



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 25 November, 2008

1. The House met at 11.00 a.m. Mr Deputy Speaker read Prayers.
2. Votes and Proceedings:
Mr Deputy Speaker announced that he had examined and approved the Votes and Proceedings of Thursday, 20 November, 2008.

By unanimous consent, the Votes and Proceedings was adopted.

3. Announcements:

Visitors:

Mr Deputy Speaker recognized the presence in the Gallery, of:

- (a) Staff and Students of Overcomers School, FHA Estate, Lugbe, Abuja.
- (b) Members of the Legislative Arm of Akoko-Edo Local Government Area.

4. Petition:

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

Hon. Paulinus Igwe Nwagu (*Ezza-North/Ishielu Federal Constituency of Ebonyi State*), from ILS Attorneys on behalf of Mr Tony Usuhor trading under the name Style of Maxim Associates and Co., praying the House to intervene in the unwholesome activities of the Rivers State Commissioner of Police and Mr Olokor, that led to the stealing of Paolo 99 Jet Suction Dredger.

5. Presentation of Report:

Committee on Agriculture:

Report of the Committee on Agriculture on a Bill for an Act to Regulate the Practice and to Make Provisions for the Animal Health and Husbandry Technologists Regulation Board of Nigeria and for other Matters Connected Therewith, 2007 (HB. 19).

Order read; deferred.

6. Privilege:

Rising on Order V, Hon. Mohamed Ali Ndume referred to the Reports of the Committee on Power and Steel on the investigation into the huge sums of money spent on power generation, transmission and distribution between June 1999 and 2007 without commensurate result. He noted that despite the directive by the Hon. Speaker that copies of the Report be made available to Members, the Order had not been complied with.

Ordered: Committee on Rules and Business to circulate the Report before the end of the legislative week.

7. **A Bill for an Act to Establish the Nigeria Hydrological Service Agency and for Matters Connected Therewith, 2008 — Second Reading:**

Motion made and Question proposed, "That a Bill for an Act to Establish the Nigeria Hydrological Service Agency and for Matters Connected Therewith, 2008 be now read a Second Time" (*Hon. Tunde Akoguri*).

Debate:

Second Reading Debate deferred until Order XII, Rule 1 (3) is complied with.

8. **A Bill for an Act to Repeal the Nigerian Football Association Act, Cap. NIIO Laws of the Federation of Nigeria, 2004 — Second Reading:**

Motion made and Question proposed, "That a Bill for an Act to Repeal the Nigerian Football Association Act, Cap. NIIO Laws of the Federation of Nigeria, 2004 be now read a Second Time" (*Hon. Tunde Akoguri*).

Debate:

Question that the Bill be now read a Second Time, put and agreed to.

Bill read a Second Time and referred to the Committee of Whole.

9. **A Bill for an Act to Establish the Chartered Institute of Cost Management Accountants of Nigeria and for Matters Connected Therewith, 2008 — Second Reading:**

Motion made and Question proposed, "That a Bill for an Act to Establish the Chartered Institute of Cost Management Accountants of Nigeria and for Matters Connected Therewith, 2008 be now read a Second Time" (*Hon. Shehu Garba Matazu*).

Debate:

Question that the Bill be now read a Second Time, put and agreed to.

Bill read a Second Time and referred to the Committee of the Whole.

10. **Consideration of Reports:**

(a) **Joint Committee on Finance and Foreign Affairs:**

Motion made and Question proposed, "That this House do consider the Report of the Joint Committee -on Finance and Foreign Affairs on a Bill for an Act to Enable Effect to be given in the Federal Republic of Nigeria to the Agreement Between the Federal Republic of Nigeria and Republic of South Korea for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains (HB.30) 2008 and approve the Recommendations therein" (*Hon. John Owan Enoh*).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Report, put and agreed to.

(HOUSE IN COMMITTEE)

(Mr Deputy Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA
TO THE AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND REPUBLIC OF
SOUTH KOREA FOR THE AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL
EVIASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

WHEREAS an Agreement on the Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains was made between the Government of the Federal Republic of Nigeria and the Government of the Federal Republic of South Korea signed at Seoul, South Korea on 6th November, 2006;

AND WHEREAS the Federal Republic of Nigeria has ratified the Agreement on Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains between the Federal Republic of Nigeria and the Republic of South Korea;

AND WHEREAS it is necessary and expedient to make legislative provision for the enforcement in the Federal Republic of Nigeria of the Agreement on Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains between the Federal Republic of Nigeria and the Republic of South Korea (*Hon. John Owan Enoh*) — *Agreed to.*

Now THEREFORE BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

Committee Recommendation:

Clause 1: Enforcement of the Agreement on Avoidance of Double Taxation between the Federal Republic of Nigeria and Republic of South Korea.

As from the commencement of this Act, the provisions of the Agreement on Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains between the Federal Republic of Nigeria and the Republic of South Korea which are set out in the Schedule to this Act shall, subject as thereunder provided, have the force of law and shall be given full recognition and effect and be applied by all Authorities and persons exercising Legislative, Executive and Judicial powers in the Federal Republic of Nigeria (*Hon. John Owan Enoh*) — *Agreed to.*

Question that Clause 1 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 2: Short Title.

This Act may be cited as the Agreement on Avoidance of Double Taxation and Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains between the Federal Republic of Nigeria and the Republic of South Korea (Ratification and Enforcement) Bill, 2008 (*Hon. John Owan Enoh*) — *Agreed to.*

Question that Clause 2 stand part of the Bill, put and agreed to.

SCHEDULE

AGREEMENT BETWEEN THE REPUBLIC OF KOREA AND THE FEDERAL REPUBLIC OF NIGERIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the Republic of Korea and the Government of the Federal Republic of Nigeria,

Desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains,

Have agreed as follows:

AGREEMENT BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE
REPUBLIC OF KOREA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the Republic of Korea, Federal Republic of Nigeria and the Government of the Desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains (*Hon. John Owan Enoh*) — *Agreed to.*

Question that Preamble stand part of the Treaty, put and agreed to.

Have agreed as follows:

CHAPTER I SCOPE OF THE
AGREEMENT

ARTICLE 1
PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting States (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provision of Article 1 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 2
TAXES COVERED

1. THE TO WHICH THIS AGREEMENT SHALL APPLY ARE:

(AA) IN THE CASE OF NIGERIA

- (i) the personal income tax;
 - (ii) the companies income tax;
 - (iii) the petroleum profits tax;
 - (iv) the capital gains tax;
 - (v) the education tax; and
 - (vi) other taxes on income and capital gains (hereinafter referred to as "Nigerian tax");
- (b) in the case of Korea:
- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the inhabitant tax where charged by reference to the income tax or the corporation tax;
 - (iv) the special tax for rural development; and
 - (v) other taxes on income and capital gains (hereinafter referred to as "Korean tax").
2. This Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 2 stand part of the Treaty, put and agreed to.

Committee Recommendation:

CHAPTER
DEFINITION
S

ARTICLE 3 GENERAL
DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:
- (a) the term "Nigeria" means the Federal Republic of Nigeria including any area outside the territorial waters of the Federal Republic of Nigeria which, in accordance with international law, has been or may hereafter be designated under the laws of the Federal Republic of Nigeria concerning the continental shelf as an area within which the rights of the Federal Republic of Nigeria with respect to the sea bed, its subsoil, its superjacent waters and their natural resources may be exercised now and in the future;
 - (b) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to the waters, sea-bed and sub-soil, and their natural resources may be exercised now and in the future;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Nigeria or Korea, as the context requires;
 - (d) the term "person" includes an individual, a company and any other body of persons;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes under the laws of each Contracting State; f) the term "enterprise" applies to the carrying on of any business;
 - (g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- (h) the term "national," in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or the citizenship of a Contracting State; and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
 - (j) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (k) the term "competent authority" means, in the case of Nigeria, the Minister of Finance or his authorized representative, and in the case of Korea, the Minister of Finance and Economy or his authorized representative; and
 - (k) the term "business" includes the performance of professional services and of other activities of an independent character.
2. As regards the application of this Agreement at any time by a Contracting State, any term not defined herein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of taxes to which this Agreement applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 3 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE
4
RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head 'or main office, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
- (a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
 - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national; and
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 4 stand part of the Treaty, put and agreed to.

*Committee Recommendation:*ARTICLE 5 PERMANENT
ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop; and
 - (f) a mine, an oil or gas well; a quarry or any other place relating to the exploration for or the exploitation of natural resources.
3. The term "permanent establishment" also encompasses:
 - (a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than six months;
 - (b) the furnishing of services, including technical, management or consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue for the same project within a Contracting State for a period or periods aggregating more than six months within any twelve-month period; and
 - (c) a fixed place of business used as a sales outlet notwithstanding the fact that such fixed place of business is otherwise maintained for any of the activities mentioned in paragraph 4 of this Article.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not be deemed to include:
 - (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise' belonging to the enterprise;
 - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character; and
 - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person, other than an agent of an independent status to whom paragraph 6 applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those specified in paragraph 4 which, if exercised through a fixed place of business, would not make this place of business a permanent establishment under provisions of that paragraph.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when conditions are made or imposed between that enterprise and the agent in their commercial financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 5 stand part of the Treaty, put and agreed to.

Committee Recommendation:

CHAPTER III
TAXATION OF INCOME

ARTICLE 6 INCOME FROM
IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 6 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as are attributable to that permanent establishment. However, when an enterprise of a Contracting State has a permanent establishment in the other Contracting State, and obtains profits directly through outlets other than the permanent establishment, from sales in that other State of the same goods and merchandise as those sold through that permanent establishment, or from the same business activities as those effected through that permanent establishment, such profits should be attributed to the permanent establishment.
2. Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the state in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is a good and sufficient reason to the contrary.
6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 7 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 8 SHIPPING AND AIR
TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. However, if such operation in international traffic is carried on by an enterprise of only one of the Contracting States, paragraph 1 will not be applicable. In such a case, the tax charged shall not exceed the lesser of:
 - (a) one per cent of such earnings; and
 - (p) the lower amount of Nigerian tax that would have been imposed on such earnings if they had been derived by an enterprise from the operation of ships or aircraft in international traffic in any third State.

For the purpose of this paragraph, "earnings" means total income arising from the carriage of passenger, mail, livestock or goods loaded or shipped in the other State, less refunds and payment of wages and salaries of ground staff with respect to such operations in international traffic.

3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 8 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 9
ASSOCIATED ENTERPRISES

1. Where:
 - (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or
 - Qj*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first mentioned State if the conditions made between the two enterprises had been those which would

have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the taxation authorities of the Contracting States shall, if necessary, consult each other (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 9 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE
10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 7.5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;

(b) 10 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose, any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 10 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 11
INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 7.5 per cent of the gross amount of interest. The competent authorities of the

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and derived by the Government of the other Contracting State including a political subdivision or a local authority thereof, the central bank of that other Contracting State or any financial institutions owned by that Government, or by any resident of the other Contracting State with respect to debt-claims, guaranteed or indirectly financed by the Government of that other Contracting State including political subdivisions and local authorities thereof, the Central Bank of that other Contracting State or any financial institutions owned by that Government shall be exempt from tax in the first-mentioned Contracting State.
4. For the purpose of paragraph 3, the terms "the Central Bank" and "financial institutions owned by that government" mean:
 - (a) in the case of Nigeria:
 - (i) the Central Bank of Nigeria; and
 - (ii) such other financial institution the capital of which is owned by the Government of the Federal Republic of Nigeria as may be agreed upon from time to time between the Governments of the two Contracting States;
 - (b) in the case of Korea:
 - (i) the Central Bank (the Bank of Korea);
 - (ii) the Korea Export-Import Bank;
 - (iii) the Korea Development Bank;
 - (iv) the Korea Export Insurance Corporation;
 - (v) the Korea Investment Corporation; and
 - (vi) such other financial institution the capital of which is owned by the Government of the Republic of Korea as may be agreed upon from time to time between the Governments of the two Contracting States.
5. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
6. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.
7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds for whatever reasons the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement (*Hon. John Owan Enoh*) — *Agreed to*.

Committee Recommendation:ARTICLE 12
ROYALTIES

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
2. However such royalties may also be taxed in the Contracting State from which they are derived and according to the law of that State, but where the beneficial owner of the royalties is subject to tax thereon in the other State, the tax so charged shall not exceed 7.5 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as consideration for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematograph films or films, tapes and other means of image or sound reproduction, for the use of or the right to use computer software, any patent, trademark, design or model, plan, secret formula or process, or for the use of or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement (*Hon. John Owan Enoh*)—*Agreed to*.

Question that the provisions of Article 12 stand part of the Treaty, put and agreed to.

Committee Recommendation:ARTICLE 13
CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

5. Gains from the alienation of any property other than those referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provisions of Article 13 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 14 INDEPENDENT
PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provisions of Article 14 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 15
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period; and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provisions of Article 15 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 16
DIRECTORS
FEES

Directors fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is resident of the other Contracting State may be taxed in that other State (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provision of Article 16 stand part of the Treaty, put and agreed to.

Committee Recommendation:ARTICLE 17 ARTISTES AND
SPORTSPERSONS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provisions of Article 17 stand part of the Treaty, put and agreed to.

Committee Recommendation:ARTICLE 18
PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State (*Hon. John Owan Enoh*) — *Agreed to.*

Question that the provision of Article 18 stand part of the Treaty, put and agreed to.

Committee Recommendation:ARTICLE 19
GOVERNMENT SERVICE

1.
 - (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - (b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2.
 - (a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - (b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of paragraphs 1 and 2 shall likewise apply in respect of remuneration or pensions paid by:
 - (a) in the case of Nigeria:

the Central Bank of Nigeria or other institutions as may be specified and agreed upon in letters exchanged by the competent authorities of the Contracting States, provided such banks and institutions perform functions of a governmental nature and only engage in non-profit-making activities; and

(b) in the case of Korea:

the Bank of Korea, the Korea Export-Import Bank, the Korea Export Insurance Corporation, the Korea Development Bank, the Korea Trade Investment Promotion Agency or other institutions as may be specified and agreed upon in letters exchanged by the competent authorities of the Contracting States, provided such banks and institutions perform functions of a governmental nature and only engage in non-profit-making activities.

4. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with business carried on by a Contracting State or a political subdivision or a local authority thereof (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 19 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 20 STUDENTS AND
APPRENTICES

1. An individual who immediately before visiting a Contracting State is or was a resident of the other Contracting State and who is present in the first-mentioned State primarily as a student at a recognized university, college, school or other similar educational institution in the first-mentioned State or as a business or technical apprentice therein, from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in that first-mentioned State on:
 - (a) all remittances from abroad for the purposes of his maintenance, education and training; and
 - (b) any remuneration for personal services rendered in the first-mentioned State with a view to supplementing the resources available to him for such purposes.
2. An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and who is temporarily present in that other State solely for the purpose of study, research or training, as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance programme entered into by the Government of a Contracting State shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:
 - (a) on the amount of such grant, allowance or award; and
 - (b) on all remittances from abroad for the purposes of his maintenance, education or training (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 20 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 21
TEACHERS AND RESEARCHERS

1. A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a university or any other similarly recognized educational institution in that State and who, immediately before that visit was a resident of the other Contracting State, shall be exempted from tax by the first-mentioned State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of his first arrival in that State for such purpose. During the said period of two years, the other Contracting State shall also exempt him from tax in respect of such remuneration from the first-mentioned State in respect of the teaching or research.
2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a specific person or persons (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 21 stand part of the Treaty, put and agreed to.

*Committee Recommendation:*ARTICLE 22
OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply (*Hon. John Owan Enoh*)—*Agreed to*.

Question that the provisions of Article 22 stand part of the Treaty, put and agreed to.

*Committee Recommendation:*CHAPTER IV METHODS FOR
ELIMINATION OF DOUBLE TAXATIONARTICLE 23
ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of Nigerian tax law regarding the allowance as a credit against Nigerian tax of tax payable in any country other than Nigeria (which shall not affect the general principle hereof):
 - (a) the Korean tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the laws of Korea and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Korea, shall be allowed as a credit against Nigerian tax payable in respect of that income.

The credit shall not, however, exceed that proportion of Nigerian tax which the income from sources within Korea bears to the entire income subject to Nigerian tax;

 - (b) in the case of dividends paid by a company which is a resident of Korea to a company which is a resident of Nigeria and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account (in addition to any Korean tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Korean tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid.
2. Subject to the provisions of Korean tax law regarding the allowance as, a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof):
 - (a) the Nigerian tax payable (excluding, in the case of dividends, tax payable in respect of profits out of which the dividend is paid) under the laws of Nigeria and in accordance with this Agreement, whether directly or by deduction, in respect of income from sources within Nigeria, shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Nigeria bears to the entire income subject to Korean tax;
 - (b) in the case of dividends paid by a company which is a resident of Nigeria to a company which is a resident of Korea and which owns not less than 10 per cent of the shares of the company paying the dividend, the credit shall take into account (in addition to any Nigerian tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Nigerian tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid.
3. The tax payable in a Contracting State mentioned in subparagraphs (a) of paragraph 1 and paragraph 2 of this Article, shall be deemed to include the tax which would have been payable but for the legal provisions concerning tax reduction, exemption or other tax incentives of the Contracting State for the promotion of economic development. For the purpose of this paragraph, the amount of tax shall be deemed to be 10 percent of the gross amount of the dividends, interest and royalties in the case of paragraph 2 of Article 10, paragraph 2 of Article 11 and paragraph 2 of Article 12, respectively.

This provision shall apply for a period of ten years starting from the first day of the calendar year when this Agreement enters into force.

4. Notwithstanding paragraph 3 of Article 23, a resident of a Contracting State deriving income from the other Contracting State, being income referred to in that paragraph, shall not be deemed to have paid tax in respect of such income where the competent authority of a Contracting State considers, after consultation with the competent authority of the other Contracting State, that it is inappropriate to grant the benefits of paragraph 3 of Article 23 to the said resident, having regard to:
- (a) whether any arrangements have been entered into by any person for the purpose of taking advantage of paragraph 3 of Article 23 for the benefits of that person or any other person; or
 - (b) whether any benefit accrues or may accrue to any person who is neither a resident of a Contracting State nor a resident of the other Contracting State; or
 - (c) the prevention of fraud, evasion or avoidance of the taxes to which this Agreement applies; or
 - (d) any other matter which the competent authorities consider relevant in the particular circumstances of the case including any submissions from a resident of either Contracting State (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 23 stand part of the Treaty, put and agreed to.

Committee Recommendation:

CHAPTER V
SPECIAL
PROVISIONS

ARTICLE 24
NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.
3. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and deductions for tax purposes which are granted to individuals as residents.
4. Except where the provisions of Article 9, paragraphs 7 and 8 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provisions of Article 24 stand part of the Treaty, put and agreed to.

Committee Recommendation:ARTICLE 25
MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the taxation authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs (*Hon. John Owan Enoh*) — *A greed to*.

Question that the provisions of Article 25 stand part of the Treaty, put and agreed to.

Committee Recommendation:ARTICLE 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person (*Hon. John Owan Enoh*) — *A greed to*.

Question that the provisions of Article 26 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 27

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.
2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Agreement or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.
3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.
4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensuring its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.
5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.
6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.
7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State; the relevant revenue claim ceases to be:
 - (a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection or
 - (b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensuring its collection, the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.
8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:
 - (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

- (b) to carry out measures which would be contrary to public policy (order public);
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State (*Hon. John Owan Enoh*) — *A greed to*.

Question that the provisions of Article 27 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 28 MEMBERS OF DIPLOMATIC MISSIONS &
CONSULAR POSTS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic mission or consular posts under the general rules of international law or under the provisions of special agreements (*Hon. John Owan Enoh*) — *Agreed to*.

Question that the provision of Article 28 stand part of the Treaty, put and agreed to.

Committee Recommendation:

CHAPTER VI
FINAL PROVISIONS

ARTICLE 29
ENTRY INTO FORCE

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Agreement have been complied with.
2. This Agreement shall enter into force on the thirtieth day after the date of the later of the notifications referred to in paragraph 1 of this Article and its provisions shall have effect:
 - (a) in Nigeria:
 - (i) in respect of tax withheld at source on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after the first day of January of the year in which the Agreement enters into force;
 - (ii) in respect of other taxes, in relation to income of the period beginning on or after the first day of January of the year in which the Agreement enters into force;
 - (b) in Korea:
 - (i) in respect of tax withheld, at source from amounts paid or credited on or after the first day of January of the year in which the Agreement enters into force;
 - (ii) in respect of other taxes, for the taxable year beginning on or after the first day of January of the year in which the Agreement enters into force (*Hon. John Owan Enoh*) — *A greed to*.

Question that the provisions of Article 29 stand part of the Treaty, put and agreed to.

Committee Recommendation:

ARTICLE 30
TERMINATION

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year in which this Agreement comes into force and cease to have effect:

- (i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident on or after 1st January in the calendar year immediately following that in which the notice of termination is given; and
 - (iii) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given;
- (b) in Korea:
 - (i) in respect of tax withheld at source from amounts paid or credited to non-residents on or after the first day of January' in the calendar year following that in which the notice is given; and
 - (ii) in respect of other taxes, for the taxable year beginning on or after the first day of January in the calendar year following that in which the notice is given.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

Done in duplicate at Seoul, this 6th day of November of the year 2006, in the English and Korean languages, both texts being equally authentic.

(Signed)

(Signed)

NENADI E. USMAN
FOR THE GOVERNMENT OF
THE FEDERAL REPUBLIC OF NIGERIA

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

PROTOCOL

At the moment of signing die Agreement between the Federal Republic of Nigeria and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, the undersigned have agreed that the following provisions shall form an integral part of the Agreement:

1. With respect to paragraph 3 c) of Article 5, it is understood that losses incurred in connection with a mine, an oil or gas well, a quarry or any place of exploration for or the exploitation of natural resources shall be carried forward and allowed as a set-off against its profits derived from the same trade of business for a period of 4 years from the date when such losses were incurred.
2. In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business, including the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, in the other Contracting State through a permanent establishment situated therein, the profits of the permanent establishment should be determined on the basis of the income earned which is directly attributable to the actual business activity of the permanent establishment.
3. The Agreement shall not apply to any company, trust or other entity that is a resident of a Contracting State and is beneficially owned or controlled, directly or indirectly, by one or more persons who are not residents of that State, if the amount of the tax imposed on the income or capital of the company, trust or other entity by that State (after taking into account any reduction or offset of the amount of tax in any manner, including a refund, reimbursement, contribution, credit or allowance to the company, trust, or other entity or to any other person) is substantially lower than the amount that would be imposed by that State if all of the shares of the capital stock of the company or all of the interests in the trust or other entity, as the case may be, were beneficially owned by one or more' individuals who were residents of that State. However, this paragraph shall not apply if 90 per cent or more of the income on which the lower amount of tax is imposed is derived exclusively from the active conduct of a trade or business, other than an investment business, carried on by it in that Contracting State.
4. The provisions of this Agreement shall not apply if the right giving rise to the income or capital gains was created or assigned mainly for the purpose of taking advantage of this Agreement and .not for bona fide commercial reasons. It is also understood that the benefits under this Agreement shall not be granted to a person that is not the beneficial owner of the items of income or capital gains derived from the other Contracting State.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Seoul, this 6th day of November of the year 2006, in the English and Korean languages, both texts being equally authentic.

(Signed)
NENADI E. USMAN
FOR THE GOVERNMENT OF
THE FEDERAL REPUBLIC OF NIGERIA

(Signed)
FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA (*Hon. John
Owan Enoh*) — *Agreed to.*

Question that the provisions of Article 30 stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in the Committee of the Whole considered a Bill for an Act to Enable Effect to be given in the Federal Republic of Nigeria to the Agreement Between the Federal Republic of Nigeria and Republic of South Korea for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income and Capital Gains 2008 and approved Clauses 1 and 2, and Articles 1 - 30 of the Treaty.

Question that the House do adopt the Report of the Committee of the Whole, put and agreed to.

(b) Joint Committee on Diaspora and Foreign Affairs:
Motion made and Question proposed, "That this House do consider the Report of the Joint Committee on Diaspora and Foreign Affairs on the investigation of the Brutal Killing of Mr Ojide John Ekene in Guangzhou Province, China and approve the Recommendation therein" (Hon. Abike Dabiri).

Question put and agreed to.

Question that the House do resolve into the Committee of the Whole to consider the Report, put and agreed to.

(HOUSE IN COMMITTEE)

(Mr Deputy Speaker in the Chair)

Recommendation (i):

"While the House commends the prompt action of the Ministry of Foreign Affairs, the Nigeria Embassy in China and the Chinese Embassy in Nigeria, Ojide's attack by two private Security Guards in Guangzhou Province was unprovoked and unwarranted and the culprits should not go unpunished" (*Hon. Abike Dabiri*) — *Agreed to.*

Recommendation (ii):

"That the Criminal case against the two Security Guards should be followed to a logical conclusion" (*Hon. Abike Dabiri*) — *Agreed to.*

Recommendation (iii):

"That full compensation should be paid to the families of the deceased" (*Hon. Abike Dabiri*) — *Agreed to.*

Recommendation (iv):

"That the House condemns in strong terms the unwarranted killings of Nigerians anywhere in the world" (*Hon. Abike Dabiri*) — *Agreed to.*

Recommendation (v):

"That the Ministry of Foreign Affairs should establish a Nigerian Consulate in Guangzhou to attend to the increasing Consular cases emanating from the Province concerning over five thousand Nigerians living there" (*Hon. Abike Dabiri*) — *Agreed to.*

Chairman to report proceedings.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in the Committee of the Whole considered the Report of the Joint Committee on Diaspora and Foreign Affairs on the investigation of the Brutal Killing of Mr Ojide John Ekene in Guangzhou Province, China and approved all the Recommendations therein.

Question that the House do adopt the Report of the Committee of the Whole, put and agreed to.

11. Adjournment:

That this House do now adjourn till Wednesday, 26 November, 2008 at 2.00 p.m. (*Hon. Tunde Akoguri*).

Adjourned accordingly at 12.30p.m.

Usman Bayero Nafada
Deputy Speaker