



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 26 May, 2004

1. The House met at 2.30 p.m. Mr Speaker read Prayers.
2. **Votes and Proceedings:**
Mr Speaker announced that he had examined and approved the Votes and Proceedings of Tuesday, 25 May, 2004.
By unanimous consent, the Votes and Proceedings were adopted.
3. **Petitions:**
 - (i) **Termination of Appointment: Hassanat R. Bello (Mrs):**
Hon. Buhari Abdulfatai presented a petition of behalf of Mrs Hassanat R. Bello, a former employee of the Usman and Fodio University Teaching Hospital, Sokoto. The petitioner alleged that her appointment was unlawfully terminated without fair hearing after 12 years of meritorious service. She prayed the House to prevail on the Management of the Usman Dan Fodio Teaching Hospital, Sokoto with a view to re-instating her.
 - (ii) **Termination of Appointment: Mr J. U. Atikpo:**
Hon. Abdul Oroh presented a petition on behalf of Mr J. U. Atikpo, a former employee of the NNPC. The petitioner claimed that his appointment was wrongfully terminated by the Management of NNPC, after 12 years of Service. He prayed the House to intervene with a view to re-instating him.
 - (iii) **Compulsory Retirement from Service: Civil Liberties Organisation:**
Hon. Abdul Oroh further presented a petition on behalf of the Civil Liberties Organization protesting the compulsory retirement of Mr Ike S. Odobra from the Nigeria Police Force in 1999 after 10 years of service. The Organization prayed the House to intervene with a view to reinstating Mr Ike S. Odobra.
 - (iv) **Brutal Assault on Mr Biodun Ibrahim:**
Hon. Abdul Oroh presented another petition on behalf of Mr Biodun Ibrahim, a Nigerian deported on 26 March, 1996 from the United States of America. The petitioner alleged that he was arrested on August 20, 1991 for attempted bank robbery, brutally assaulted and maimed for life by the Harris Country Police in Houston, Texas. He prayed the House to intervene with a view to compensating him.
 - (v) **Non-payment of Pension & Gratuity: Mr J. A. Akinbade:**
Hon. Abdul Oroh also presented a petition on behalf of Mr J. A. Akinbade a former employee of the West African Examinations Council (WAEC). The petitioner protested the non payment of his pension and gratuity by the West African Examinations Council and prayed the House to intervene.

Petitions referred to the Committee on Public Petitions.
4. **Presentation of Emergency Regulations:**
 - (i) Emergency Powers (General) Regulations, 2004 (*Executive*)—*Read the First Time.*

- (ii) Emergency Powers (Processions and Meetings, etc.) (*Executive*)—*Read the First Time.*
- (iii) Emergency Powers (Reporting of Persons) Regulations, 2004 (*Executive*)—*Read the First Time.*
- (iv) Emergency Powers (Control of Arms and Explosives) Regulations, 2004 —*Read the First Time.*
- (v) Emergency Powers (Curfew) Regulations, 2004 (*Executive*)—*Read the First Time.*
- (vi) Emergency Powers (Detention of Persons) Regulations, 2004 (*Executive*)—*Read the First Time.*
- (vii) Emergency Powers (Restriction Orders) Regulations, 2004 —*Read the First Time.*
- (viii) Emergency Powers (Protected Places) Regulations, 2004 —*Read the First Time.*

5. Presentation and Adoption of Report:

Motion made and Question proposed, That this House do receive and adopt the Report of the 10-Member Committee constituted to examine the constitutional issues raised on the Bill for an Act to Prescribe the Basis for Allocation of Revenue Standing to the Credit of Local Government Councils and Area Councils in the Federation Account and for Other Matters Connected Therewith, 2004 (*Hon. Ibn Na'Allah*).

Question put and agreed to.

Report Laid.

6. A Bill for an Act to Prescribe the Basis for Allocation of Revenue Standing to the Credit of Local Government Councils and Area Councils in the Federation Account and for Other Matters Connected Therewith, 2004 (*Resumption of Debate*):

Debate:

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

Bill read the Second Time and referred to the Committees on Justice, Judiciary, States and Local Governments.

7. Ad-hoc Committee on Pension Reforms:

Motion made and Question proposed, "That this House do resume consideration of the Report of the Ad-hoc Committee on Pension Reforms on the Bill for an Act to Repeal the Pensions Act, 1990 and to Establish a Contributory Pensions Scheme for employees in the Public and Private Sectors in the Federal Republic of Nigeria and for Matters Connected Therewith, 2003, and approve the Recommendations therein" (*Hon. Abdul Ningi*).

Question put and agreed to.

Question, That the House do resolve into the Committee of Whole to consider the Report — agreed to.

Question, that Order VII, Rule 2 (2) of the Standing Orders be suspended to enable Mr Speaker preside in the Committee of Whole to consider the Report, agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

**A BILL FOR AN ACT TO REPEAL THE PENSIONS ACT, 1990 AND TO ESTABLISH
A CONTRIBUTORY PENSIONS SCHEME FOR EMPLOYEES IN THE PUBLIC
AND PRIVATE SECTORS IN THE FEDERAL REPUBLIC OF NIGERIA
AND FOR MATTERS CONNECTED THEREWITH, 2003**

Committee Recommendation:

Clause 26: Establishment of Fund Management and Investment Committees.

- (1) There is hereby established Fund Management and Investment Committees (in this Act referred to as the "Committees").
- (2) The Fund Management and Investment Committees shall be responsible for the day to day administration, management and investment of the Funds created pursuant to Section 25 of this Act (*Hon. Abubakar Momoh*).

Debate:

Chairman to report progress:

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole revisited Clause 26 of the Bill (Establishment of Fund Management and Investments Committee). Against the backdrop of its earlier Order of 11 May, 2004 to the *Ad-Hoc* Committee to revisit its Report given the number of bureaucratic bodies so far established in the Bill and approved by the House, it constituted a 5-Member Committee of Hon. P. O. Orimoloye, Hon. Chidi Duru, Hon. Musa Ibrahim Ahmadu, Hon. Caleb Zagi and Hon. Nkechi Nwogu to re-examine the provisions of Clause 12 (1); (2), (3) of the Principal Bill *vis-a-vis* the provisions of Clause 26 of the Committee's Report and recommend an agreeable provision; the Committee was ordered to submit its Report on Monday, 31 May, 2004.

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

8. Committee Petroleum Resources and Cooperation and Integration in Africa (Joint Referral):

Motion made and Question proposed, That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Treaty Between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other Resources in Areas of the Exclusive Economic Zones of the Two States and for Purposes Connected Therewith, 2003 be now read the Second Time" (Hon. G. E. Nnaji).

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty, agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE TREATY BETWEEN THE FEDERAL REPUBLIC OF NIGERIA AND THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE ON THE JOINT DEVELOPMENT OF PETROLEUM AND OTHER RESOURCES IN AREAS OF THE EXCLUSIVE ECONOMIC ZONES OF THE TWO STATES AND FOR PURPOSES CONNECTED THEREWITH, 2003

WHEREAS the United Nations Convention on the Law of the Sea done at Montego Bay on 10th December, 1982 and in particular, Article 74 (3) which requires States with opposite coasts, in a spirit of understanding and co-operation, to make every effort, pending agreement on delimitation, to enter into provisional arrangements of a practical nature which do not jeopardise or hamper the reaching of final agreement on the delimitation of their Exclusive Economic Zones; (Hon. Cairo Ojougboh) — *Agreed to.*

AND WHEREAS Nigeria is a member State of the Organisation of African Unity and a signatory to the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other Resources in Areas of the Exclusive Economic Zone of the Two States; (Hon. Cairo Ojougboh) — *Agreed to.*

AND WHEREAS the Government of the Federal Republic of Nigeria has in accordance with her constitutional process ratified the said Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other Resources in Areas of the Exclusive Economic Zone of the two States on 23rd July, 2001; (Hon. Cairo Ojougboh) — *Agreed to.*

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of 22. Petroleum and other Resources in Areas of the Exclusive Economic Zone of the two States in the Federal Republic of Nigeria; (Hon. Cairo Ojougboh) — *Agreed to.*

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

Clause 1: **Enforcement of the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and Other Resources in Areas of the Exclusive Economic Zone of the two States.**
The provisions of the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and Other Resources in Areas of the Exclusive Economic Zone of the two States which are set out in the Schedule to this Act shall, subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities and persons exercising legislative, executive or judicial powers in Nigeria (*Hon. Cairo Ojougboh*) — *Agreed to.*

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

Clause 2: **Short Title:**
This Act may be cited as the Treaty between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and Other Resources in Areas of the Exclusive Economic Zone of the two States (Enactment) Act, 2003 (*Hon. Cairo Ojougboh*) — *Agreed to.*

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

SCHEDULE

THE FEDERAL REPUBLIC OF NIGERIA AND THE DEMOCRATIC REPUBLIC OF
SAO TOME AND PRINCIPE ON THE JOINT DEVELOPMENT OF PETROLEUM AND OTHER RESOURCES
IN RESPECT OF AREAS OF THE EXCLUSIVE ECONOMIC ZONE OF THE TWO STATES

TAKING INTO ACCOUNT the United Nations Convention on the Law of the Sea done at Montecarlo Bay on 10th December, 1982 and in particular, Article 74 (3) which requires States with opposite coasts, in a spirit of understanding and cooperation, to make every effort, pending agreement on delimitation, to enter into provisional arrangements of a practical nature which do not jeopardise or hamper the reaching of final agreement on the delimitation of their Exclusive Economic Zones;

FULLY COMMITTED to maintaining, renewing and further strengthening the mutual respect, friendship and co-operation between their two countries, as well as promoting constructive neighbourly co-operation;

ACKNOWLEDGING THE EXISTENCE of an area of overlapping maritime claims as to the exclusive economic zones lying between their respective territories ("the Areas");

DETERMINED to pursue their common economic and strategic interests;

NOTTING the possibility that petroleum and other resources may exist in the Area;

DESIRING to enable the exploration for and exploitations of those resources without delay and in an orderly fashion;

MINDFUL of the interests which their countries share as immediate neighbours, and in a spirit of co-operation, friendship and goodwill;

CONVINCED that this Treaty will contribute to the strengthening of the relations between their two countries; and

BELIEVING that the establishment of joint arrangements to permit the exploration for and exploitation of petroleum and other resources in the Area will further augment the range of contact and co-operation between the Governments of the two countries and benefit the development of contacts between their peoples;

HAVING DECIDED ACCORDINGLY TO CONSTITUTE by the present Treaty a joint development zone for the Area, without prejudice to the eventual delimitation their respective maritime zones by agreement in accordance with international law;

REAFFIRMING that the rules of international law will continue to govern questions not regulated by the provisions of this Treaty; (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that this Schedule be the Schedule to the Treaty, put and agreed to.

HAVE AGREED as follows:

PRELIMINARY

ARTICLE 1—DEFINITIONS

For the purpose of this Treaty :

- (1) "Applicable law" means this Treaty, and the principles and rules of law applicable in the Zone by virtue of this Treaty ;
- (2) "Authority" means the Joint authority established by part Three of this Treaty ;
- (3) "Board" means the Board of the Authority, as referred to in Article 10;
- (4) "Contract Area" means a part of the Zone which is the subject of a development contract, but excluding areas which have been relinquished by the contractor;
- (5) "Contractor" means a party to a development contract other than the Authority;
- (6) "Council" means the Joint Ministerial council established under Part Two of this Treaty;
- (7) "Development Activity" means any economic activity in or concerning the Zone, including petroleum activity, fishing activity, all other activities for the development or exploitation of other mineral or living resources of the Zone, and all forms of exploration and research relating to any of the foregoing;
- (8) "Development Contract" means any agreement (including leases, licences, production sharing contracts and concessions) from time to time entered into between the Authority and a contractor in relation to a development activity;
- (9) "Exclusive Maritime Area" means any area of continental shelf or exclusive economic zone, outside the Zone, which pertains to one or other of the States parties under international law;
- (10) "Financial Terms" includes all obligations in the nature of taxation (whether production or income based) and any other financial obligations including royalties, payments in kind, production sharing arrangements and resource rentals;
- (11) "Fishing Activity" means any activity concerning the harvesting and exploitation of the living natural resources of the Zone;
- (12) "Installation" means any structure, device or artificial island utilised in development activities, installed above, in, on or under the seabed including drilling vessels *in situ*;
- (13) "National" means a natural or juridical person having the nationality of a State party in accordance with the laws of that State party;
- (14) "National Body" means a Ministry or a governmental or quasi-governmental administrative or technical organ of a State Party responsible for activities in or in the waters of that State Party;
- (15) "Operating agreement" means a contract concluded between two or more contractors for the purpose of carrying out development activities in the zone;
- (16) "Operator" means a contractor appointed and acting as operator under the terms of an operating agreement;
- (17) "Petroleum" means—
 - (a) any hydrocarbons or mixture of hydrocarbons, whether in a gaseous, liquid or solid state, naturally occurring beneath the seabed; and
 - (b) any petroleum as defined by subparagraph (a) that has been returned to a reservoir; and
 - (c) any other minerals which are produced in association with them;
- (18) "Petroleum activities" means all activities of exploration for and exploitation of the petroleum in the zone;

- (19) "Petroleum Contractor" means a contractor in respect of a petroleum development contract;
- (20) "Petroleum Development Contract" means a development contract relating to petroleum;
- (21) "Pollution" means the introduction of substances or energy into the marine environment, including estuaries, which results or is likely to result deleterious effects such as harm to living, resources and marine life, hazards to human health impairment of quality for use of sea water or reduction of amenity;
- (22) "Secretariat" means the secretariat of the Authority as referred to in Article 14;
- (23) "Special Regime Area" means the area more particularly defined in paragraph 1 of the Appendix;
- (24) "States Parties" means the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe;
- (25) "Zone" means, subject to Article 5 and paragraph 5 of Article 31, the area of seabed and subsoil, together with the superjacent waters, established as a joint development zone under Article 2;
- (26) "Zone Plan" means the development plan or plans from time to time adopted by the Council; pursuant to Part Seven of this Treaty, for activities in the Zone (*Hon. Cairo Ojougboh*) — Agreed to.

Question that the definitions in the Treaty be as defined, put and agreed to.

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

PART ONE—THE JOINT DEVELOPMENT ZONE

ARTICLE 2—ESTABLISHMENT OF JOINT DEVELOPMENT ZONE

- (1) The Zone is hereby established as an area of joint development by the States parties in accordance with, and for the purposes set out in, this Treaty.
- (2) The area covered by the Zone shall be as follows—
 - (a) the area of the sea which is bounded by geodesic lines joining the following points using the WGS 84 Datum in the order listed below; and
 - (b) the seabed, subsoil and the superjacent waters thereof.

Degrees	Minutes	Seconds		Degrees	Minutes	Seconds	
03	02	02	N	07	07	31	E
02	50	50	N	07	25	52	E
02	42	42	N	07	36	25	E
02	20	20	N	06	52	45	E
01	40	40	N	05	57	54	E
01	09	09	N	04	51	39	E
01	09	09	N	04	41	27	E
01	13	13	N	E	24	14	E
01	21	21	N	04	06	55	E
01	31	31	N	04	06	55	E
01	42	42	N	03	50	23	E
01	55	55	N	03	34	33	E
01	58	58	N	03	53	40	E
02	02	02	N	04	15	11	E
02	05	05	N	04	24	56	E
02	10	10	N	04	47	58	E
02	15	15	N	05	06	03	E
02	19	19	N	05	17	11	E
02	22	22	N	05	26	57	E
02	26	26	N	05	36	20	E
02	30	30	N	05	45	22	E
02	33	33	N	05	52	58	E
02	36	36	N	05	59	00	E

02	45	45	N	06	15	57	E
02	50	50	N	06	26	41	E
02	51	51	N	06	29	27	E
02	52	52	N	06	31	46	E
02	54	54	N	06	38	07	E
03	00	00	N	06	56	58	E
03	01	01	N	07	01	07	E
03	01	01	N	07	01	46	E
03	01	01	N	07	03	07	E
03	02	02	N	07	07	31	E

The area covered by the Zone is depicted for illustrative purposes on the attached map. The Authority may for its purposes more accurately depict the boundaries of the Zone on a chart or charts of appropriate scale (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

ARTICLE 3—PRINCIPLES OF JOINT DEVELOPMENT

- (1) Within the Zone, there shall be joint control by the States Parties of the exploration for an exploitation of resources, aimed at achieving optimum commercial utilization. The State Parties shall share, in the proportions: Nigeria 60 per cent, Sao Tome and Principe 40 per cent, all benefits and obligations arising from development activities carried out in the Zone in accordance with this Treaty.
- (2) No development activities shall be conducted or permitted in the Zone except in accordance with this Treaty.
- (3) The rights and responsibilities of the States Parties to develop the Zone shall be exercised by the Council and the Authority in accordance with this Treaty.
- (4) The petroleum and other resources of the Zone shall be exploited efficiently in accordance with this Treaty having due regard to the protection of the marine environment, and in a manner consistent with generally accepted good oilfield and fisheries practice.
- (5) Subject to paragraph 4, the Council and the Authority shall take all necessary steps to enable the commencement of exploration for and exploitation of the petroleum resources of the Zone as soon as possible after the entry into force of this Treaty (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

ARTICLE 4—NO RENUNCIATION OF CLAIMS TO THE ZONE

- (1) Nothing contained in this Treaty shall be interpreted as a renunciation of any right or claim relating to the whole or any part of the Zone by either State Party or as recognition of the other State Party's position with regard to any right or claim to the Zone or any part thereof.
- (2) No act or activities taking place as a consequence of this Treaty or its operation, and no law operating in the Zone by virtue of this Treaty, may be relied on as a basis for asserting, supporting or denying the position of either State party with regard to rights or claims over the Zone or any part thereof (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

ARTICLE 5—SPECIAL REGIME

- (1) The provisions of this Treaty (except this Article 1, 2, 4, 50, 51, paragraphs 2 and 3 of Article 52 and the Appendix) shall not apply to the Special Regime Area, and references therein to the Zone shall be read and construed accordingly.
- (2) The special Regime Area shall for the duration of this Treaty be administered in accordance with the provisions of the Appendix (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

PART TWO—THE JOINT MINISTERIAL COUNCIL

ARTICLE 6—COMPOSITION OF THE COUNCIL

- (1) A Joint Ministerial Council for the Zone's hereby established.
- (2) The Council shall comprise not less than two nor more than four Ministers or Persons of equivalent rank appointed by the respective Heads of State of each State Party.
- (3) The Council does not have separate legal Personality.
- (4) Any member of the Council may by written notice to the Secretariat nominate a representative to participate on his or her behalf at one or more meetings of the council. Subject to the specific terms of the nomination, every such representative shall be entitled, in the absence of the designating member, to exercise any power or function fo that member of the Council, including counting towards a quorum.
- (5) The Executive Director acting as Secretary of the Authority shall also act as Secretary of the Council (*Hon. Cairo Ojoughboh*) — *Agreed to*.

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

ARTICLE 7—MEETINGS AND DECISIONS OF THE COUNCIL

- (1) The quorum for a valid meeting of the Council shall be at least half the members, including at least one appointed by each of the States Parties.
- (2) The Council shall meet at least twice a year and as often as may be required, alternately in Nigeria and in Sao Tome and Principe. The first meeting shall be held not later than 60 days after the entry into force of this Treaty.
- (3) Meetings shall be chaired by a member nominated by the host State Party.
- (4) All decisions of the Council shall be adopted by consensus.
- (5) The Council may establish its own procedures, including procedures for taking decisions out of session.
- (6) No decision of the Council shall be valid unless it is recorded in writing and signed by at least one member from each State Party (*Hon. Cairo Ojoughboh*) — *Agreed to*.

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

ARTICLE 8—FUNCTIONS AND POWERS OF THE COUNCIL

- (1) The Council shall have overall responsibility for all matters relating to the exploration for and exploitation of the resources in the Zone, and such other functions as the States Parties may entrust to it.
- (2) The functions of the Council shall include the following—
 - (a) to give directions to the Authority on the discharge of its functions under this Treaty;
 - (b) to approve rules, regulations (including staff regulations) and procedures for the effective functioning of the Authority;
 - (c) to consider and approve the audited accounts and audit reports of the Authority;
 - (d) to consider and approve the Annual Report of the Authority;
 - (e) to review the operation of this Treaty and to make recommendations to the States Parties on any matter concerning the functioning or amendment of this Treaty as may be appropriate;
 - (f) to approve development contracts which the Authority may propose to enter into with any contractor;

- (g) to approve the termination of development contracts entered into between the Authority and contracts;
 - (h) subject to the provisions of paragraph 2 of Article 18, to approve the distribution to the States Parties of revenues or products derived from development contracts in the Zone;
 - (i) to consider and approve the annual budget of the Authority;
 - (j) to approve the opening of bank accounts by the Authority;
 - (k) to vary any time limit imposed upon the Authority under the terms of this Treaty;
 - (l) through consultation, to settle disputes in the Authority;
 - (m) to appoint the external auditors for the Authority and approve their remuneration.
- (3) Each of the State Parties shall have full access on request to all papers of the Council and the Authority.
- (4) The Council, its members and its Secretary shall be entitled to use the services of the Secretariat of the Authority as necessary for the discharge of the functions under this Treaty (*Hon. Cairo Ojougboh*) — *Agreed to*.

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

PART THREE—THE JOINT AUTHORITY

ARTICLE 9—ESTABLISHMENT, FUNCTIONS AND POWERS

- (1) The Authority is hereby established.
- (2) The Authority shall have juridical personality in international law and under the law of each of the States Parties and such legal capacities under the law of both States parties as are necessary for the exercise of its powers and the performance of its functions. In particular, the Authority shall have the capacity to contract, to acquire and dispose of movable and immovable property and to institute and be party to legal proceedings.
- (3) The Authority shall be responsible to the Council.
- (4) Unless and until the Council otherwise decides, the seat of the Authority shall be at Abuja, Nigeria, with a subsidiary office in Sao Tome, Sao Tome e Principe.
- (5) The Authority shall commence functioning on, entry into force of this Treaty.
- (6) The Authority, subject to directions from the Council, shall be responsible for the management of activities relating to exploration for and exploitation of the resources in the Zone, in accordance with this Treaty. In particular, the Authority shall have the following functions—
 - (a) the division of the Zone into contract areas, and the negotiation, tendering for and issue and supervision of contracts with respect to such areas;
 - (b) entering into development contracts with contractors, subject to the approval of the Council;
 - (c) oversight and control of the activities of contractors;
 - (d) recommending to the Council the termination of development contracts;
 - (e) terminating development contracts, subject to the approval of the Council;
 - (f) subject to paragraph 2 of Article 18, collecting and, with the approval of the Council, distributing between the two States Parties the proceeds or products of the Authority's share of production from development contracts;
 - (g) preparation of budgets of the Authority for submission to the Council. Expenditure shall be incurred in accordance with budgets or estimates approved by the Council or otherwise in accordance with regulations and procedures approved by the Council;

- (h) controlling the movements into, within and out of the Zone or vessels, aircraft, structures, equipment and people ;
 - (i) the establishment of safety zones and restricted zones, consistent with international law to ensure the safety of navigation, petroleum activities, fishing activities and other development activities and the effective management of the zone;
 - (j) issuing regulations and giving directions on all matters related to the supervision and control of operations, including on health, safety and environmental issues;
 - (k) the regulation of marine scientific research;
 - (l) preparation of Annual Reports, for submission to the Council;
 - (m) inspecting and auditing contractors' books and accounts relating to development contracts, for any calendar year;
 - (n) making recommendations to the States Parties on any issues arising as to the applicable law, and on any changes to that law which may be necessary to promote the development of the resources of the zone;
 - (o) the preservation of the marine environment, having regard to the relevant rules of international law applicable to the zone;
 - (p) the collection and exchange of scientific, technical and other data concerning the Zone and its resources;
 - (q) the appointment and dismissal of technical and other staff of the authority other than Executive Directors;
 - (r) requesting action by the appropriate authorities of the States Parties consistent with this Treaty, in respect of the following matters:
 - (i) search and rescue operations in the Zone;
 - (ii) deterrence or suppression of terrorist or other threats to vessels and structures engaged in development activities in the Zone; and
 - (iii) the prevention or remedying of pollution;
 - (s) consideration of matters from time to time specifically referred to it by the Council or by either State Party; and
 - (t) such other functions as may be conferred to it by the Council.
- (7) The working language of the Authority shall be English (*Hon. Cairo Ojoughoh*) — *Agreed to.*

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

ARTICLE 10—THE BOARD

- (1) Subject to this Treaty and to any direction of the Council, the Authority shall be governed by a Board consisting of four Executive Directors. Two (and their replacements from time to time) shall be appointed by the Head of State of Nigeria from among Nigerian nationals of suitable qualifications and experience, and two (and their replacements from time to time) shall be appointed by the Head of State of Sao Tome and Principe from among nationals of Sao Tome and Principe, of suitable qualifications and experience. All such appointments shall be effected by notice in writing served upon the Head of the other State Party. Executive Directors shall hold office for such period as the appointing Head of State shall determine, normally for a period of six years once renewable or until a replacement is appointed.
- (2) Executive Directors may from time to time be assigned by the Council, on a three year basis, to head various departments of the Authority, including to act as Secretary of the Authority and Head of the Secretariat.

- (3) The Board shall meet on the request of the Council, either State party or any Executive Director, or otherwise, as often as necessary for the discharge of its functions.
- (4) The quorum for a valid meeting of the Board shall be at least two Executive Directors, including at least one appointed by each State Party.
- (5) Decisions of the Executive Directors of the Authority shall be arrived at by consensus. Where consensus cannot be reached, the matter shall be referred to the Council.
- (6) Unless the Board otherwise decides, it shall meet at the seat of the Authority.
- (7) No decision of the Board shall be valid unless recorded in writing and signed by two Executive Directors, including at least one appointed by each State Party.
- (8) The personnel of the Authority shall be appointed by the Board under terms and conditions, approved by the Council, that have regard to the proper functioning of the Authority.
- (9) Unless the Council otherwise decides, it shall appoint one of the Executive directors to act as Chairman of the Authority and of the Board, such appointments to be for a one year period.
- (10) Subject to this Treaty and to any direction of the Council, the Board may determine its own procedures (*Hon. Cairo Ojougbah*) — Agreed to.

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

ARTICLE 11—ACCOUNTABILITY

- (1) The Authority shall in all respects be responsible and accountable to the Council and shall comply with all directions from time to time given to it by the Council.
- (2) The Secretariat and all other administrative agencies or organs and technical or other committees of the Authority shall in all respects be responsible and accountable to the Board.
- (3) The Authority shall produce an Annual Report on its activities and on the progress made in the Zone, in accordance with any directions of the Council, and shall submit it to the Council for approval.
- (4) The Executive Directors, officers and other personnel of the Authority who are nationals of one or other State Party shall be subject to taxation in respect of any remuneration for services performed under this Treaty only by the State Party of their nationality, irrespective of where the services in question are performed.
- (5) A person who is national of both States Parties shall be required to elect which of the two nationalities is to be treated as effective for the purposes of the Treaty.

ARTICLE 12—PRIVILEGES AND IMMUNITIES

- (1) The Authority shall be immune from all forms of taxation in respect of its activities under this Treaty. This is without prejudice to the application of non-discriminatory fees or charges for services in respect of activities of the Authority on the territory of a State Party, to the extent that a national authority of that State Party would be subject to corresponding fees or charges in respect of equivalent activities.
- (2) The Authority shall be immune from the jurisdiction of any court or tribunal of a State Party except as concerns:
 - (a) commercial transactions entered into on the territory of the State Party in question, to the extent that such transactions are not subject to dispute resolution under Article 47;
 - (b) non-discretionary decisions which would be reviewable if they were made in equivalent circumstances by a national authority on the territory of the State Party in question.
- (3) The Executive Directors, officers and other personnel of the Authority who are nationals of one or other State Party shall be subject to taxation in respect of any remuneration for services performed under this Treaty only by the State Party of their nationality, irrespective of where the services in question are performed.

- (4) A person who is national of both States Parties shall be required to elect which of the two nationalities is to be treated as effective for the purposes of the Treaty (*Hon. Cairo Ojoughoh*) — *Agreed to.*

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

ARTICLE 13—SUPPLY OF SERVICES

- (1) Subject to this Treaty and in accordance with the principles set out in Article 3, for the accomplishment of its functions, the Authority may use technical structures and other services already existing in the States Parties. Different services may be requested from different entities.
- (2) The entities to which such delegation is made shall be accountable to the Authority.
- (3) The immunities of the Authority under paragraphs 1 and 2 of Article 12 shall apply to the activities of any entity exercising delegated functions under the present Article.
- (4) A delegation under paragraph 1 of this Article remains in force in accordance with its terms until it is revoked by the Board.
- (5) Any entity to which functions are delegated under paragraph 1 shall accept the secondment to its staff, at appropriate levels of seniority, of nominees of any State Party not already involved in the entity, for the purposes of training and exchange of information and expertise, and shall involve those persons to the fullest extent in the exercise of the delegated functions.
- (6) The number and placement of the persons referred to in paragraph 5 are subject to agreement between the States Parties, having regard to the extent of the functions to be performed and the needs for personnel development and training of the State Party not already involved in the entity.
- (7) Costs and other expenses, including personnel costs and expenses, incurred in the exercise of delegated functions, are reimbursable, subject to the terms and conditions agreed upon with the Authority.
- (8) The staff of or retained by the Authority (including the Secretariat) shall be selected on a basis which ensures that the maximum percentage of such staff who are nationals or residents of Sao Tome and Principe does not exceed 40 per cent (*Hon. Cairo Ojoughoh*) — *Agreed to.*

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

PART FOUR—ADMINISTRATIVE SERVICES

ARTICLE 14—SECRETARIAT AND OTHER SERVICES

- (1) The Authority shall establish a Secretariat headed by one of the Executive Directors as Secretary on a three year rotating basis, to carry out the administrative work of the Council and the Authority.
- (2) All appointments to the Secretariat shall be made, by the Board, within the limits and subject to any procedures laid down by the Council.
- (3) The officers and staff of the Secretariat shall be recruited on such terms as the Authority approves. Senior appointments shall be subject to approval by the Council. Such officers and staff may but need not be selected from amongst the officials or employees, or former officials or employees, of the Government of either State Party (*Hon. Cairo Ojoughoh*) — *Agreed to.*

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

PART FIVE—DUTIES OF PERSONNEL

ARTICLE 15—IMPARTIALITY AND CONFLICTS OF INTEREST

- (1) Members of the board, officers and other staff of the Authority in their capacities as such shall have regard to the interests of the Authority alone, and shall act with impartiality and without favouring either of the States Parties at the expense of the other. This principle shall apply equally to a national body or other entity and its personnel in respect of the exercise by it of delegated functions under Article 13.

- (2) Unless otherwise expressly approved by the Council, no Executive Director, officer or other staff member of the Authority may have any direct or indirect financial interest in development activities in the Zone.
- (3) Executive Directors, officers and other staff members of the Authority shall, before assuming their functions, make a written declaration under oath, in a form approved by the Council, declaring any direct or indirect interest which might reasonably be considered to amount to a financial interest as referred to in paragraph 2. (Hon. Cairo Ojoughoh) — Agreed to.

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

ARTICLE 16—CONFIDENTIALITY

- (1) Members of the Board, officers and other staff of the Authority, as well as each State Party, shall treat the contents of all confidential papers and information produced or received for the purposes of or pursuant to this Treaty as confidential, and shall not further disclose or publish any such document or information without the authority of both State Parties or as the case may be of the other State Party.
- (2) No Executive Director or officer or other staff member of the Authority shall disclose, during or after the termination of their functions, any industrial secret or proprietary data which comes to the knowledge or into the possession of the Authority, or any other confidential information coming to his or her knowledge by reason of his or her holding a position in the Authority.
- (3) This Article does not derogate from any other obligation upon a person, or any remedy available to the Authority or to a State Party, in respect of any actual or potential breach of confidentiality. (Hon. Cairo Ojoughoh) — Agreed to.

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

PART SIX—FINANCE

ARTICLE 17—BUDGETS, ACCOUNTS AND AUDIT

- (1) The Authority shall be financed from revenues collected as a result of its activities. The State Parties shall advance such funds as they jointly determine to be necessary to enable the Authority to commence its operations.
- (2) All funds, paid or payable to the Authority shall be held by the Authority in such accounts as it shall establish, in accordance with sub-paragraph 2 (i) of Article 8.
- (3) The Authority shall prepare and maintain full, proper and up-to-date accounts, balance sheets, budgets and cash flow projections, in accordance with good international accountancy practice and with any directions of the Council.
- (4) All costs and expenses from time to time incurred by the Council, the Authority and their respective members and other personnel shall be paid by the Authority.
- (5) All such costs and expenses shall be subject to a budgetary and accounting system to be established by the Authority and approved by the Council within five months of the entry into force of this Treaty.
- (6) All budgets, costs and expenses, and in addition all other receipts and payments by the Authority, and all accounts of the Authority, shall be audited annually by external auditors approved by the Council.
- (7) Any shortfall in the approved budget for any accounting period shall be borne by the States Parties in the proportions Nigeria 60 per cent. Sao Tome and Principe 40 per cent. Unless the Council otherwise decides, budgetary contributions under this paragraph shall constitute interest-free loans to the Authority, repayable as first charges on the surplus of the Authority in any subsequent accounting period.
- (8) The Authority shall comply with the budgetary procedures in force and shall make efficient use of its available resources. (Hon. Cairo Ojoughoh) — Agreed to.

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

ARTICLE 18—APPLICATION OF SURPLUSES

- (1) The Authority may with the approval of the Council establish such reserve funds as it considers prudent.
- (2) All surpluses of revenue over expenditure shall, after the establishment of such reserve funds, be promptly paid, without deduction or withholding to the national treasuries of the States Parties in the proportions Nigeria 60 per cent, Sao Tome and Principe 40 per cent, as shall any sum held in a reserve which is no longer required (*Hon. Cairo Ojougboh*) — *Agreed to*.

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

PART SEVEN—THE ZONE PLAN

ARTICLE 19—PREPARATION AND APPROVAL OF THE ZONE PLAN

- (1) As soon as practicable following the entry into force of this Treaty the Authority shall meet in order to prepare an initial Zone Plan in accordance with the principles set out in Article 3, so as to establish ways in which the resources of the Zone may be developed in an efficient, economical and expeditious manner.
- (2) For the purposes of paragraph 1, the States Parties have provided each other with all material information available to them in respect of economic activity, actual or prospective, within the Zone.
- (3) The Zone Plan is subject to the approval of the Council, which may approve it with or without amendment or refer it back to the Authority with recommendations for further work or instructions for change.
- (4) The Zone Plan approved by the Council shall be published in an appropriate manner by the Authority and the State Parties.
- (5) Matters which are not included in the Zone Plan shall be governed by this Treaty, or in the absence of any provision in this Treaty by decisions of the Council or supplemental agreement between the States Parties (*Hon. Cairo Ojougboh*) — *Agreed to*.

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

ARTICLE 20—PERIODIC REVIEW OF THE ZONE PLAN

- (1) Unless otherwise directed by the Council, the Authority shall revise the Zone Plan at least every three years and submit any proposed revisions to the Council for adoption.
- (2) Pending adoption of any revised Zone Plan the previously approved Zone Plan shall remain in force.
- (3) Paragraphs 3 to 5 of Article 19 apply to any proposed or approved revision of the Zone Plan (*Hon. Cairo Ojougboh*) — *Agreed to*.

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

PART EIGHT—REGIME FOR PETROLEUM IN THE ZONE

ARTICLE 21—REGULATORY AND TAX REGIME FOR PETROLEUM ACTIVITIES

- (1) As soon as practicable following the entry into force of any event within a three month period, the Authority shall prepare for the approval of the Council a regulatory and tax regime consistent with this Treaty, which shall be the applicable law relating to the exploration for and exploitation of petroleum in the Zone.
- (2) Within six months of the entry into force of this treaty, the draft regulatory and tax regime shall be adopted by the Council with such modifications as the Council considers appropriate. By virtue of such adoption the regime shall (subject to Article 5) become legally applicable to petroleum activity throughout the Zone, and shall be enforced accordingly by the Authority.
- (3) Upon its adoption, the regulatory and tax regime shall be promptly published by the Authority.

- (4) The Council may at any time adopt such modifications as it thinks fit to the regulatory and tax regime so established, and any such modification shall immediately become legally applicable in the Zone and enforced by the Authority.
- (5) The Authority shall promptly publish every such modification to the regulatory and tax regime (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

ARTICLE 22—CUSTOMS AND DUTY EXEMPTIONS

- (1) Petroleum equipment shall not be subject to any customs duties or other taxes and duties in respect of its import into, use in or export from the Zone unless and to the extent the Council otherwise decides. Nothing in this Article shall affect a State Party rights in respect of export or import, following the completion of its use in the Zone or petroleum equipment having the territory of that State Party as its country of, respectively, origin or destination.
- (2) For the purposes of this Article "petroleum equipment" includes installations, plant and equipment (including drilling rigs) and any materials and other goods necessary for the conduct of petroleum activities in the Zone.
- (3) The shipment of petroleum extracted from the Zone to areas within the jurisdiction of the States Parties shall be free of all taxes and duties other than those provided for in the financial terms of the relevant development contract (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

ARTICLE 23—GENERAL REGIME FOR PETROLEUM DEVELOPMENT CONTRACTS

- (1) No petroleum activities may be undertaken in the Zone other than pursuant to a petroleum development contract between the Authority and one or more contractors.
- (2) Unless the Council otherwise decides, and in accordance with procedures laid down by the Council for tendering, the principle of holding licensing rounds must be followed prior to the signature of any petroleum development contract (*Hon. Cairo Ojoughoh*) — *Agreed to*.

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

ARTICLE 24—FINANCIAL REGIME FOR PETROLEUM DEVELOPMENT CONTRACTS

- (1) The financial (including fiscal) obligations of contractors to the Authority in respect of petroleum activities in the Zone shall be exclusively determined by the financial terms of petroleum development contracts a proved under this Article.
- (2) In addition to the financial terms imposed by the regulatory and tax regime established pursuant to Article 21, the Authority may impose such other terms, not inconsistent with the foregoing, as it may formulate, having regard to the requirement to balance the following needs:
 - (a) to obtain optimum revenues for the Authority and through the Authority the State Parties from commercial exploitation of the resources;
 - (b) to encourage commercial exploitation and provide incentives for investment;
 - (c) to ensure clarity and certainty of operation;
 - (d) to ensure as far as possible that contractors' tax payments under the financial terms qualify for double taxation relief, including in third States;
 - (e) to ensure optimum utilisation of any fields wholly or partly within the Zone over the life of those fields.
- (3) The States Parties shall take all appropriate measures within their national legal systems to ensure that the financial terms are enforced.

- (4) Neither State Party shall tax development activities in the Zone or the proceeds deriving therefrom except in accordance with this article. This does not affect the States Parties' rights to tax any profits arising from the processing or further treatment of petroleum beyond the initial treatment necessary to effect its sale as a raw material (*Hon. Cairo Ojoughoh*) — Agreed to.

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

ARTICLE 25—RIGHTS AND DUTIES OF CONTRACTORS

- (1) A contractor shall have exclusive rights to carry out the activities authorised under its respective petroleum development contract for the duration of the latter, subject to compliance with its terms and the applicable law.
- (2) A contractor may dispose of any petroleum to which it is entitled under the relevant development contract, subject only to any non-discriminatory restrictions the Authority may impose on landing, identity of the purchaser and verification of the volumes concerned (*Hon. Cairo Ojoughoh*) — Agreed to.

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

ARTICLE 26—EFFECT OF CANCELLATION OR SUSPENSION OF PETROLEUM DEVELOPMENT CONTRACTS ON CO-CONTRACTORS

- (1) If following a contractor's default the Authority cancels a petroleum development contract held jointly by more than one contractor, the Authority shall offer a new contract for that area to any contractor(s) not in default, as far as possible on similar terms to those of the previous contract.
- (2) The offer may be subject to:
- (a) a requirement that the offeree(s) remedy any consequences of the default;
 - (b) the acceptance by the offeree(s) of a suitable replacement contractor identified by or acceptable to the Authority.
- (3) This Article is without prejudice to any obligations to which the other contractor(s) may be liable under the original petroleum development contract (*Hon. Cairo Ojoughoh*) — Agreed to.

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

ARTICLE 27—ASSIGNMENT OF CONTRACTORS' RIGHTS

A contractor's rights and obligations under a petroleum development contract shall not be transferred without the consent of the Authority. The Authority shall not unreasonably withhold its consent where the proposed transferee is financially and technically qualified and otherwise meets any requirements maintained by the Authority (*Hon. Cairo Ojoughoh*) — Agreed to.

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

ARTICLE 28—OPERATIONS BY PETROLEUM CONTRACTORS IN THE TERRITORY OF THE STATES PARTIES OUTSIDE THE ZONE

Within the territory of either State Party petroleum contractors may acquire, construct, maintain, use and dispose of buildings, platforms, tanks, pipelines, terminals and other facilities necessary for petroleum activities in the Zone in accordance with the laws and regulations of the State Party concerned (*Hon. Cairo Ojoughoh*) — Agreed to.

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

ARTICLE 29—ACCESS TO OPERATIONS

- (1) In accordance with the principles of joint development set out in Article 3, each State Party is entitled to:
- (a) the benefit of non-discriminatory consideration of its nationals' applications for petroleum development contracts;

- (b) monitor, and be kept regularly informed as to the progress of, petroleum development activities in the Zone;
 - (c) obtain access to geological data, subject to obligations of confidentiality under Article 16 or otherwise;
 - (d) independently meter, monitor or inspect any petroleum activities (including the right of access to installations in order to carry out such metering, monitoring or inspection).
- (2) The Authority and/or the States Parties shall adopt procedures in respect of metering production designed to ensure agreement on the quantities of petroleum uplifted (*Hon. Cairo Ojougbah*) — *Agreed to.*

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

ARTICLE 30—INSPECTION RIGHTS

- (1) The Authority, acting either itself or through a national body or third party, shall have responsibility for the inspection of petroleum activities, related installations and pipelines, and for the supervision of operations carried out on such and pipelines installations situated in the Zone.
- (2) The Authority shall decide upon the certification procedures to be followed by the inspectors carrying out the activities referred to in paragraph 1.
- (3) Where, in the opinion of a State Party, it appears to it, following an inspection, that applicable laws are not being observed in the Zone, that State Party may by written notice request the Authority to remedy the situation.
- (4) If the Authority fails or refuses to take action at such request by one of the States Parties, that State Party may refer the matter to the Council.
- (5) Unless otherwise directed, the inspectors referred to in paragraph 1 may order the immediate cessation of any or all petroleum operations in the Zone if such a course appears necessary or expedient:
 - (a) for the purpose of avoiding an accident involving loss of life or danger to life;
 - (b) for the purpose of avoiding actual or threatened damage;
 - (c) to protect the coastline or other maritime interests of either State Party, including fishing interests, against actual or potential pollution;
 - (d) due to force majeure distress or an emergency which may give rise to reasonable fears of major harmful consequences; or
 - (e) to minimise the consequences of such a casualty or other accident.
- (6) The content of and justification for any such order must be reported immediately to the Board.
- (7) The Board shall thereafter meet promptly to consider the actions necessary for the safe and speedy resumption of operations (*Hon. Cairo Ojougbah*) — *Agreed to.*

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

ARTICLE 31—PETROLEUM UNITISATION

- (1) If any single geological petroleum structure or petroleum field exists, verified by drilling to extend across the dividing line between the Zone and an exclusive maritime area of one of the State Parties, and part of such structure or field which is situated on one side of the dividing line is exploitable, wholly or in part, from the other side of the said dividing line, either of the State Parties may give notice thereof to the other, whereupon the States Parties shall endeavour to reach agreement upon a fair and reasonable basis for the unitisation of such structure or field, having regard to the principles set out in Article 3 and their respective proportion of the petroleum located on each side of the dividing line. If such agreement not reached within nine months following the giving of such notice, a fair and reasonable apportionment shall be made, having regard as aforesaid, of the

petroleum to be taken from the structure or field. Such apportionment shall be with retrospective effect back to the start of production provided that the State Party which has given notice did so with reasonable promptitude after the verification by drilling.

- (2) If any single geological petroleum structure or petroleum field exists, verified by drilling to extend across the dividing line between any contract areas within the Zone, and the part of such structure or field which is situated on one side of the dividing line is exploitable, wholly or in part, from the other side of the said dividing line, the Council shall seek to reach agreement as to the manner in which the structure or field can most effectively be exploited and the manner in which the fiscal returns should be apportioned, having regard to the principles set out in Article 3 and to the respective proportion of the resource located on each side of the dividing line.
- (3) If any single geological petroleum structure or petroleum field exists, verified by drilling to extend across the dividing line between the Zone and an exclusive maritime area of a third State, and the part of such structure or field which is situated on one side of the dividing line is exploitable, wholly or in part, from the other side of the said dividing line, then the Authority shall consider whether to seek to reach agreement with the third State as to the manner in which the structure or field can most effectively be exploited and the manner in which the fiscal returns shall be apportioned, having regard to the respective proportions of the resource located on each side of the dividing line and, so far as concerns the rights of the States Parties, to the principles set out in Article 3. No such agreement with a third State shall be reached without the approval of the Council.
- (4) The Authority shall take any necessary steps, in consultation with any contractors, to give effect to any agreement reached under paragraphs 1, 2 and 3.
- (5) For the purposes of this Article 31, the Special Regime Area shall be treated as if it were outside the Zone and exclusive within the exclusive maritime area of Nigeria (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provisions in Article 31 stand part of the Treaty, put and agreed to.

PART NINE—OTHER RESOURCES OF THE ZONE

ARTICLE 32—PROVISION IN THE ZONE PLAN FOR NON-PETROLEUM RESOURCES

The Zone Plan may make provision for non-petroleum development activities within the Zone, to such extent as the Authority considers appropriate or the Council may direct (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provision in Article 32 stand part of the Treaty, put and agreed to.

ARTICLE 33—DEVELOPMENT OF REGULATORY AND TAX REGIME

As and when required by the Zone Plan or otherwise considered appropriate by the Council, the Authority shall prepare and submit to the Council proposals for regulatory and tax regimes applicable to non-petroleum development activities within the Zone (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provision in Article 33 stand part of the Treaty, put and agreed to.

ARTICLE 34—ARRANGEMENT IN THE ABSENCE OF A REGULATORY AND TAX REGIME FOR NON-PETROLEUM DEVELOPMENT ACTIVITIES

- (1) In the absence of any special regime proposed under Article 33 and approved by the Council, the States Parties shall apply the provisions of their own laws relating to the exclusive economic zone to the activity of their own nationals in the Zone, but shall retain from applying these laws to the conduct of persons who are nationals of the other State Party.
- (2) Each State Party may accept, in accordance with its own laws, applications by non-nationals to engage in non-petroleum development activity in the Zone, but shall forthwith inform the other State Party of each such application. In the absence of a reasonable, objection from that State Party within one month, the State Party applied to may consider the application on its merits and decide upon it.
- (3) If the State Party applied to consider that, notwithstanding an objection under paragraph 2, the application ought nonetheless to be approved, it shall refer the application to the Council for a decision.

- (4) In dealing with applications under this Article, States Parties and the Council shall take into account:
- (a) the principles set out in Article 3;
 - (b) their respective obligations under the United Nations Convention on the Law of the Sea and under any Convention in force related thereto;
 - (c) in the case of living marine resources, any determination by the Council of the allowable catch within the Zone for the period in question.
- (5) A person to whom permission to engage in a non-petroleum development activity in the Zone is given under this Article may carry out that activity, subject to the laws of the authorising State Party and to its exclusive administration (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provisions in Article 34 stand part of the Treaty, put and agreed to.

ARTICLE 35—INFORMATION AND MONITORING

- (1) Each State Party shall, through the Authority, periodically inform the other of the outcome of applications made, whether by nationals or non-nationals, in respect of non-petroleum development activity in the Zone.
- (2) The Authority may request further information as to the consequences of development activities carried out pursuant to this Part. The States Parties shall comply with all reasonable requests in this regard (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provisions in Article 35 stand part of the Treaty, put and agreed to.

PART TEN—MISCELLANEOUS

ARTICLE 36—EMPLOYMENT AND TRAINING

- (1) The Authority may issue guidelines in respect of the employment and training policies to be followed by contractors in the Zone for the purposes of:
 - (a) enhancing the employment opportunities of nationals of the States Parties consistent with the safe and efficient conduct of petroleum and other development activities;
 - (b) assisting to the extent practicable the equitable division of employment and training benefits between the States Parties.
- (2) The terms of development contractors shall comply with such guidelines.
- (3) The States Parties shall cooperate in the administration of their immigration and employment laws so as to facilitate the issue of visas and work permits for the purposes of development contracts in relation to the Zone (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provisions in Article 36 stand part of the Treaty, put and agreed to.

ARTICLE 37—HEALTH AND SAFETY

- (1) The Authority shall take all reasonable steps to secure the health and safety of personnel engaged in development activities and the safety of the installations and pipelines in the Zone, and shall promptly propose to the Council, for adoption as part of the applicable law, laws, regulations and guidelines for health and safety in relation to off-shore development activity.
- (2) The States Parties shall, on the recommendation of the Authority, adopt administrative procedures for the exchange of information concerning the matters referred to in paragraph 1 (*Hon. Cairo Ojougboh*) — *Agreed to.*

Question that the provisions in Article 37 stand part of the Treaty, put and agreed to.

ARTICLE 38—PREVENTION OF POLLUTION AND PROTECTION OF THE MARINE ENVIRONMENT

- (1) The Authority shall take all reasonable steps to ensure that development activities in the Zone do not cause or create any appreciable risk of causing pollution or other harm to the marine environment.
- (2) In accordance with paragraph 1, the States Parties on the recommendation of the Authority shall agree necessary measures and procedures to prevent and remedy pollution of the marine environment resulting from development activities in the Zone.
- (3) In order to facilitate the effective monitoring of the environmental impact of petroleum activities in the Zone both States Parties shall regularly provide the Authority with such relevant information as they obtain from contractors or inspectors concerning levels of petroleum discharge and contamination. In particular the States Parties shall immediately inform the Authority of the occurrence of the following events:
 - (a) any petroleum spillage or event likely to cause pollution and requiring remedial measures beyond the capacity of the operator;
 - (b) discharge into the sea of large quantities of petroleum from an installation or pipeline;
 - (c) collisions at sea involving damage to an installation or pipeline;
 - (d) evacuation of personnel from an installation due to force majeure, distress or other emergency.

The notification shall include any measures taken or proposed with respect to such events.

- (4) Nothing in this Treaty shall prejudice the taking or enforcement by each State Party or by the States Parties jointly of measures, in the Zone proportionate to the actual or threatened damage to protect their coastline or exclusive, maritime areas from pollution or threat of pollution which may reasonably be expected to result in major harmful consequences (*Hon. Cairo Ojoughoh*) — Agreed to.

Question that the provisions in Article 38 stand part of the Treaty, put and agreed to.

ARTICLE 39—APPLICABLE PRIVATE LAW

In accordance with Article 3, the Authority shall propose to the Council for immediate adoption as part of the applicable law, to the extent that the private law of the Zone is not determined by or pursuant to other parts of this Treaty, the private law of one of the states parties (*Hon. Cairo Ojoughoh*) — Agreed to.

Question that the provision in Article 39 stand part of the Treaty, put and agreed to.

ARTICLE 40—CRIMINAL LAW AND JURISDICTION

- (1) Subject to paragraph 3 of this Article a national or permanent resident of a State Party shall be subject to the criminal law of that State Party in respect of acts or omissions occurring in the Zone provided that a permanent resident of a State Party who is a national of the other State Party shall be subject to the criminal law of the latter State Party. A national of both States Parties shall be subject to the criminal law of both.
- (2) A national of a third State, not being a permanent resident of either State Party, shall be subject to the criminal law of both States Parties in respect of acts or omissions occurring in the Zone. Such a person shall not be subject to criminal proceedings under the law of one State Party if he or she has already been tried and discharged or acquitted by a competent tribunal or already undergone punishment for the same act or omission under the law of the other State Party.
- (3) The States Parties shall provide assistance to and co-operate with each other including through agreements or arrangements as appropriate, for the purposes of enforcement of criminal law under this Article, including the obtaining of evidence and information.
- (4) Each State Party recognises the interest of the other where a victim of an alleged offence is a national of that other State Party, and shall keep other State Party informed to the extent permitted by its law of action being taken with regard to the alleged offence.

- (5) A State Party may make arrangements permitting officials of the other State Party to assist in the enforcement of the criminal law of the first State Party. Where such assistance involves the detention by the other State Party of a person who under the foregoing provisions of this Article is subject to the jurisdiction of the first State Party, that detention may continue only until it is practicable to hand the person over to the relevant officials of the first State Party.
- (6) This Article is without prejudice to any other basis for the exercise of the criminal jurisdiction of either of the States Parties (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that the provisions in Article 40 stand part of the Treaty, put and agreed to.

ARTICLE 41—COMPLIANCE AND ENFORCEMENT

- (1) Development activities in the Zone shall be carried on in accordance with the relevant applicable law.
- (2) The States Parties shall take all appropriate measures within their national legal systems to enforce the applicable law.
- (3) The States Parties shall render all necessary and reasonable assistance and support in ensuring that contractors comply with the applicable law (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that the provisions in Article 41 stand part of the Treaty, put and agreed to.

ARTICLE 42—CIVIL AND ADMINISTRATIVE JURISDICTION

- (1) Unless otherwise provided in this Treaty, each of the States Parties may exercise civil or administrative jurisdiction in relation to development activities in the Zone, or persons present in the Zone for the purposes of those activities, to the same extent as they may do so in relation to activities and persons in their own exclusive economic zone.
- (2) In the exercise of jurisdiction under paragraph 1, the States Parties shall give effect to applicable law.
- (3) This Article is within prejudice to any other basis for the exercise of civil or administrative jurisdiction by either of the States Parties (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that the provisions in Article 42 stand part of the Treaty, put and agreed to.

ARTICLE 43—SECURITY AND POLICING IN THE ZONE

- (1) The States Parties shall to the extent from time to time appropriate having regard to the purpose of this Treaty and their respective defence and police needs, jointly conduct defence or police activities throughout the Zone (in the form of police activities for the purpose of enforcing the applicable law), except to the extent that the Council may from time to time otherwise direct. The costs of such activities shall be borne by the States Parties in the proportions set out in paragraph 1 of Article 3.
- (2) If and to the extent that either State Party shall fail to comply with its obligations set out in paragraph 1 or otherwise refuse to participate in proposed joint defence or police activities then without prejudice to any other rights the other State Party may have, nothing in this Treaty shall prevent that other State Party from separately carrying on such activities to such extent as it considers necessary or appropriate.
- (3) The States Parties shall consult with each other as required with a view to ensuring the effective and orderly enforcement of this Treaty and the security of the Zone for the purposes of development activities, ongoing or proposed.
- (4) This Article is without prejudice to any other basis for the conduct of defence or police activities which either State Party may have under international law (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that the provisions in Article 43 stand part of the Treaty, put and agreed to.

ARTICLE 44—REVIEW OF APPLICABLE LAW AND ENFORCEMENT ARRANGEMENTS

The Authority may at any time recommend to the Council any changes in the applicable law or in the arrangements for its enforcement, to the extent that these may be necessary (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that the provision in Article 44 stand part of the Treaty, put and agreed to.

ARTICLE 45—RIGHTS OF THIRD STATES

- (1) In the exercise of their rights and powers under this Treaty, the States Parties shall take into account the rights and freedoms of other States in respect of the Zone as provided under generally accepted principles of international law.
- (2) If any third party claims rights inconsistent with those of the States Parties under this Treaty then the States Parties shall consult through appropriate channels with a view to co-ordinating a response (*Hon. Cairo Ojoughboh*) — Agreed to.

Question that the provisions in Article 45 stand part of the Treaty, put and agreed to.

ARTICLE 46—POSITION OF THIRD PERSON IN RELATION TO THE ZONE

- (1) The States Parties shall co-operate with a view to resolving in an equitable manner as between themselves any issues arising in respect of prior dealings by either State Party with any third person in respect of any part of the Zone that have been disclosed to the other State Party in the course of negotiating the present Treaty.
- (2) However, in respect of any matter not disclosed by a State Party to the other State Party in the course of the negotiation of the present Treaty, it shall be a matter for the non-disclosing State Party alone, without any right to the co-operation or assistance of the other State Party, to resolve any issues arising in respect of prior dealings by it with any third person respect of any part of the Zone (*Hon. Cairo Ojoughboh*) — Agreed to.

Question that the provisions in Article 46 stand part of the Treaty, put and agreed to.

PART ELEVEN—RESOLUTION OF DEADLOCKS AND SETTLEMENT OF DISPUTES

ARTICLE 47—SETTLEMENT OF DISPUTES BETWEEN THE AUTHORITY AND PRIVATE INTERESTS

- (1) Disputes between the Authority and a contractor or between joint contractors and/or operators concerning the interpretation of application of a development contract or operating agreements shall unless otherwise agreed between the parties thereto be subject to binding commercial arbitration pursuant to the terms of the relevant development contract or operating agreement.
- (2) Unless otherwise agreed, the arbitration, shall be held in Lagos pursuant to the UNCITRAL Arbitration Rules and administered by the AACCL Centre for International Commercial Dispute Settlement, Lagos.
- (3) The Authority shall be immune from suit in any court in respect of the merits of any dispute referable to arbitration in accordance with paragraph 1 (*Hon. Cairo Ojoughboh*) — Agreed to.

Question that the provisions in Article 47 stand part of the Treaty, put and agreed to.

ARTICLE 48—RESOLUTION OF DISPUTES ARISING IN THE WORK OF THE AUTHORITY OR THE COUNCIL

- (1) Any dispute that arises with respect to the functioning of this Treaty shall be sought to be resolved by the Board having regard to the objects and purposes of this Treaty, the principles set out in Article 3 and the spirit of amicable fraternal relations between the two States Parties.
- (2) If a dispute cannot be resolved by the Board and its continuance affects or threatens to affect the actual or threatens to affect the actual or future implementation of this Treaty, it shall be referred to the Council.
- (3) The Council shall make every effort to resolve the dispute in a spirit of compromise, and without prejudice to any underlying position of either State Party.
- (4) If the dispute has not been resolved by the Council within 12 months of being referred to the Council under paragraph 2, or such other period as the Heads of State may decide, the Council or either State Party may refer it to the Heads of State for their decision (*Hon. Cairo Ojoughboh*) — Agreed to.

Question that the provisions in Article 48 stand part of the Treaty, put and agreed to.

ARTICLE 49—SETTLEMENT OF UNRESOLVED DISPUTES BETWEEN THE STATES PARTIES

- (1) The provisions of Article 52 shall apply—
 - (a) if the Heads of State agrees in writing that a dispute referred to them under paragraph 48 concerns a matter of policy or administration and the dispute has not been resolved by the Heads of State within 12 months of its referral to them, or such additional time as they agree; or
 - (b) if arbitral proceedings under paragraph 2 below leave a substantial dispute between the parties unresolved by reason, either expressly or implicitly, of the fact that such dispute concerns a matter of policy or administration.
- (2) In any case not covered by sub-paragraph 1 (a), if the dispute has not been resolved by the Heads of State within six months of the reference under paragraph 4 of Article 48, and unless the States Parties have otherwise agreed, either State Party may give notice to the other State Party (the “referral”) to refer the dispute an arbitral tribunal (“the Tribunal”) for resolution.
- (3) The tribunal shall be constituted in the following manner:
 - (a) Each State Party shall, within 60 days of the referral, appoint one arbitrator and the two arbitrators so appointed shall within 60 days of the appointment of the second arbitrator appoint a national of a third State as third arbitrator who shall act as President of the Tribunal;
 - (b) If a State Party fails to appoint an arbitrator within 60 days of the referral, or the two arbitrators fail to appoint a third arbitrator within 60 days of the appointment of the second, either State Party may request the President of the International Court of Justice to fill the vacancy by appointing a national of a third State;
 - (c) If the President of the International Court of Justice is a national of/or habitually resident in the territory of a State Party or is otherwise unable to act, the appointment shall be made by the next most senior judge of the Court who is not a national of either State Party and who is available to act;
 - (d) The Tribunal shall apply the UNCITRAL Rules, and on any point not covered by those Rules shall determine its own procedure, unless the States Parties have otherwise agreed;
 - (e) The Tribunal pending its final award may on the request of a State Party issue an order or orders indicating the interim measures which must be taken to preserve the respective rights of either State Party or prevent the aggravation or extension of the dispute;
 - (f) Unless the States Parties otherwise agree, the Tribunal shall sit at the Hague and the administering authority for the arbitration shall be the Secretariat of the Permanent Court of arbitration.
- (4) Decisions of the Tribunal shall be final and binding on the States Parties.
- (5) The States Parties shall carry out in good faith all decisions of the Tribunal including any orders for interim measures. Any question as to the implementation of a decision may be referred to the Tribunal, or if the same tribunal is no longer in existence and cannot be reconstituted, to a new tribunal constituted in accordance with paragraph 3 (*Hon. Cairo Ojoughoh*) — *Agreed to*.

Question that the provisions in Article 49 stand part of the Treaty, put and agreed to.

PART TWELVE—ENTRY INTO FORCE AND OTHER MATTERS

ARTICLE 50—ENTRY INTO FORCE

- (1) This Treaty shall enter into force on the exchange of instruments of ratification by both States Parties.
- (2) Within three months of the exchange of ratifications, each State Party shall procure the enactment by its own constitutional processes of any legislation or regulations necessary to implement this Treaty in its legal system. The text of any such legislation or regulations shall be promptly forwarded to the other State Party.

- (3) Upon entry into force, this Treaty shall be registered with the Secretary-General for the United Nations (*Hon. Cairo Ojoughoh*) — *Agreed to.*

Question that the provisions in Article 50 stand part of the Treaty, put and agreed to.

ARTICLE 51—DURATION AND TERMINATION

- (1) This Treaty shall, be reviewed by the States Parties in year thirty (3), and unless otherwise agree or terminated pursuant to Article 52, shall remain in force for forty-five (45) years from the date of entry into force.
- (2) If the two States Parties agree, this Treaty shall be continued in force after the initial forty-five (45) year term.
- (3) Unless otherwise agreed, the expiry or other termination of this Treaty shall not affect development contracts with an expiry date after such expiry or other termination and the provisions of this Treaty shall remain in force for the sole purpose of administering such contracts and maintaining the joint development regime to the extent necessary. On the expiry or earlier termination of the last remaining such contract the outstanding provisions of this Treaty shall terminate forthwith.
- (4) Accordingly, unless the States Parties otherwise agree, the Council and the Authority shall, following expiry or other termination of this Treaty, continue to exercise such residual functions as may be necessary in respect of the continuing administration of existing development contracts, and shall continue in being for that purpose.
- (5) Unless the States Parties otherwise agree, such expiry or other termination shall not affect the financial rights and obligations of the States Parties accrued under or pursuant to this Treaty prior to expiry or termination (*Hon. Cairo Ojoughoh*) — *Agreed to.*

Question that the provisions in Article 51 stand part of the Treaty, put and agreed to.

ARTICLE 52—SPECIAL PROVISION FOR TERMINATION IN CERTAIN CASES

- (1) This Article applies:
- (a) in any case of a dispute which falls under paragraph 1 of Article 49;
- (b) in any case in which a State Party remains for more than 180 days in material breach of an award by a tribunal constituted pursuant to Article 49.
- (2) In the case referred to in sub-paragraph 1 (a) of this Article 52, either State Party may give six months notice of termination of this Treaty, and in the case referred to in sub-paragraph 1 (b) the aggrieved State Party may do so (*Hon. Cairo Ojoughoh*) — *Agreed to.*

Question that the provisions in Article 52 stand part of the Treaty, put and agreed to.

ARTICLE 53—LANGUAGE OF TREATY

This Treaty is executed in the English and Portuguese languages, both versions having equal authority.

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

DONE at Abuja the 21st day of February, 2001.

(Signed)

HON. DUBEM ONYIA
Minister of State for Foreign Affairs
for the Government of the
Federal Republic of Nigeria

(Signed)

HON. JOAQUIM RAFAEL BRANCO
Minister for Foreign Affairs and
Co-operation for the Government
of the Democratic Republic of
Sao Tome and Principe
(*Hon. Cairo Ojoughoh*) — *Agreed to.*

Question that the provisions in Article 53 stand part of the Treaty, put and agreed to.

Appendix

SPECIAL REGIME AREA

- (1) The Special Regime Area is as follows:
 - (a) the approximately triangular area of the sea which is bounded by lines joining the following points using the WGS 84 Datum in the order listed:

A: 3°00'28" N, 6°57'16" E

B: 2°56'23" N, 6°57'17" E

C: 2°56'22" N, 6°43'27" E

the lines from A to B and B to C being lines of constant bearing and the line from A to C following the North-West edge of the Zone; and
 - (b) the seabed, subsoil and the superjacent waters thereof.
- (2) Notwithstanding any other provision of this Agreement, Nigeria shall throughout the duration of this Agreement have the exclusive right to administer the Special Regime Area and exercise jurisdiction over it, including the right to exploit and develop its resources for its own benefit.
- (3) Nigeria will safeguard the interest of Sao Tome and Principe by undertaking some development projects which will be governed by a separate Memorandum of Understanding that will form an integral part of this Treaty. The provisions of this Memorandum of Understanding are without prejudice to any other arrangements in the future that will enhance the joint co-operation between the two countries (Hon. *Cairo Ojoughoh*) — Agreed to.

Question that the provisions in the Appendix stand part of the Treaty, put and agreed to.

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole consider the Report of the Committees on Petroleum Resources and Cooperation and Integration in Africa on the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Treaty Between the Federal Republic of Nigeria and the Democratic Republic of Sao Tome and Principe on the Joint Development of Petroleum and other Resources in Areas of the Exclusive Economic Zones of the Two States and for Purposes Connected Therewith, 2003 and approved the Preamble to the Enactment, Clauses 1, 2, Articles 1 - 53 and the Appendix to the Treaty.

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

8. Committee on Justice and Science and Technology (Joint Referral):

Motion made and Question proposed: "That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Convention on the Prohibition of Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction and for Purposes Connected Therewith, 2004 be now read the Second Time" (Hon. *G. E. Nnaji*)

Question put and agreed to.

Question that the House do resolve into the Committee of Whole to consider the Treaty — agreed to.

Question that Order VII, Rule 2 (2) of the House Rules be suspended to enable Mr. Speaker chair the Committee of Whole for the consideration of the Treaty — agreed to.

(HOUSE IN COMMITTEE)

(Mr Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC
OF NIGERIA TO THE CONVENTION ON THE PROHIBITION OF DEVELOPMENT, PRODUCTION,
STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION
AND FOR PURPOSES CONNECTED THEREWITH

WHEREAS the Convention on the Prohibition of the Development, Production Stockpiling and use of Chemical Weapons, and on their Destruction has been duly adopted by the Members States at the General Assembly of the United Nations and Nigeria is desirous of adhering to the said Convention; (*Hon. Alex Nwofe*) — *Agreed to.*

AND WHEREAS the Government of the Federal Republic of Nigeria has by a decision duly reached in accordance with her Constitutional process ratified the said Convention on the Prohibition of Chemical Weapons and on their Destruction on 1st March, 1999; (*Hon. Alex Nwofe*) — *Agreed to.*

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons, and on their Destruction in the Federal Republic of Nigeria; (*Hon. Alex Nwofe*) — *Agreed to.*

Question that the Preamble be the Preamble to the Bill, put and agreed to.

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

Clause 1: Enforcement of the provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction. Crime:

The provisions of the Convention on the Prohibition of the Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction which are set out in the Schedule to this Act, shall, subject as thereunder provided, have force of law in Nigeria and shall be given full recognition and effect and be applied by all authorities exercising legislative, executive or judicial powers in Nigeria (*Hon. Alex Nwofe*) — *Agreed to.*

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

Clause 2: Short Title:

This Act may be cited as the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (Ratification and Enforcement) Act, 2004 (*Hon. Alex Nwofe*) — *Agreed to.*

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

SCHEDULE

ORGANISATION FOR THE PROHIBITION ON CHEMICAL WEAPONS (OPCW)

CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL
WEAPONS AND ON THEIR DESTRUCTION

VERSION INCORPORATING

- (1) The correction of errors (Arabic, Chinese, English, French, Russian and Spanish texts), in accordance with Depository Notification C.N. 246 1994, TREATIES-5 issued on 31st August, 1994; and
- (2) The change made under Article XV of the Convention (new paragraph 5 of Section B of Part VI of the Verification Annex), in accordance with:
 - (a) the change to Section B of Part VI of the Verification Annex, effective 31st October, 1999, pursuant to Depository Notification C.N. 916, 1999, TREATIES-7 issued on 8th October, 1999 together with;

- (b) the correction to the change to Section B of Part VI of the Verification Annex, effective 9th March, 2000, pursuant to Depositary Notification C.N. 157, 2000, TREATIES-1 issued on 13th March, 2000.

PREAMBLE

The States Parties to this Convention:

DETERMINED to act with a view to achieving effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction, to contribute to the realization of the purposes and principles of the Charter of the United Nations;

RECALLING that the General Assembly of the United Nations has repeatedly condemned all actions contrary to the principles and objectives of the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare, signed at Geneva on 17th June, 1925 (the Geneva Protocol of 1925);

RECOGNIZING that this Convention reaffirms principles and objectives of and obligations, assumed under the Geneva Protocol of 1925 and the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction signed at London, Moscow and Washington on 10th April, 1972;

BEARING in mind the objective contained in Article IX of the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction;

DETERMINED for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the implementation of the provisions of this Convention, thereby complementing the obligations assumed under the Geneva Protocol of 1925;

RECOGNISING the prohibition, embodied in the pertinent agreements and relevant principles of international law, of the use of herbicides as a method of warfare;

DESIRING to promote free trade in chemicals as well as international cooperation and exchange of scientific and technical information in the field of chemical activities for purposes not prohibited under this Convention in order to enhance the economic and technological development of all States Parties;

CONVINCED that the complete and effective prohibition of the development, production, acquisition, stockpiling, retention, transfer and use of chemical weapons, and their destruction, represent a necessary step towards the achievement of these common objectives; (*Hon. Alex Nwofe*) — *Agreed to.*

Question that the Schedule be the Schedule to the Treaty, put and agreed to.

HAVE AGREED as follows:

ARTICLE I—GENERAL OBLIGATIONS

- (1) Each State Party to this Convention undertakes never under any circumstances:
 - (a) to develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone;
 - (b) to use chemical weapons;
 - (c) to engage in any military preparations to use chemical weapons;
 - (d) to assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention.
- (2) Each State Party undertakes to destroy chemical weapons it owns or possesses, or that are located, in any place under its jurisdiction or control, in accordance with the provisions of this Convention.
- (3) Each State Party undertakes to destroy all chemical weapons it abandoned on the territory of another State Party, in accordance with the provisions of this Convention.

- (4) Each State Party undertakes to destroy any chemical weapons production facilities it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with the provisions of this Convention.
- (5) Each State Party undertakes not to use riot control agents as a method of warfare (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE II—DEFINITIONS AND CRITERIA

For the purposes of this Convention:

- (1) "Chemical Weapons" means the following, together or separately:
 - (a) toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;
 - (b) munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (a), which would be released as a result of the employment of such ammunition and devices;
 - (c) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b).
- (2) "Toxic Chemical," means:

Any chemical which through its chemical action on life processes can cause death temporary incapacitation or permanent harm to humans or animals. This includes all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere.

(For the purpose of implementing this Convention, toxic chemicals which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals).
- (3) "Precursor" means:

Any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical. This includes any key component of a binary or multi-component chemical system.

(For the purpose of implementing this Convention, Precursors which have been identified for the application of verification measures are listed in Schedules contained in the Annex on Chemicals.)
- (4) "Key Component of Binary or Multi-component Chemical Systems" (hereinafter referred to as "key component") means:

The precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multi-component system.
- (5) "Old Chemical Weapons" means:
 - (a) chemical weapons which were produced before 1925; or
 - (b) chemical weapons produced in the period between 1925 and 1946 that have deteriorated to such extent that they can no longer be used as chemical weapons.
- (6) "Abandoned Chemical Weapons" means:

Chemical weapons, including old chemical weapons, abandoned by a State after 1 January, 1925 on the territory of another State without the consent of the latter.
- (7) "Riot Control Agent" means:

Any chemical not listed in a Schedule, which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure.

(8) "Chemical Weapons Production Facility"

- (a) means any equipment, as well as any building housing such equipment, that was designed, constructed or used at any time since 1st January, 1946:
- (i) as part of the stage in the production of chemicals ("final technological stage") where the material flows would contain, when the equipment is in operation:
- (1) any chemical listed in Schedule I in the Annex on Chemicals; or
- (2) any other chemical that has no use, above 1 tonne per year on the territory of a State Party or in any other place under the jurisdiction or control of a State Party, for purposes not prohibited under this Convention; but can be used for chemical weapons purposes; or
- (3) for filling chemical weapons, including, *inter alia*, the filling of chemicals listed in Schedule 1 into munitions, devices or bulk storage containers; the filling of chemicals into containers that form part of assembled binary munitions and devices or into chemical sub-munition that form part of assembled unitary munitions and devices, and that loading of the containers and chemical sub-munitions into the respective munitions and devices;
- (b) does not mean:
- (i) any facility having a production capacity for synthesis of chemicals specified in subparagraph (a) (i) that is less than 1 tonne;
- (ii) any facility in which a chemical specified in subparagraph (a) is or was produced as an unavoidable by-product if activities for purposes not prohibited under this Convention, provided that the chemical does not exceed 3 per cent of the total product and that the facility is subject to declaration and inspection under the Annex on Implementation and Verification (hereinafter referred to as "Verification Annex"); or
- (iii) the single small-scale facility for production of chemicals listed in Schedule 1 for purposes not prohibited under this Convention as referred to in Part VI of the Verification Annex.

(9) "Purposes not Prohibited under this Convention" means:

- (a) industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes;
- (b) protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons;
- (c) military purposes not connected with the use of chemical weapons and not dependent on the use of the toxic properties of chemicals as a method of warfare;
- (d) law enforcement including domestic riot control purposes.

(10) "Production Capacity" means:

The annual quantitative potential for manufacturing a specific chemical based on the technological process actually used or, if the process is not yet operational, planned to be used at the relevant facility. It shall be deemed to be equal to the name plate capacity is not available, to the design capacity. The name plate capacity is the product output under conditions optimized for maximum quantity for the production facility, as demonstrated by one or more test-runs. The design capacity is the corresponding theoretically calculated product output.

(11) "Organisation" means the Organisation for the Prohibition of Chemical Weapons established pursuant to Article VIII of this Convention.

(12) For the purposes of Article VI:

- (a) "production" of a chemical means its formation through chemical reaction;
- (b) "processing" of a chemical means a physical process, such as formula extraction and purification, in which a chemical is not converted into any chemical;
- (c) "consumption" of a chemical means its conversion into another chemical or chemical reaction (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE III—DECLARATION

(1) Each State Party shall submit to the Organisation, not later than 30 days after this Convention enters into force for it, the following declarations in which it shall:

- (a) with respect to chemical weapons:
 - (i) declare whether it owns or possesses any chemical weapons, or whether there are any chemical weapons located in any place under its jurisdiction or control;
 - (ii) specify the precise location, aggregate quantity and detailed inventory of chemical weapons it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (a), paragraphs 1 to 3, of the Verification Annex, except for those chemical weapons referred to in subparagraph (iii);
 - (iii) report any chemical weapons on its territory that are owned and possessed by another State and located in any place under the jurisdiction or control of another State, in accordance with Part IV (a), paragraph 4, of the Verification Annex;
 - (iv) declare whether it has transferred or received, directly or indirectly, any chemical weapons since 1st January, 1946 and specify the transfer or receipt of such weapons, in accordance with Part IV (a), paragraph 5, of the Verification Annex;
 - (v) provide its general plan for destruction of chemical weapons that it owns or possesses, or that are located in any place under its jurisdiction or control, in accordance with Part IV (a), paragraph 6, of the Verification Annex;
- (b) with respect to old chemical weapons and abandoned chemical weapons
 - (i) declare whether it has on its territory old chemical weapons and provide all available information in accordance with Part IV (b), paragraph 3 of the Verification Annex;
 - (ii) declare whether there are abandoned chemical weapons on its territory and provide all available information in accordance with Part IV (b), paragraph 8 of the Verification Annex;
 - (iii) declare whether it has abandoned chemical weapons on the territory of other States and provide all available information in accordance with Part IV (b), paragraphs 10 of the Verification Annex;
- (c) with respect to chemical weapons production facilities:
 - (i) declare whether it has or has had any chemical weapons production facility under its ownership or possession, or that is or has been located in any place under its jurisdiction or control at any time since 1st January, 1946 ;
 - (ii) specify any chemical weapons production facility it has or has had under its ownership or possession or that is or has been located in place under its jurisdiction or control at any time since 1st January, 1946 in accordance with Part V, paragraph 1 of the Verification Annex, except for those facilities referred to in subparagraph (iii);

- (iii) report any chemical weapons production facility on its territory or another State has or has had under its ownership and possession that is or has been located in any place under the jurisdiction or control of another State at any time since 1st January, 1946, in accordance with Part V, paragraph 2 of the Verification Annex;
 - (iv) declare whether it has transferred or received, directly or indirectly any equipment for the production of chemical weapons since 1st January, 1946 and specify the transfer or receipt of such equipment in accordance with Part V, paragraphs 3 to 5 of the Verification Annex
 - (v) provide its general plan for destruction of any chemical weapons production facility it owns or possesses, or that is located in any part under its jurisdiction or control, in accordance with Part V, paragraph 6 of the Verification Annex;
 - (vi) specify actions to be taken for closure of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control in accordance with Part V, paragraph (i), of the Verification Annex;
 - (vii) provide its general plan for any temporary conversion of any chemical weapons production facility it owns or possesses, or that is located in any place under its jurisdiction or control, into a chemical weapons destruction facility, in accordance with Part V, paragraph 7 of the Verification Annex;
- (d) with respect to other facilities:
- Specify the precise location, nature and general scope of activities of a facility or establishment under its ownership or possession, or located in any place under its jurisdiction or control, and that has been designed, constructed or used since 1st January, 1946 primarily for development of chemical weapons. Such declaration shall include, *inter alia*, laboratories and test evaluation sites:
- (e) with respect to riot control agents:
- Specify the chemical name, structural formula and Chemical Abstracts Service (CAS) registry number, if assigned, of each chemical it holds for riot control purposes. This declaration shall be updated not later than 30 days after any change becomes effective.

- (2) The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1st January, 1977 and which remain buried, or which had been dumped at sea before 1st January, 1985
(Hon. Alex Nwofe) — Agreed to.

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

ARTICLE IV—CHEMICAL WEAPONS

- (1) The revisions of this Article and the detailed procedures for its implementation apply to all chemical weapons owned or possessed by a State Party, or that are located in any place under its jurisdiction or control, except old chemical weapons, abandoned chemical weapons to which Part IV (b) of the Verification Annex appendix.
- (2) Detailed procedures for the implementation of this Article are set forth in Verification Annex.
- (3) All locations at which chemical weapons specified in paragraph 1 are stored, destroyed shall be subject to systematic verification through on-site inspection monitoring with on-site instruments, in accordance with Part IV (a) of verification Annex.
- (4) Each State Party shall, immediately after the declaration under Article paragraph 1 (a), has been submitted, provide access to chemical weapons specific paragraph 1 for the purpose of systematic verification of the declaration through on-site inspection, thereafter, each State Party shall, not remove any of the chemical weapons, except to a chemical weapons destruction facility. It shall process to such chemical weapons, for the purpose of systematic on-site verification.

- (5) Each State Party shall provide access to any chemical weapons destruction facility and their storage areas, that it owns or possesses, or that are located in any place under its jurisdiction or control, for the purpose of systematic verification through on inspection and monitoring with on-site instruments.
- (6) Each State Party shall destroy all chemical weapons specified in paragraph 1 pursuant to the Verification Annex and in accordance with the agreed rate and sequence of destruction (hereinafter referred to as "order of destruction"). Such destruction shall begin not later than two years after this Convention enters into force for it and shall not finish not later than 10 years after entry into force of this Convention. A State Party not precluded from destroying such chemical weapons at a faster rate.
- (7) Each State Party shall:
 - (a) submit detailed plans for the destruction of chemical weapons specified in paragraph 1 not later than 60 days before each annual destruction period begins, in accordance with Part IV (a), paragraph 29, of the Verification Annex; the detailed plans shall encompass all stocks to be destroyed during next annual destruction period
 - (b) submit declarations annually regarding the implementation of its plans of destruction of chemical weapons specified in paragraph 1, not later than 60 days after the end of each annual destruction period; and
 - (c) certify, not later than 30 days after the destruction process has been completed, that all chemical weapons specified in paragraph 1 have been destroyed.
- (8) If a State ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 6, it shall destroy chemical weapons specified in paragraph 1 as soon as possible. The order of destruction and procedures for stringent verification for such a State Party shall be determined by the Executive Council.
- (9) Any chemical weapons discovered by a State Party after the initial declaration of chemical weapons shall be reported, secured and destroyed in accordance with Part IV (a) of the Verification Annex.
- (10) Each State Party; during transportation, sampling, storage and destruction of chemical weapons, shall assign the highest priority to ensuring the safety of people and to protecting the environment. Each State Party shall transport, sample, store and destroy chemical weapons in accordance with its national standards for safety and emissions.
- (11) Any State Party which has on its territory chemical weapons that are owned or possessed by another State, or that are located in any place under the jurisdiction or control of another State, shall make the fullest efforts to ensure that these chemical weapons are removed from its territory not later than one year after this Convention enters into force for it. If they are not removed within one year, the State Party may request the Organisation and other States Parties to provide assistance in the destruction of these chemical weapons.
- (12) Each State Party undertakes to cooperate with other States Parties that request information or assistance on a bilateral basis or through the Technical Secretariat regarding methods and technologies for the safe and efficient destruction of chemical weapons.
- (13) In carrying out verification activities pursuant to this Article and Part IV (a) of the Verification Annex, the Organisation shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons storage and their destruction among States Parties.

To this end, the Executive Council shall decide to limit verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

- (a) verification provisions of such an agreement are consistent with the verification provisions of this article and Part IV (a) of the Verification Annex;
- (b) the agreement provides for sufficient assurance of compliance with the Convention; and
- (c) parties to the bilateral or multilateral agreement keep the Organisation fully informed about their verification activities.

- (14) If the Executive Council takes a decision pursuant to paragraph 13, the Organisation shall have the right to monitor the implementation of the bilateral or multilateral agreement.
- (15) Nothing in paragraphs 13 and 14 shall affect the obligation of a State Party to provide declarations pursuant to Article III, this article and Part IV (a) of the Verification Annex.
- (16) Each State Party shall meet the costs of destruction of chemical weapons it is obliged to destroy. It shall also meet the costs of verification of storage and destruction of these chemical weapons unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organisation pursuant to paragraph 13, the costs of complementary verification and monitoring by the Organisation shall be paid in accordance with the United Nations scale of assessment as specified in Article VIII, paragraph 7.
- (17) The provisions of this Article and the relevant provisions of Part IV of the Verification Annex shall not, at the discretion of a State Party, apply to chemical weapons buried on its territory before 1st January, 1977 and which remain buried, or which had been dumped at sea before 1st January, 1985 (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE V—CHEMICAL WEAPONS PRODUCTION FACILITIES

- (1) The provisions of this Article and the detailed procedures for its implementation shall apply to any and all chemical weapons production facilities owned or possessed by a State Party, or that are located in any place under its jurisdiction or control.
- (2) Detailed procedures for the implementation of this Article are set forth in the Verification Annex.
- (3) All chemical weapons production facilities specified in paragraph 1 shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with Part V of the Verification Annex.
- (4) Each State Party shall cease immediately all activity at chemical weapons production facilities specified in paragraph 1, except activity required for closure.
- (5) No State Party shall conduct any new chemical weapons production facilities or modify any existing facilities for the purpose of chemical weapons production or for any other activity prohibited under this Convention.
- (6) Each State Party shall, immediately after the declaration under Article III, paragraph 1 (c) has been submitted, provide access to chemical weapons production facilities specified in paragraph 1, for the purpose of systematic verification of the declaration through on-site inspection.
- (7) Each State Party shall, immediately after the declaration under Article III, paragraph 1 (c) has been submitted, provide access to chemical weapons production facilities specified in paragraph 1, for the purpose of systematic verification of the declaration through on-site inspection.
- (8) Each State Party shall:
 - (a) close, not later than 90 days after this Convention enters into force for it, all chemical weapons production facilities specified in paragraph 1, in accordance with Part V of the Verification Annex and give notice thereof; and
 - (b) provide access to chemical weapons production facilities specified in paragraph 1, subsequent to closure, for the purpose of systematic verification through on-site inspection and monitoring with on-site instruments in order to ensure that the facility remains closed and is subsequently destroyed.
- (9) Each State Party shall destroy all chemical weapons production facilities specified in paragraph 1 and related facilities and equipment, pursuant to the Verification Annex and in accordance with an agreed rate and sequence of destruction (hereinafter referred to as "Order of destruction"). Such destruction shall begin not later than one year after this Convention enters into force for it, and shall finish not later than 10 years after entry into force of this Convention. A State Party is not precluded from destroying such facilities at a faster rate.

- (10) Each State Party shall:
- (a) submit detailed plans for destruction of chemical weapon's production facilities specified in paragraph 1 not later than 180 days before Destruction of each facility begins;
 - (b) submit declarations annually regarding the implementation of its plans for destruction of all chemical weapons production facilities specified in paragraph 1, not later than 90 days after the end of each annual destruction period; and
 - (c) certify, not later than 30 days after the destruction process has been completed, that all chemical weapons production facilities specified in paragraph 1 have been destroyed.
- (11) If a State Party ratifies or accedes to this Convention after the 10-year period for destruction set forth in paragraph 8, it shall destroy chemical weapons production facilities specified in paragraph 1 as soon as possible. The order of destruction and procedure for stringent verification for such a State Party shall be determined by the Executive Council.
- (12) Each State Party, during the destruction of chemical weapons production facilities shall assign the highest priority to ensuring the safety of people and to protecting environment. Each State Party shall destroy chemical weapons production facilities in accordance with its national standards for safety and emissions.
- (13) Chemical weapons production facilities specified in paragraph 1 may be temporarily converted for destruction of chemical weapons in accordance with Part V, paragraphs 18 to 25, of the Verification Annex. Such a converted facility must be destroyed as soon as it is no longer in use for destruction of chemical weapons but in any case, not later than 10 years after entry into force of this Convention.
- (14) A State Party may request, in exceptional cases of compelling need, permission to use a chemical weapons production facility specified in paragraph 1 for purposes not prohibited under this Convention. