executive Council shall in turn conclude action on the draft budget not later than 31st day of July.
- (2) The National Assembly shall endeavour to pass the budget before the end of the year provided the draft budget estimate is received before the 1st day of September.

Amendment Proposed:

Leave out the provision in Clause 22 (Senator David Mark).

Question that the amendment be made put and agreed to.

Clause 23: Application of Part III States and Local Governments:

In preparing their annual budget. States and Local Governments may adopt the provisions of this Part with such modification as may be appropriate and necessary.

Committee's Recommendation:

That the provision in Clause 23 be retained (Senator Udoma U. Udoma) — Agreed to.

Question that Clause 23 do stand part of the Bill, put and agreed to.

Clause 24: Non-compliance with Parts II and III of this Act:

- (1) Non-compliance with any of the provisions of Parts II & III of this Act shall constitute an offence punishable under this Act.
- (2) Where the non-compliance is by an agency or institution, the head of such organ shall be guilty of an offence punishable under this Act.

- (3) For the purpose of subsection I of this section, the Minister, Clerk of the National Assembly, Clerk of the States Houses of Assembly, Chief Registrars of superior courts of record, Commissioner, and Chairmen at the Federal, State and Local Government levels respectively, as well as Accountants General, where applicable, shall be liable for any contravention.

Committee's Recommendation:

Leave out the provision in Clause 24 (Senator Udoma U. Udoma) — Agreed to.

PART IV - BUDGETARY PLANNING OF CORPORATIONS AND OTHER RELATED AGENCIES

Clause 25: Preparation of Estimates of Revenue and Expenditure by:

- (1) The Nigerian National Petroleum Corporation and other Corporations, agencies and government owned companies listed in the Schedule to this Act (hereinafter in this Act referred to as "the Corporations") shall not later than 6 months from the commencement of this Act and for every three financial years thereafter, not later than the end of the second quarter, cause to be prepared and submitted to the Minister, their estimates of revenue and expenditure for the next three financial years.

Amendment Proposed:

Leave out the words "The Nigerian national Petroleum Corporation" in line 1 and insert the words "Government Corporation" instead thereof (Senator David Mark).

Question that the amendment be made put and agreed to.

Another Amendment Proposed:

Immediately after the word "quarter" in line 5 insert the words "of every year" (Senator Bode Olowoporoku).

Question that the amendment be made put and agreed to.

- (2) each of the bodies referred to in subsection (1) of this section shall submit to the Minister not later than the end of August in each financial year-
- (a) an annual budget derived from the estimates submitted in pursuance of subsection (1) of this section;
 - (b) projected operating surplus, which shall be prepared in line with acceptable accounting practices.
- (3) The Minister shall cause the estimates submitted in pursuance of subsection (2) of this Section, to be attached as part of the draft Appropriation Bill to be submitted to the National Assembly.

Question that Clause 25 as amended do stand part of the Bill, put and agreed to.

Clause 26: Operating Surplus and General Reserve Fund:

- (1) Notwithstanding the provisions of any written law governing the Corporation, each Corporation shall establish a general reserve fund and shall allocate thereto at the end of each financial year, one-fifth of its operating surplus for the year.
- (2) Unless the President otherwise approves in writing, the balance of the operating surplus shall be paid **to** the Consolidated Revenue Fund of the Federal Government, not later than one month following the statutory dead line for publishing each Corporation's accounts.

Amendment Proposed:

Leave out the provision in Subclause 26 (2) and insert the following instead thereof

"(2) The balance of the operating surplus shall be paid to the Consolidated Revenue Fund of the Federal Government, not later than one month following the statutory dead line for publishing each corporation's accounts" (*Senator Daniel Saror*).

Question that the amendment be made put and agreed to. Question that Clause

26 as amended do stand part of the Bill, put and agreed to.

Clause 27: Classification of Corporation Operating Surplus:

- (1) The Corporations' surpluses shall be classified as a Federal Treasury Revenue.
- (2) Where a Corporation's result is a deficit, the deficit shall be classified as the Corporation's loss for the fiscal year.
- (3) Each Corporation shall not later than three months after the end of its financial year, cause to be prepared and published its audited financial reports in accordance with such rules as may be prescribed from time to time.

Committee's Recommendation:

That the provision in Clause 27 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 27 do stand part of the Bill, put and agreed to.

Clause 28: Cessation of Application of Part IV:

The provisions of sections 24, 25 and 26 shall cease to apply to any of the Corporations from the date of its privatization.

