



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 30 November, 2005

1. The House met at 2.28 p.m. Mr Speaker read Prayers.
2. **Votes and Proceeding:**
Mr Speaker announced that he had examined and approved the Votes and Proceedings of Tuesday, 29 November, 2005.

By unanimous consent, the Votes and Proceedings was adopted.

3. **Announcement:**

Message:

Mr Speaker read a Message from the President of the Federal Republic of Nigeria:



**PRESIDENT,
FEDERAL REPUBLIC OF NIGERIA**

PRES/134

17 November, 2005

Honourable Aminu Bello Masari,
Speaker of the House of Representatives,
National Assembly Complex,
Three-Arms Zone,
Abuja.

Dear Hon. Speaker,

2006 BUDGET

I do crave the indulgence of the National Assembly to grant me the slot of Tuesday, December 6, 2005, at 1100 hours to formally address the Joint Session of the National Assembly on Budget 2006.

Moreover, as we have discussed all along the principles and concept of the orientation of the budget while it was in preparation, my address will be to publicly verbalise these points that all the Committees of the National Assembly have agreed with me in the course of preparation of the budget.

While I thank you for your understanding, please accept, Mr Speaker, the assurances of my highest consideration.

Yours sincerely,

(Signed)
OLUSEGUN OBASANJO

4. Presentation of Reports:

- (i) *Joint Committee on Petroleum Resources, Finance, Justice and Solid Minerals:*
Motion made and Question proposed, "That this House do receive the Report of the Joint Committee on Petroleum Resources, Finance, Justice and Solid Minerals on a Bill for an Act Make Provision for the Establishment of the Nigerian Extractive Industry Transparency Initiative (NEITI); and other Matters Connected Therewith, 2005" (Hon. Cairo Ojoughboh) — Agreed to.

Report Laid.

- (ii) *Joint Committee on Petroleum Resources and Justice:*
Motion made and Question proposed, "That this House do receive the Report of the Joint Committee on Petroleum Resources and Justice on a Bill for an Act Provide for the Change of Name of the Petroleum Technology Development Fund and the Re-Designation and Re-Enactment of the Petroleum Technology Development Act as the Petroleum and Minerals Technology Development Fund Act; and for Other Related Matters" (Hon. Cairo Ojoughboh) — Agreed to.

Report Laid.

- (iii) *Joint Committee on Health and Justice:*
"That this House do receive the Report of the Joint Committee on Health and Justice on a Bill for an Act for Corrosive Acid Prohibition from Sale, 2003"

Order Read.

- (iv) *Joint Committee on National Planning and Justice:*
"That this House do receive the Report of the Joint Committee on National Planning and Justice on a Bill for an Act to Prohibit Award of Inflated Contracts and Excess Costs, Charges and Returns Over and above the Actual Market Prices on the Contracts, and for Related Purposes, 2004".

Order Read.

- (v) *Committee on Health:*
"That this House do receive the Report of the Committee on Health on a Bill for an Act to Provide for the Establishment of the National Agency for the Prevention and Control of HIV/AIDS (NAPCA); and for Matters Connected Therewith, 2005".

Order Read.

Committee on Rules and Business ordered to divest Standing Committees of jurisdiction of all the Bills referred to them in 2004 and to commit such Bills to the Committee of Whole.

6. **A Bill for an Act to Provide for the Establishment of the Armed Forces Medical Services Management Board and to Make Comprehensive Provision for its Due Administration; and for Connected Purposes, 2005 (HB. 162) — Second Reading:**

Order Read; deferred

7. **A Bill for an Act to Provide for the Establishment of the Armed Forces Education Management Board and to Make Comprehensive Provision for its Due Administration; and for Connected Purposes, 2005 (HB. 163) — Second Reading:**

Order Read; deferred

8. Consideration of Reports:

- (i) *Joint Committee on Petroleum Resources and Justice:*
Motion made and Question proposed, "That this House do resume consideration of the Report of the Joint Committee on Petroleum Resources and Justice on a Bill for an Act to Amend the Petroleum Act, Cap. 350, Laws of the Federation of Nigeria, 1990 and for Related Purposes, 2004" (Hon. Cairo Ojoughboh).

