



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA VOTES AND PROCEEDINGS

Wednesday, 11th February, 2009

1. The Senate met at 10.20a.m. The Senate President read prayers.
2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Tuesday, 10th February, 2009 and approved same.

By unanimous consent, the Votes and Proceedings were approved.
3. **Announcement:**
Acknowledgement:
The Senate President acknowledged the presence of Staff and Students of Excel Universal College, Kakuri, Kaduna State who were in the gallery to observe Senate proceedings.
4. **Personal Explanation:**
Rising on Rule 42, Senator Adeleke O. Mamora drew the attention of the Senate to the Code of Ethics of the Senate and sought the approval of the Senate to direct the Committee on Ethics and Privileges to circulate fresh copies of the Code of Ethics manual to all Senators.
5. **Committee on Federal Character and Inter- Governmental Affairs:**
Report on the Screening of Nominee:
Motion made: That the Senate do receive the Report of the Committee on Federal Character and Inter- Governmental Affairs, on the Screening of Professor Ahmed Dembo Danfulani as Director General of the National Institute for Policy and Strategic Studies (NIPSS) (*Senator Smart Adeyemi*).

Question put and agreed to.

Report Laid.
6. **Committee on Aviation:**
Report on the Investigation into the Disbursement and Utilisation of the N19.5 Billion:
Motion made: That the Senate do resume consideration of the Report of the Committee on Aviation on the investigation into the disbursement and utilisation of the N19.5 Billion intervention fund released by the Federal Government in 2006 for the rehabilitation and development of Infrastructure in the Aviation Industry (*Adjourned Debate, Tuesday, 10 February, 2009*) (*Senate Leader*).

Question put and agreed to.

Debate:

Recommendations:

- (1) *Question:* That the Senate do urge the EFCC and the police to take necessary steps to recover the sum of ₦5 billion being inflated cost of the Safe Tower project from the former Minister of Aviation, Prof. Babalola Borishade, the former Managing Director of NAMA, Capt. Roland Iyayi and the contractor, Avsatel Nig Ltd which executed the project and prosecute them accordingly. The Safe Tower Project, though well intentioned, was used to defraud the country — *Noted.*
- (2) *Question:* That the EFCC should investigate the source of the fake Due Process Certificate said to have been issued by the Bureau of Public Procurement for the award of the ₦6.5 billion Tower Project. — *Agreed to.*
- (3) *Question:* That the EFCC should also find out why Certificate of Payment was never issued by the Bureau and no request to that effect was made by the Ministry as well as the source of other fake Due Process Certificates used by contractors who did jobs for and were paid by FAAN.

Amendment Proposed:

Leave out the Provision in recommendation (3) and insert the following instead thereof: "That the EFCC should find out why payments were made without Due Process Certificate by Bureau of Public Procurement" (*Senator Kabiru Gaya*).

Question that the amendment be made put and agreed to.

Question on the recommendation as amended, put and agreed to.

- (4) *Question:* That the former Minister of Aviation, Chief Femi Fani-Kayode should be barred from holding public office for five years for the following reasons:
 - (a) The established irregularities in the award of contracts in the Ministry of Aviation, FAAN and NAMA during his tenure;
 - (b) The weight of his undue interference in the management, recruitment and deployment of staff in FAAN led to the over-bloated of the parastatal shortly after "right-sizing" of staff and payment of severance benefits. This resulted in FAAN's current crippling salary bill of about ₦700 million a month. He threatened and harassed any Chief Executive who dared to express a contrary opinion e.g. he first suspended and later sacked the former MD, FAAN, Mohammed Yusuf who was subsequently re-instated by former President Olusegun Obasanjo;
 - (c) Chief Fani-Kayode recruited his own men from outside the Aviation Sector without due process and thereby got serving officers superseded and demoralized e.g the Director of Administration, Arch. Adedeji Adebisi (who was brought from Leen Oil Ltd and should have been better deployed to handle Estate matters) and the Director of Finance, Mr. Jerry Onifade (who was picked from Nigerian Tourism Development Corporation with controversial antecedents) — *Negated.*
- (5) *Question:* Steps should be taken to amend the existing Acts establishing all the Parastatals in the Aviation Sector with a view to reducing ministerial interference and giving greater autonomy to the Parastatals to act speedily on operational matters, especially those involving air safety and security — *Negated.*

(6) *Question:* That the Federal Government should set up a Contract Review Panel:

- (a) To review all the contracts awarded with the Intervention Fund with a view to recovering all monies on inflated contracts and prosecuting guilty and incompetent ones such as FIAT International Ltd while settling legitimate outstanding payments to ensure that all the contracts properly awarded are completed within a prescribed period in the interest of air safety;

Amendment Proposed:

Immediately after the word “ones” in line 3 *leave out* the words “such as FIAT International Ltd” (*Senator Bala Mohammed*).

Question that the amendment be made put and agreed to.

Question on the recommendation as amended, put and agreed to.

- (b) To discover all ghost contractors, especially at Kano International Airport, unqualified and unregistered Contractors who did not follow due process, those given jobs above their equity shares or those who evaded payment of tax on receipt of mobilization fees for appropriate action; — *Negated*.

(7) *Question:* The Federal Government should specifically ensure:

- (a) That the ₦1.2 billion for MMIA runway extension is not released to M/s PW Nig Ltd until Due Process and Federal Executive Council approval is received for the proposed taxiway job. The Minister of Aviation should take steps to ensure a legal cancellation of the extension part of the contract, which was not feasible due to lack of space, through an addendum to the contract or any other means as may be advised by the Legal Departments of both the Ministry and FAAN;
- (b) That M/s PW Ltd is given another 10 weeks to complete the runway resurfacing job while FAAN should ensure that properly authenticated certificates are paid;
- (c) That the Minister of State (Air) and the management of FAAN meticulously go through contract implementation documentations of M/s ADS Lighting Systems Ltd with a view to ascertaining the veracity or otherwise of their claims for variation. This should not in any way affect ADS's commitment to completing the Lighting contract 60 days from August 10, which was the date all the runway lights were expected to arrive;
- (d) That M/s FIAT International Ltd, which portrayed itself as incompetent, should in reviewing the contract be allowed 120 days as requested by them to complete the job. This should be done under a very strict contract management environment and any further failure on its part should attract refund and prosecution;
- (e) That ABB, which FAAN recommended, is compelled to fast-track the delivery of the synchronizing panels to ensure that M/S Belform Nig. Ltd complete the remaining job within 60 days of delivery of the panels;
- (f) That certificate of completion is issued to M/s Scope Centre;
- (g) That the veracity of the claim by M/s Destiny Works that the job is at 70% completion with many unpaid certificates is ascertained for appropriate action;
- (h) That M/s Great Harmony Investment Ltd return to site as their pulling out of site is occasioned by lapsed on the part of FAAN;

- (i) That certificates of work completion are issued to M/s Quidsworth Investment Ltd, M/s Commarig Securex Ltd, M/s M&D Global Investments Ltd, M/s Hardakom and M/s GTMC GMBH Ltd, while two job completion certificates are issued to M/s Farsman Holdings Nig. Ltd;
- (j) That the veracity of claim that FAAN was holding job completion of M/s Fashi Kamba Nig Ltd should be ascertained before payments are made to ensure that the job is completed within 30 days;
- (k) That the veracity or otherwise of the claim by M/s Faca Builders Nig Ltd should be investigated with a view to paying them their outstanding balance;
- (l) That the veracity of M/s Roberts Electronics and Communications Ltd claim of waiting for FAAN to make payment before going on with the next stage of the job should be investigated with a view to FAAN moving the contract forward by meeting their own side of the bargain;
- (m) That proper contract management should be undertaken by FAAN to hasten the completion of the domestic terminal at the Mallam Aminu Kano International Airport, Kano by its "various contractors";
- (n) That job completion certificates should be issued to M/s Tractor and Equipment and M/s Julius Berger Nig Ltd;
- (o) That the EFCC should investigate the case of Almond Projects Ltd and its MD, Mr. Gbenga Obadina, who collected ₦158,600,000.00 for doubtful Consultancy Services in Lagos;
- (p) That the Legal Department of FAAN should be warned for dereliction of duty and non-protection of Federal Government interest by non-provision or invocation of delay clauses in Contract Agreements;

Amendment Proposed:

Leave out the provision in recommendation 7(a-p) as it has been subsumed in recommendation 6 (Senator Isiaka A. Adeleke).

Question that the amendment be made put and agreed to.

- (8) *Question:* That the Federal Ministry of Aviation should set up a Management Restructuring Committee:
 - (a) To review all severance payments to former staff of FAAN so as to resolve the duplicated payments, unmask and recover the sum of ₦7,773,376.07 from the beneficiaries suspected to be ghost workers — *Agreed to.*
 - (b) To restructure NAMA and FAAN where the objective of the severance exercise and "right-sizing" was defeated by subsequent recruitment exercises that resulted in a bloated workforce with 26 General Managers, 30 Deputy General Managers and 94 Assistant Managers attracting a total salary bill in FAAN of about ₦700 million monthly;

Amendment Proposed:

Leave out the provision in recommendation 8(b) and insert the following instead thereof "to look at the right - sizing of staff for both NAMA and FAAN" (Senator Lee Maeba).

... and agreed to

Question on the recommendation as amended, put and agreed to.

- (c) To carry out a detailed staff audit in NAMA and FAAN with a view to addressing the imbalance in the geographical spread of staff in the two Aviation Parastatals in line with Federal Character Principle enshrined in the Nigerian Constitution (see attached table marked Appendix A) — *Negated*.
- (9) *Question:* That the Federal Ministry of Aviation should scrap the Environment Directorate of the Federal Airports Authority of Nigeria (FAAN) as it is not covered by any establishment as provided in the Act setting up the organization — *Agreed to*.
- (10) *Question:* That the Federal Ministry of Aviation should ensure that only regular staff of FAAN and other Aviation Parastatals are heads of Directorates and Departments while contract and ad-hoc staff should at best act as Resource Persons — *Negated*.
- (11) *Question:* On the Bilateral Air Services Agreement (BASA) fund, the Senate commends the Honourable Minister of Finance and the Honourable Minister of Justice and Attorney-General of the Federation for taking steps to implement the decision taken to return the management of the fund to Nigerian Civil Aviation Authority (NCAA) in keeping with the Aviation Act 2006; — *Negated*.
- (12) *Question:* That the Federal Ministry of Finance should explain the difference of \$7,269,754.74 spotlighted in No 78 above while the Accountant-General of the Federation and the Ministry of Aviation provide necessary details of the unspecified expenditure of \$3,149,210.29 and explanation for \$7,269,754.74 identified in No 80 above — *Negated*.
- (13) *Question:* That the Federal Ministry of Aviation should prepare a four, five or ten year Development Plan for the utilization of the BASA fund, especially in safety critical areas of the Aviation Industry and avoid Ad-hoc plans/arrangement that will not help the Industry but individuals who suspect that their tenures would be short — *Negated*.
- (14) *Question:* That all unspent monies in the Intervention Fund and those recovered from Contractors who were paid from the Intervention Fund account should be used to:
- (a) Complete all approved outstanding projects; and
- (b) The balance allocated to the Nigerian Civil Aviation Authority (NCAA) and the Nigerian Meteorological Agency (NIMET) which were initially excluded from allocations from the Intervention Fund — *Negated*.
- (15) *Question:* That in order to save FAAN from collapsing under the weight of a crushing debt burden of refunding ₦222 million monthly to Commercial Banks up to year 2010, the Federal Ministry of Aviation should arrange the liquidation of the outstanding balance of the loan of ₦6.5 billion either through the BASA fund; now wrested from the Presidency or Bonds raised through the Debt Management Office (DMO)— *Agreed to*.
- (16) *Question:* That the Federal Government should revisit and implement the recommendations made by the Air Marshall Paul Dike Committee on critical issues in Aviation Industry — *Agreed to*.
- (17) *Question:* That the Federal Government should re-assess the need to hand-over unviable Airports said to have been constructed for political reasons to State Governments or Private Companies to manage instead of using funds generated from four (4) viable airports to run the other seventeen (17) unviable ones — *Agreed to*.

Resolved:

- (1) That the Senate notes the recommendation on the recovery of ₦5 billion which is already in court;
- (2) That the EFCC should investigate the source of the fake Due Process Certificate said to have been issued by the Bureau of Public Procurement for the award of the ₦6.5 billion Tower Project;
- (3) That the EFCC should find out why payments were made without Due Process Certificates by Bureau of Public Procurement;
- (4) That the Federal Government should set up a Contract Review Panel to review all the contracts awarded with the Intervention Fund with a view to recovering all monies on inflated contracts and prosecuting guilty and incompetent ones while settling legitimate outstanding payments to ensure that all the contracts properly awarded are completed within a prescribed period in the interest of air safety;
- (5) That the Federal Ministry of Aviation should set up a Management Restructuring Committee:
 - (a) To review all severance payments to former staff of FAAN so as to resolve the duplicated payments, unmask and recover the sum of ₦7,773,376.07 from the beneficiaries suspected to be ghost workers;
 - (b) To look at the right - sizing of staff for both NAMA and FAAN;
- (6) That the Federal Ministry of Aviation should scrap the Environment Directorate of the Federal Airports Authority of Nigeria (FAAN) as it is not covered by any establishment as provided in the Act setting up the organization;
- (7) That in order to save FAAN from collapsing under the weight of a crushing debt burden of refunding ₦222 million monthly to Commercial Banks up to year 2010, the Federal Ministry of Aviation should arrange the liquidation of the outstanding balance of the loan of ₦6.5 billion either through the BASA fund; now wrested from the Presidency or Bonds raised through the Debt Management Office (DMO);
- (8) That the Federal Government should revisit and implement the recommendations made by the Air Marshall Paul Dike Committee on critical issues in Aviation Industry; and
- (9) That the Federal Government should re-assess the need to hand-over unviable Airports said to have been constructed for political reasons to State Governments or Private Companies to manage instead of using funds generated from four (4) viable airports to run the other seventeen (17) unviable ones (*S. Res/029/09*).

7. **Tobacco Control Act (Amendment) Bill 2009 (SB.221):**

Motion made: That a Bill for an Act to Repeal the Tobacco Control Act Cap T.6 2004 Laws of the Federation and to Enact the National Tobacco Control Bill 2009 to provide for the regulation or control of production, manufacture, sale, advertising, promotion and sponsorship of Tobacco or Tobacco Products in Nigeria and for other related matters 2009 to be read the Second Time (*Senator Adeleke O. Mamora*).

Debate:

Question put and agreed to.

Bill accordingly read the ~~Second~~ Time and referred to Committee on Health to report within two weeks.

8. Institute of Registered Safety Professionals Bill 2008 (SB.142):

Consideration of Bill deferred to another Legislative day.

9. Adjournment:

Motion made: That the Senate do adjourn till Tuesday, 17th February, 2009 at 10.00 a.m. (*Senate Leader*).

Adjourned accordingly at 1.55p.m.

Dr. David A. B. Mark, GCON
President,
Senate of the Federal Republic of Nigeria.