Committee's Recommendation:

That the provision in Clause 28 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 28 do stand part of the Bill, put and agreed to. PART

V — BUDGETARY EXECUTION AND ACHIEVEMENT OF TARGETS

Clause 29: Annual Cash Plan:

- (1) The Federal Government shall cause to be drawn up in each financial year, an Annual Cash Plan which shall be prepared by the Office of the Accountant-General of the Federation.
- (2) The Annual Cash Plan shall be prepared in advance of the financial year setting out projected monthly cash flows and shall be revised periodically to reflect actual cash flows.

Committee's Recommendation:

That the provision in Clause 29 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 29 do stand part of the Bill, put and agreed to.

Clause 30: Disbursement Schedule:

The Minister, shall within 30 days of the enactment of the Appropriation Act, prepare and publish a disbursement schedule derived from the Annual Cash Plan for the purposes of implementing the Appropriation Act.

Committee's Recommendation:

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

Question that Clause 30 do stand part of the Bill, put and agreed to.

Clause 31: Power of Minister to Approve virement:

- (1) The sums appropriated for a specific purpose shall be used solely for the purpose specified in the Appropriation Act.

- (2) Without prejudice to subsection (1) of this section, the Minister may in exceptional circumstances and in the overall public interest, recommend for the approval of the National Assembly virements from sub-heads under heads of account, without exceeding the amount appropriated to such head of account.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 31 do stand part of the Bill, put and agreed to.

Clause 32:

Power to restrict further commitments:

- (1) Where, by the end of three months after the enactment of the Appropriation Act, the Minister determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Act, the Minister shall within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operations according to the criteria set in the Fiscal Risk Appendix.
- (2) Where the targeted revenues are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately.
- (3) The provisions of subsections (1) and (2) of this section shall not apply to statutory or constitutional expenditure.

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 31 do stand part of the Bill, put and agreed to.

Clause 32:

Power to Restrict Further Commitments:

- (1) Where, by the end of three months after the enactment of the Appropriation Act, the Minister determines that the targeted revenues may be insufficient to fund the heads of expenditure in the Appropriation Act, the Minister shall within the next 30 days of such determination, take appropriate measures to restrict further commitments and financial operations according to the criteria set in the Fiscal Risk Appendix.
- (2) Where the targeted revenues are re-established, either in part or in full, the appropriations for which further commitments were restricted shall be restored proportionately.
- (3) The provisions of subsections (1) and (2) of this section shall not apply to statutory or constitutional expenditure.

Committee's Recommendation:

That the provision in Clause 32 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 32 do stand part of the Bill, put and agreed to.

Clause 33:

Restriction on the Grant of Tax Relief:

- (1) Any proposed Tax Expenditure shall be accompanied by an evaluation of its budgetary and financial implications in the year it becomes effective and in the three subsequent years, and shall only be approved by the Minister if it does not adversely impair the revenue estimates in the Annual Budget or if it is accompanied by countervailing measures during the period mentioned in this subsection through revenue increasing measures such as tax rate raises and expansion of the tax base.
- (2) The provisions of this section shall not apply to-
 - (a) changes in the rates of the taxes mentioned in section 163 of the Constitution; and

- (b) debt cancellation in an amount lower than the cost of collection,

Committee's Recommendation:

That the provision in Clause 33 be retained (*Senator Udoma U. Udoma*) — *Agreed to.*

Question that Clause 33 do stand part of the Bill, put and agreed to.

Clause 34: Responsibility. Of the Budget Office to Monitor and Report on Implementation:

- (1) The Minister of Finance, through the Budget Office of the Federation, shall monitor and evaluate the implementation of the Annual Budget, assess the attainment of fiscal targets and report thereon on a quarterly basis to the Fiscal Responsibility Council and the Joint Finance Committee of the National Assembly.
- (2) The Minister of Finance shall, cause the report prepared pursuant to subsection (i) or" this sections to be published in the mass and electronic media and on Ministry of Finance website, not later than 30 days after the end of each quarter.

Committee's Recommendation:

That the provision in Clause 34 be retained (*Senator Udoma U. Udoma*) — *Agreed to,*

Question that Clause 34 do stand part of the Bill, put and agreed to.

Chairman to report Progress.

The Senate President reported that the Senate in the Committee of the Whole resumed consideration of the Report of the Ad-hoc Committee on the Fiscal Responsibility Bill 2007 and approved as follows:

Clauses 11 — 20	—	As Recommended
Clauses 21 — 23	—	Deleted
Clause 25	—	As Amended
Clauses 26	—	As Amended
Clauses 27 — 34	—	As Recommended

Further consideration deferred to the next legislative day.

15. Adjournment:

Motion made and Question Proposed: That the Senate do adjourn till Wednesday, 21st February, 2007 at 10.00 a.m. (*Senate Majority Leader*).

Adjourned accordingly at 1.55p.m.

Ken Nnamani, GcoN
President of the Senate