



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 8 February, 2005

1. The House met at 11.15 a.m. Mr Speaker read Prayers.
2. **Votes and Proceedings:**
Mr Speaker announced that he had examined and approved the Votes and Proceedings of Thursday, 3 February, 2005.

By unanimous consent, the Votes and Proceedings was adopted.

3. **Announcement:**
Defection:
Mr Speaker announced that Hon. Asuquo Emah Bassey had written to notify the House of his defection from the National Democratic Party to the Peoples Democratic Party. (*Copies of Hon. Bassey's letter of defection to be made available to Members*).

4. **Confirmation of Appointment of Chairman and Members of Governing Board of NDDC:**
Mr Speaker informed the House that the confirmation of appointment of the Chairman and other Members of the Governing Board of the Niger Delta Development Commission pursuant to Section 2 (2) (a) of the NDDC (Establishment, etc.) Act, had generated a measure of controversy between the two Chambers.

He explained that the controversy stemmed from the disagreement between the two Chambers on the correct application of Section 2 (2) (a) of the NDDC Act and other relevant Constitutional provisions. In order to ensure that the House was involved in the confirmation of the appointment of the Chairman and Members of the Governing Board of the NDDC, he initiated a letter to the Senate President drawing the latter's attention to the above provisions of the law and the need to consult with the House before the appointees were confirmed, as failure to do so would have significant consequences for the laws of the land and the legal process. He read the said letter:



Honourable Aminu Bello Masari
SPEAKER

HOUSE OF REPRESENTATIVES
FEDERAL REPUBLIC OF NIGERIA

NASS/SPK/GF/159

January 12, 2005

*The Senate President
The Senate of the Federal Republic of Nigeria
National Assembly
Abuja.*

My Dear President,

RE: CONFIRMATION OF APPOINTMENT OF NDDC COMMISSIONERS

Your Excellency may wish to refer to the submission by Mr President, Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria, names of his nominees for appointment as Chairman and Commissioners of the Niger Delta Development Commission.

I would like to draw the attention of the Senate President to the provision of Section 2 (2) (a) of the NDDC (Establishment, etc.) Act, No. 6 of 2000, which explicitly requires the confirmation of the nominees by the Senate in consultation with the House of Representatives. The relevant section states inter-alia;

(2) The Chairman and other members of the Board shall:

(a) be appointed by the President, Commander-in-Chief of the Armed forces, subject to the confirmation of the Senate, In consultation with the House of Representatives.

It is my hope therefore that the Senate will consult with the House before confirming the appointees as failure to do so may have significant consequences for the laws of the land and the legal process, which may be faulted.

(Signed)

Hon. Aminu Bello Masari

Speaker, House of Representatives.

Mr Speaker remarked that in the absence of a reply to the above letter, he addressed the following reminder to the Senate President:



Honourable Aminu Bello Masari

SPEAKER

NASS/SPK/GF/159

January 31, 2005

*The Senate President,
The Senate of the Federal Republic of Nigeria
National Assembly
Abuja.*

RE: CONFIRMATION OF APPOINTMENT OF NDDC COMMISSIONERS

Your Excellency may wish to recall my earlier letter to you on the above subject-matter, reference NASS/SPK/GF/159, dated January 12, 2005.

I would like, once more, to remind you about my earlier observation on the subject-matter and inform you that the House of Representatives is yet to hear from the Senate regarding the issue. We hope this will be done before commencement of the screening of the nominees. This is to avoid any unnecessary legal and/or constitutional setbacks or misdemeanour.

I hope we shall soon get a word from the Senate on this.

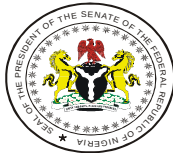
While thanking Your Excellency, accept, as always, Mr Senate President, the assurances of my highest esteem and best personal regards.

(Signed)

Hon. Aminu Bello Masari

Speaker, House of Representatives.