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 on the Chair)*A BILL FOR AN ACT TO AMEND THE PETROLEUM ACT, CAP. 350, LAWS OF THE
FEDERATION OF NIGERIA, 1990 AND FOR RELATED PURPOSES, 2004

Amendment of paragraph 17 of the First Schedule:

Committee Recommendation:

- (3) Amendment of paragraph 17 to the First Schedule:
In paragraph 17 of the First Schedule to the Act, immediately after 17 (2), *insert* a new paragraph 17 (3) (i) - (vii):

Decommissioning and abandonment:

- (0) no installation or structure shall be placed on any continental shelf or any Exclusive Economic Zone unless the Minister has certified in Writing that the design and construction of the installation or structure is such that the entire removal upon abandonment is feasible;
- (if) all Onshore facilities should be scrapped on abandonment;

Mandatory Escrow Account.

- (iii) the Operator shall provide funds annually in US Dollars for Abandonment security paid into an interest bearing Escrow Account, in a bank in Nigeria having a requisite rating, not later than 30 days from the commencement of production. The Amount to be paid annually into the Escrow Account shall be approved by the DPR. which shall be given quarterly return on the security funds, and it shall be endorsed in the document of the Escrow Account without the written approval of DPR;
- (iv) the fund shall take into account the relationship between the estimated total abandonment cost and the anticipated production revenues, and shall be reviewed on an annual basis as part of the budgeting process;

Restriction on use of fund:

- (v) the abandonment fund shall be used solely for the purpose of paying for decommissioning and abandonment operations. The fund shall not be mortgaged, encumbered or otherwise used for any other purposes;
- (vi) the process of decommissioning activities shall be carried out by the Operator on termination of operations in accordance with DPR's regulations and guidelines on decommissioning and abandonment;

Penalty:

- (vii) in the event of Operator's failure to comply with paragraph (Hi) above, the Minister shall pursuant to Section 8(1) (h) of the Petroleum Act, suspend Operations (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that paragraph 17, as amended, stand part of the First Schedule, put and agreed to.

Amendment of paragraph 24 to the First Schedule:

Committee Recommendation:

- (3) Penalty on none relinquishment:
- (a) The Minister, pursuant to Section 8 (1) (h) of the Act shall suspend the Operations of the Lessee where a Company fails to comply with the Relinquishment provisions under paragraph 12 of the First Schedule within 12 months after the Lease was due for Relinquishment of a part thereof. And if the lessee fail to comply after the expiration of the said 12months, the Minister shall pursuant to paragraph 24 (1) of the said First Schedule, revoke the Lease (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that paragraph 24, as amended, stand part of the First Schedule, put and agreed to.

Amendment of paragraph 34 of the First Schedule:

Committee Recommendation:

Amendment of paragraph 34 of the First Schedule:

In paragraph 34 of the First Schedule to the Act, immediately after 34 (b), insert new subparagraphs (c) (i) - (x) and (d) (i) - (v):

Local Refining of equity crude oil:

- (c) notwithstanding anything to the contrary contained in any other Local enactment or law, effective from 30th of April, 2005 all major Oil Companies Operating in Nigeria and Producing more than 50,000 bpd shall be required to refine part of their equity crude oil in the Nations Refineries (or in their own refineries if they elect to build) under the following conditions:
 - (i) commencing from January 2005, the percentage of the company's equity Crude oil to be refined shall be 20%;
 - (ii) commencing from January 2007, the percentage of the company's equity crude oil to be refined shall be 50%;
 - (iii) commencing from January 2015, the percentage of the company's equity crude oil to be refined shall be 100%
 - (iv) the refineries will be at liberty to refine Crude Oil at such rates that would ensure that the refineries recover fully their refining cost;
 - (v) provided domestic demands are fully met, as determined by NNPC, companies will be at liberty to export their surplus refined products if they so wish;
 - (vi) products refined locally shall attract prices that match import parity;
 - (vii) Government shall require all local marketers to source their products from the local refineries;

Government divestment shareholding:

- (viii) Government shall divest 51 % of its shareholding interests in the refineries to the companies and the companies shall be free to take up management and technical positions in the companies to ensure timely and efficient running of the refineries. The acquisition of the 51 % shareholding interest shall be concluded by the 31st March, 2005.

Alternatively, the companies could elect to build their own refineries;

Treatment of effluent:

- (ix) the companies shall be free to propose and effect design equipment changes in the refineries they are participating and recover the cost of such changes from sale of refined products. In particular, companies shall be expected to install and maintain equipment for treating effluents of the refineries to meet the specifications of FEPA and DPR;
- (x) any sum of money invested by the companies shall be amortized over a period not exceeding sixty months.

Unitization of straddle fields:

- (d) notwithstanding anything to the contrary contained in Regulation 4701 the Petroleum (Drilling and Production) Regulations, 1969, the following provisions shall apply to the Unitization of straddle fields:
 - (i) the Licensee or Lessee shall within 30 days of the discovery of an Oil field that straddles the Lease boundary into Leased areas held by other Licensees or leasees, (other parties) report the discovery to the Minister.
 - (ii) the Minister shall within 30 days of the receipt of the said report, require the other parties to confirm and determine the extent of the common geological structures in their respective and submit their report to the Minister within 45 days;
 - (iii) thereafter, the Minister shall require all the parties to submit a joint Development scheme within 60 days for approval;

Appointment Unit Operator:

- (iv) upon approval of the development scheme, the Minister shall nominate the Unit Operator and the parties shall execute a Unit Agreement and a Unit Operating Agreement approved by the Minister not later than one year after the development scheme had been approved;

Penalty:

- (v) the Minister may revoke the Licence or Lease of any party who is unwilling to cooperate with others in Unitizing straddle fields {Hon. Cairo Ojougboh} — Agreed to.

Question that paragraph 34, as amended, stand part of the First Schedule, put and agreed to.

Amendment of paragraph 37 of the First Schedule:

Committee Recommendation:

Amendment of paragraph 37 of the First Schedule.

In paragraph 37 of the First Schedule to the Act, immediately after subparagraph (b), insert a new subparagraph (c) (i), (ii) and (iii):

- (c) all skilled, semi-skilled and unskilled workers who are citizens of Nigeria employed by the leasee or its contractors and subcontractors shall be employed as permanent staff. Accordingly, casual or temporary staff employment is hereby prohibited from the commencement of this Amendment Act

Penalty:

- (i) from the commencement of this Act, any company carrying on Petroleum Operations in Nigeria who employs a casual or temporary staff shall be guilty of an offence and shall be liable to a fine of N50,000.00 (Fifty Thousand Naira) for each day the casual or temporary staff is in its employment;
- (ii) any casual or temporary staff in the employment of any company carrying on Petroleum operations as at the 1st day of January, 2004, Who has put in two years' service, shall be deemed a permanent staff;

Interpretation:

- (iii) "Company" and "Petroleum Operations" have the respective meaning assigned to them under Section 2 of the Petroleum Profits Tax Act, Cap. 354 LFN, 1990 (Hon. Cairo Ojougboh) — Agreed to.

Question that paragraph 37, as amended, stand part of the First Schedule, put and agreed to.

Citation:

This Act may be cited as the Petroleum Act, Cap. 350 LFN 1990 (Amendment) Bill, 2005 (Hon. Cairo Ojougboh) — Agreed to.

Explanatory Memorandum

This Bill seeks to amend the Petroleum Act, Cap. 350, Laws of the Federation of Nigeria, 1990 to make provision for the Minister to have effect control over operation of Licensed Lessees in the oil field and for connected matters therewith (Hon. Cairo Ojougboh) — Agreed to.

Question that the Explanatory Memorandum stand part of the Bill, put and agreed to.

Chairman to report Bill:

(HOUSE PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in the Committee of Whole, considered the Report of the Joint Committee on Petroleum Resources and Justice on a Bill for an Act to Amend the Petroleum Act, Cap. 350, Laws of the Federation of Nigeria, 1990 and for Related Purposes, 2004 and approved the amendments to Paragraphs 17, 24, 37 of the First Schedule, the Citation and approved the Explanatory Memorandum.

Question [hat the House adopt the Report of the Committee of Whole, put and agreed to.

(ii) *Committee on Capital Market and Institution:*

Motion made and Question proposed, "That this House do consider the Report of the House Committee on Capital Market and Institutions on a Bill for an Act to Provide for the Establishment of Unclaimed Dividend Trust Fund, 2004"(Hon. Ahmed Wadada).

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 on the Chair}

A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF
UNCLAIMED DIVIDEND TRUST FUND, 2004

Provision in the Principal Bill:

PART I—ESTABLISHMENT AND COMPOSITION, ETC. OF THE
UNCLAIMED DIVIDENDS TRUST FUND AND THE BOARD

Clause 1: Establishment of the Unclaimed Dividends Trust Fund.

- (1) There is hereby established a Fund to be known as the Unclaimed Dividends Trust Fund (in this Act referred to as "the Fund") into which shall be paid all unclaimed dividends and such other funds specified in this Act.
- (2) The Fund shall be a body corporate with perpetual succession and a common seal and may—
 - (a) sue and be sued in its corporate name;
 - (b) hold and acquire property whether movable or immovable.

Committee Recommendation:

Reject provisions in the Clause (Hon. Ahmed Wadada) — Agreed to.

Provision in the Principal Bill

Clause 2: Establishment of the Board.

- (1) There is hereby established for the Fund, a Board (in this Act referred to as "the Board").
- (2) The Board shall consist of—
 - (a) a Chairman;
 - (b) a representative each of the registered shareholders associations which shall represent each of the six geopolitical zones;
 - (c) a representative of the Nigerian Employers Consultative Association;
 - (d) a representative of registrars of public companies;
 - (e) a representative of the National Association of Small and Medium Scale Enterprises;
 - (f) a representative of the Corporate Affairs Commission;
 - (g) a representative of the Chartered Institute of Stockbrokers;
 - (h) a representative of the Federal Ministry of Finance;
 - (i) a representative of the Securities and Exchange Commission; and
 - (j) a Managing Director who shall be the Chief Executive of the Fund.

- (2) The Chairman and members of the Board other than the Managing Director shall serve on part-time basis.

Schedule.

- (3) The provisions of the Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters contained therein.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 3: Appointment of the members of the Board.

- (1) The Chairman and the Managing Director shall be appointed by the President on the recommendation of the Minister.
- (2) Other members of the Board shall be nominated by the organisations they represent and appointed by the President on the recommendation of the Minister.
- (3) The Chairman shall be a person with a minimum of first degree and vast experience in the business and financial sectors.
- (4) **The** Managing Director shall be a person with a minimum of 15 years managerial experience in the financial sector and the holder of a first degree.
- (5) The Chairman and members of the Board shall be persons of proven integrity.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 4: Tenure of office.

- (1) The Chairman and members of the Board other than the Managing Director shall each hold office for a term of 4 years and no more.
- (2) The Managing Director shall hold office for a term of 5 years in the first instance and may be re-appointed for a further term of 3 years and no more.
- (3) The members of the Board shall be paid such remuneration and allowances as the Commission may, from time to time, determine.
- (4) A member of the Board other than the Managing Director may resign his appointment by a notice in writing under his hand, addressed to the President and the resignation shall take effect only upon acknowledgment by the President.
- (5) A member of the Board may at any time be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or if the President is satisfied that it is not in the interest of the Fund or the public for such member to continue in office.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 5: Cessation of membership.

- (1) A member of the Board shall cease to hold office if—
 - (a) he becomes of unsound mind; or
 - (b) he becomes bankrupt or makes a compromise with his creditors; or
 - (c) he is convicted of a felony or of any offence involving dishonesty;
 - (d) he is guilty of serious misconduct in relation to his duties;
 - (e) if he ceases to be a member of the institution that nominated him.

Committee Recommendation:

Reject provisions in the Clause {Hon. Ahmed Wadada) — Agreed to.

Provision in the Bill:

PART II—POWERS OF THE BOARD

Clause 6: Powers of the Board.

The Board shall be responsible for—

- (a) acting as trustees to the Fund;
- (b) maintaining a database of unclaimed dividends, owners' addresses and other relevant information;
- (c) registering and assisting small and medium scale enterprises who are applying for loans guarantee;
- (d) promoting and developing, capital trade points in the six- geopolitical zones of the Federation;
- (e) carrying out public enlightenment programmes on unclaimed dividends;
- (f) paying of unclaimed dividends recovered from public companies to the owners, provided the claimants who emerge five years after declaration of the dividends shall not be entitled to interest on their dividends;
- (g) approving participating and other banks into which unclaimed dividends and monies of the Fund shall be paid and approving banks that will participate in the loans guarantee scheme of the Fund;
- (h) inspecting and examining books and records of all institutions and persons who are subject to the provisions of this Act;
- (i) managing the monies of the Fund including making investments as provided in this Act;
- J) receiving information on all unclaimed dividends from public companies and their agents;
- (k) paying and discharging all expenses incurred in connection with the aims and objectives of the Board;
- (l) commencing, prosecuting, enforcing actions and legal proceedings which may affect the Board;
- (m) formulating policies, rules and guidelines for the management of the Fund;
- (n) carrying out any other functions and exercising any other power that may be necessary and incidental to this Act;
- {o) carrying out any other functions that may be assigned to it by the President.

Committee Recommendation:

Reject provisions in the Clause {Hon. Ahmed Wadada) — Agreed to.

Provision in the Bill:

PART III—STAFF OF THE FUND

Clause 7: Appointment of the Secretary and other staff of the Fund.

- (1) There shall be established for the Fund a secretariat which shall be headed by a Secretary who shall be appointed by the Board.
- (2) The Secretary shall be—

- (a) the head of the secretariat of the Fund;
 - (b) responsible for the administration of the secretariat and keeping of the books and records of the Fund; and
 - (c) subject to the supervision and control of the Board.
- (3) The Board shall have power to appoint or accept on transfer or on secondment from any public service of the Federation, such other staff as may in the opinion of the Board, be required to assist the Managing Director in the discharge of any of his functions under this Act and shall have power to pay to persons so appointed such remuneration (including allowances) as the Board may, from time to time, determine.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 8: Staff regulations.

- (1) The Board may, subject to the provisions of this Act, and with the approval of the Commission make regulations generally relating to the conditions of service of the staff of the Fund and without prejudice to the generality of the foregoing, such regulations may provide for—
- (a) the appointment, promotion and discipline (including dismissal) of staff;
 - (b) appeals by such staff against dismissal or other disciplinary measures and until such regulations are made, any instrument relating to the conditions of service of officers in the civil service of the Federation shall be applicable, with such modifications as may be necessary,
- (2) Staff regulations made, under Subsection (1) of this section shall not have effect until approved by the Minister and when so approved the Board shall cause them to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 9: Pensions. Cap. 346 LFN.

- (1) It is hereby declared that service in the Fund shall be public service for the purposes of the Pensions Act and, accordingly, officers and other persons employed in the Fund shall in respect of their service in the Fund, be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Act.
- (2) Nothing in this Act shall prevent the appointment of a person to any office on terms which may preclude the grant of a pension or gratuity in respect of that office.
- (3) For the purposes of the application of the provisions of the Pensions Act, any power exercisable under the Act by a Minister or other authority of the Government of the Federation (not being the power to make regulations under Section 23 of the Act) is hereby vested in and shall be exercisable by the Board and not by any other person or authority.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

PART IV—FINANCIAL PROVISIONS

Clause 10: Monies of the Fund.

- (1) The Fund shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Fund.
- (2) There shall be paid and credited to the Fund established pursuant to Subsection (1) of this section all outstanding unclaimed dividends held by public companies or former public companies and their agents declared within twelve years preceding the commencement of this Act.
- (3) Without prejudice to the future capital increases, the Fund shall commence operation with an initial funding derived from the following sources—
 - (a) all outstanding unclaimed dividends held by public companies, which have been dissolved or liquidated or in the hands of any present or former liquidator at the date of dissolution of such companies within 3 years from the commencement of this Act.
 - (b) grants, gifts and donations from any person or institution on terms and conditions not contrary to the objective of the Fund;
 - (c) penalties and fines imposed by the Fund;
 - (d) unclaimed dividends to be paid regularly into the fund directly by public companies and their agents as and when due;
 - (e) all subsequent dividends declared by public companies within six months from the commencement of this Act;
 - f) all subventions, fees and charges for services rendered by the Fund.
- (4) Any payment made in relation to this section shall be made to the Fund not later than 6 months from the commencement of this Act in the case of (a) and (b) and not later than 12 months after declaration in the case of (a) to (g) above.
- (5) Notwithstanding any provision in any other law any liquidator shall comply with Subsection (3) (a) to (f) of this section and shall give priority to the payment of the unclaimed dividends declared by such companies to the Fund.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 11: Expenditure of the Fund.

- The Board may, from time to time, apply the proceeds of the Fund for the following purposes—
- (a) the cost of administration of the Fund;
 - (b) the payment of salaries, fees and other remuneration, allowances, pensions and gratuities payable to employees of the Board and to experts or consultants appointed by the Board.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) *Agreed to.*

Provision in the Bill:

Clause 12: Power of the Board to make regulations.

The Board may, with the approval of the Commission, make regulations for the operation of this Act, the regulation shall in particular contain provisions—

- (a) specifying the manner in which the asset of the Fund are to be held and regulating the making of payment into and out of the Fund; and
- (b) requiring the keeping of proper accounts and records for the purposes of the Fund in such form as may be specified in the regulation.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 13: Budgetary provisions.

The Board shall not later than 31st October submit to the Minister through the Commission an estimate of its expenditure and income during the next succeeding year.

Committee Recommendation:

Reject provision in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 14: Award of contract.

The Board shall award contracts up to N10,000,000 but shall be required to obtain the approval of the Minister for any contract in excess of that amount.

Committee Recommendation:

Reject provision in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 15: Power to accept gift.

- (1) The Board may accept gifts of land, money or other property upon such terms and conditions, if any, as may be specified by the person or Organisation making the gift.
- (2) The Board shall not accept any gift if the conditions attached by the person or Organisation making the gift are inconsistent with the objectives of the Fund under his Act.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 16: Exemption from tax.

The Fund shall be exempted from the payment of income tax on any income accruing from investments made by the Fund or otherwise howsoever.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

PART VI—LOANS GUARANTEE SCHEME

Clause 17: Loans guarantee.

- (1) The Fund shall guarantee loans to Small and Medium Scale Enterprises in order to facilitate their listing on the Stock Exchange, Capital Trade Points or over-the-counter market.
- (2) Loans guaranteed under Subsection (1) of this section shall be used for the purpose of raising funds from the capital market.
- (3) The value of the loan guaranteed an enterprises under Subsection (1) of this section shall act as a floating charge on its assets and the Schedule of such assets shall be an integral part of the loans guarantee agreement between the Fund and the applicant.

- (4) In exercising its functions under Subsection (1) of this section, the Board shall have regard to geographical spread of the enterprises in the 6 geopolitical zones of the Federal Republic of Nigeria.
- (5) Notwithstanding the provisions of Subsections (1) and (2) of this section, the Fund may facilitate the establishment of a Capital Trade Point or Venture Capital by taking shares in any such entity.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 18: Eligibility for loans.

To be eligible for loans guaranty or equity participation by the Fund—

- (a) a Capital Trade Point shall be operated for profit and wholly owned by Nigerians; and
- (b) no enterprises in one area of the six geopolitical zones shall benefit twice from the loans guarantee scheme.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 19: Participating banks.

- (1) The Board may approve any banks licensed by the Central Bank of Nigeria to be participating banks in the loans guarantee scheme of the Fund.
- (2) Participating banks shall—
 - (a) process applications for loans from Small and Medium Scale Enterprises and Capital Trade Points in accordance with the guidelines stipulated by the Fund;
 - (b) collect and receive for and on behalf of the Fund all unclaimed dividends due to the Fund.
- (3) To be eligible to act as a participating bank, a bank shall—
 - (a) accept the rate of interest approved by the Fund on the guaranteed loan;
 - (b) **allow** a maximum period of 2 years for the repayment of the loans guaranteed by the Fund;
 - (c) agree to pay to the Fund such nominal fees as may be prescribed by the Board from time to time.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 20: Returns on project, offences and penalty.

- (1) **Small** and Medium Scale Enterprises and Capital Trade Points who benefit from the loans guarantee scheme under this Act, shall until the loan is fully discharged, submit a bi-annual returns to the Fund, showing the projects the guaranteed loans were used for.
- (2) It is an offence under this section to—
 - (a) submit false or misleading returns to the Fund; or
 - (b) default in the repayment of loans guaranteed by the Fund.

- (3) Save as otherwise specifically provided under this Act, any person who contravenes the provisions of this section or any regulations made under this Act, commits an offence and is liable on conviction to a fine not exceeding N100,000 or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 21: Other enactments.

- (1) Notwithstanding the provisions of this Act, the relevant provisions of other existing enactments, including the following-

Cap. 59 LFN.

- (a) the Companies and Allied Matters Act, 1990;

1997 No. 2.

- (b) the Insurance Act, 1997;

1991 No. 25.

- (c) the Banks and Other Financial Institutions Act, 1991 as amended;

1997 No. 6.

- (d) the Nigerian Investment Promotion Act, 1995;

Cap. 449.

- (e) the Trustee Investment Act,

shall be read with such modification as to bring them into conformity with the provisions of this Act.

- (2) Notwithstanding the provisions of any other enactment to the contrary all unclaimed dividends shall be paid into the Fund.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

Clause 22: Offences and penalties.

- (1) Any public company or any of its agent that—
- (a) fails, refuses or neglects to make remittances of unclaimed dividends to the Fund within the period specified in this Act shall be liable to a fine of 10% of the amount involved or N10,000 for each day in which such failure, refusal or neglect persists;
- (b) fails to render returns or pay a penalty shall have its movable property distrained, seized or sold by the Fund.
- (2) For the purpose of exercising the powers in Subsection (1) of this section, the Fund shall serve the defaulter a demand notice, and if payment is not made within the time specified in the notice, the Fund shall apply to the Federal High Court for a warrant to distrain, seize and sell any movable property of the defaulting company.
- (3) The authority to distrain under this Act shall be exercised after obtaining due warrant from a Federal High Court.
- (4) No company or its agents shall make inaccurate returns or fail to remit unclaimed dividends to the Fund or otherwise make a false declaration to the Fund.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:**Clause 23: Reports and accounts of the public companies.**

- (1) Every public company shall file with the Board annual returns of unclaimed dividends not later than 3 months after the end of each financial year.
- (2) Any company who contravenes the provisions of Subsection (1) of this section commits an offence and is liable on conviction to a fine of N500,000.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:**Clause 24: Interpretation.**

In this Act, unless the context otherwise requires—

"Agent" includes Directors, Managers, Secretaries or Registrars of public companies;

"Capital Trade Point" means an exchange registered by the Commission, which constitutes, maintains or provides market facilities for bringing together purchasers and sellers of securities or otherwise performing, with respect to securities, the functions commonly performed by Securities Exchange;

"Commission" means the Securities and Exchange Commission established under the Investment and Securities Act, 1999;

"former public companies" means public companies within the meaning of the Companies and Allied Matters Act who have reverted to private companies;

"Fund" means the Unclaimed Dividends Trust Fund established under this Act;

"Medium Scale Enterprises" means enterprises with total assets not less than five million Naira and not more than one hundred million Naira and employing between 26 to 100 persons;

"Minister" means the Minister charged with the responsibility for matters relating to finance and economic development;

"participating bank" means commercial and merchant banks involved in granting loans to **eligible** enterprises and projects under this Act;

"public companies" are public companies within the meaning of the Companies and Allied Matters Act;

"Securities Exchange and Capital Trade Points" both have the same meaning as defined in the Investment and Securities Act, 1999;

"Small Scale Enterprises" means projects with total assets of not less than five hundred thousand Naira but less than five million and having between 5 to 25 employees;

"unclaimed dividends" are dividends which are unclaimed by any shareholder after 15 months of declaration by a public company;

"venture capital" refers to fund meant for investment in usually high risk or new business that also has high profit potentials.

Committee Recommendation:

Reject provisions in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:**Clause 25: Short Title.**

This Act may be cited as the Unclaimed Dividends Trust Fund (Establishment) Bill, 2004.

Committee Recommendation:

Reject provision in the Clause (*Hon. Ahmed Wadada*) — *Agreed to.*

Provision in the Bill:

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

Cap. 192 LFN.

1. Subject to this Act and Section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees.
2. At every meeting of the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their number to preside at the meeting.
3. The quorum at a meeting of the Board shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule, and four other members.
4. The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to him by not less than five other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.
5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt such a person for such period as it thinks fit, but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

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

Miscellaneous

7. The fixing of the seal of the Fund shall be authenticated by the signature of the Chairman or any other person generally or specifically authorised by the Board to act for that purpose.
8. Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Fund by the chairman or by any other person generally or specially authorised by the Board to act for that purpose.
9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Fund shall be received in evidence and shall, unless the contrary is proved, be presumed without further proof to have been so signed or sealed.
10. The validity of any proceedings of the Board or of any of its committees shall not be affected by—

- (a) any vacancy in the membership of the Board, or committee, or
 - (b) any defect in the appointment of a member of the Board or committee; or
 - (c) reason that any person not entitled to do so took part in the proceedings of the Board or committee.
11. A member of a committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the committee shall disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.
12. No member of the Board shall be personally liable for any act or omission done or made in good faith while engaged on the business of the Fund.
13. The members of the Board shall subscribe to and be bound by a code of ethics to be approved by the Commission.

Committee Recommendation:

Reject provisions in the Schedule {*Hon. Ahmed Wadada*} — *Agreed to.*

Chairman to report Bill.

(HOUSE IN PLENARY)

Mr Deputy Speaker in Chair reported that the House in the Committee of Whole considered the Report of the Committee on Capital Market on a Bill for an Act to Provide for the Establishment of Unclaimed Dividend Trust Fund 2004 and approved the Recommendations therein.

(Hi) *Joint Committee on Labour, Employment and Productivity, Petroleum Resources and Justice:* "That this House do consider the Report of the Joint Committee on Labour, Employment and Productivity, Petroleum Resources and Justice on the Increase in Prices of Petroleum Products and approve the Recommendation therein" (*Hon. Solomon Agadani*).

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 on the Chair*)

Consideration of Report deferred to the next Legislative Day.

9. Adjournment:

That this House do now adjourn till Thursday, 1 December, 2005 at 10.00 a.m. (*Hon. Ita Enang*).

Adjourned accordingly at 3.25 p.m.

Aininu **Bello Masari**
Speaker