Reacting to the above letter, the Senate President, his Deputy and the Senate Chief Whip called in his office. They acknowledged receipt of his first and second letters on the issue and promised to respond to the letters. It was also agreed that the House would nominate 5 Members to participate in the screening exercise. Mr Speaker read the Senate President's reply to his second letter which reply made no reference to his first letter dated 12 January, 2005:



**PRESIDENT OF THE SENATE
FEDERAL REPUBLIC OF NIGERIA**

NASS/S/PS/01/20/05

February 2, 2005

*Alhaji Aminu Bello Masari,
Hon. Speaker,
House of Representatives,
Federal Republic of Nigeria,
National Assembly,
Abuja.*

Your Excellency,

RE: CONFIRMATION OF APPOINTMENT OF NDDC COMMISSIONERS

I acknowledge with thanks receipt of your letter (NASS/SPK/GF/159) of 31st January, 2005 on the above subject matter.

The Senate is not unmindful of the constitutional requirements and modalities for the screening of nominees of NDDC Commissioners, and will always advert its mind to the requirements as enshrined in the relevant enactments.

The Senate will commence with the screening exercise on Friday, 4th February, 2005 at 10.00 a.m. and would appreciate it if the Honourable Speaker could kindly send the list of nominated Honourable Members of the House of Representatives to observe the screening exercise, to the Senate.

Please accept the assurances of the Senate's cooperation and esteem at all times.

Yours in the service of the Nation,

(Signed)

RT. HON. (DR) ADOLPHUS WABARA
PRESIDENT OF THE SENATE.

Mr Speaker replied as follows:



Honourable Aminu Bello Masari
SPEAKER

NASS/SPK/GF/I 59

February 3, 2005

*Senator Adolphus Wabara
Senate President
Federal Republic of Nigeria
National Assembly Complex*

My Distinguished Senate President,

RE: CONFIRMATION OF APPOINTMENT OF NDDC COMMISSIONERS

Please refer to your letter NASS/.S/PS/01/20/05 dated February 2, 2005 and the discussion we had on 1st February, 2005 on the same subject matter underlined above.

Find below the names of five (5) Members agreed to participate in the screening exercise as provided for by the law establishing NDDC:

- | | | | |
|----|--------------------------|---|--------------------------|
| 1. | Hon. Olaka Nwogu | — | Chairman, NDDC Committee |
| 2. | Hon. Napoleon Gbinije | — | Member, NDDC Committee |
| 3. | Hon. Garba Umar | — | Member, NDDC Committee |
| 4. | Hon. Dr Olakinde Oluwole | — | Member, NDDC Committee |
| 5. | Hon. Osita Izunaso | — | Member, NDDC Committee |

Please accept as always the assurances of my highest esteem.

(Signed)

Hon. Aminu Bello Masari

Speaker, House of Representatives.

At this juncture, Mr Speaker invited the Chairman, House Committee on Niger Delta Development Commission, Hon. Olaka Nwogu to narrate his experience in the unfolding controversy.

In summary, Hon. Olaka Nwogu explained that Members of the Senate Committee on NDDC rebuffed and resisted all attempts by nominees of the House to participate in the screening process and restricted their role to observer status and he reported same to the Hon. Speaker.

Sequel to the above, Mr Speaker explained that in spite of the meeting between him and the Senate President on Monday, 7 February, 2005 to resolve the impasse, the Senate proceeded with the screening process without the participation of the House nominees. However, before the commencement of the Day's sitting, he received the following communication from the Office of the Senate President, stating the position of the Senate on the



controversy:

**PRESIDENT OF THE SENATE
FEDERAL REPUBLIC OF NIGERIA**

NASS/S/PS/003/02

8th February, 2005

*Alhaji Aminu Bello Masari,
Hon. Speaker,
House of Representatives,
Federal Republic of Nigeria,
National Assembly,
Abuja.*

Your Excellency,

CONFIRMATION OF CHAIRMAN AND MEMBERS OF THE GOVERNING BOARD OF NDDC

Refer to our discussions and correspondences on the above subject matter. Members of the Senate Committee on Niger Delta had availed the five members of the House of Representatives you nominated (as per your letter) the opportunity to observe the Senate Committee's proceedings on the screening of the NDDC nominees. Your members rejected the opportunity, insisting that they should participate actively in the exercise. The Senate believes that allowing the House members to so participate alongside members of the Senate will amount to joint screening by the House and the Senate which is not the intent of the NDDC Act. Section 2, Subsection 2 (a) of the NDDC Act states:

Section 2—The Chairman and other members of the Board shall—

- (a) *be appointed by the President, subject to the confirmation of the Senate, in consultation with the House of Representatives,....*

If the above provision is interpreted to mean joint screening by the two Houses, the Act thus, contravenes the 1999 Constitution which confers on only the Senate power to screen and confirm President nominees for appointment into public offices. Section 1 (3) of the Constitution states: "if any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall to the extent of the inconsistency be void".

In view of the foregoing, and in order to abide by the provisions of the NDDC Act as it relates to confirmation of the Board members, the Senate has arranged consultations with the House of Representatives on this exercise as follows:

1. *By Senate procedure of screening, Senators from each State are mandated to recommend or object to nominees from their respective States. In this regard, Senators will consult with the Members of the House of Representatives from their respective States and Zones.*
2. *The Senate Committee on Niger Delta shall avail the House Committee on Niger Delta with the Curriculum Vitae of the nominees, copies of the petitions/objections standing against their nominations and the modus operandi for the screening exercise for the comments/observations/advice of the Members of the House of Representatives within the time limit given to the Senate Committee.*

Yours in the service of the Nation,

(Signed)

RT. (DR) ADOLPHUS WABARA
PRESIDENT OF THE SENATE.

He called for debate.

Debate:

Matter referred to the Joint Committee on Judiciary and Justice to examine the provisions of Section 2, Subsection (2) (a) of the NDDC Act and other relevant Constitutional provisions and advise the House tomorrow, Wednesday, 9 February, 2005.

5. Petition:

A petition was presented and referred to the Committee on Public Petitions:

Hon. Arole Fancy, from Mr Rahman, A. O., praying the House to prevail on the Nigerian Customs Service to reintegrate him and pay his salary arrears from April 1995 to date.

6. A Bill for an Act to Amend the Deep Offshore and Inland Basin Production Sharing Contracts Act of 1999, 2004 (HB. 129)—Second Reading:

Motion made and Question proposed, "That the Bill for an Act to Amend the Deep Offshore and Inland Basin Production Sharing Contracts Act of 1999, 2004 be now read a Second Time" (Hon. Cairo Ojougboh).

Debate:

Question, That the Bill be read the Second Time, put and agreed to.

Bill read the Second Time and referred to the Committees on Petroleum and Justice.

7. **A Bill For an Act to Amend the Petroleum Act, Cap. 350 Laws of the Federation of Nigeria, 1990; and for Related Purposes, 2004 (HB. 130)—Second Reading:**
Motion made and Question proposed, “That the Bill For an Act to Amend the Petroleum Act, Cap. 350 Laws of the Federation of Nigeria, 1990; and for Related Purposes, 2004 be now read a Second Time” (Hon. Cairo Ojoughboh).

Debate:

404

Tuesday, 8 February, 2005

No. 58

Question, That the Bill be read the Second Time, put and agreed to.

Bill read the Second Time and referred to the Committees on Petroleum and Justice.

8. **A Bill for an Act to Establish the Chartered Institute of Aviation Management of Nigeria; Charged with the Responsibility of Advancing Aviation Management and other Related Matters, 2004 (HB. 46)—Second Reading:**
Motion made and Question proposed, “That the Bill for an Act to Establish the Chartered Institute of Aviation Management of Nigeria; Charged with the Responsibility of Advancing Aviation Management and other Related Matters, 2004 be now read a Second Time” (Hon. Durosimi Maseko).

Debate:

Question, That the Bill be read the Second Time, put and agreed to.

Bill read the Second Time and referred to the Committee on Aviation.

9. **A Bill for an Act to Enhance the Practice of Journalism in Nigeria, 2004 (HB. 82)—Second Reading:**
Motion made and Question proposed, “That the Bill for an Act to Enhance the Practice of Journalism in Nigeria, 2004 be now read a Second Time” (Hon. Abike Dabiri).
Debate:

Question, That the Bill be read the Second Time, put and agreed to.

Bill read the Second Time and referred to the Committees on Information and Justice.

10. **Adjournment:**
That this House do now adjourn till Wednesday, 9 February, 2005 at 2.00 p.m. (*Hon. Abdul Ningi*).
Adjourned accordingly at 1.40 p.m.

Aminu Bello Masari
Speaker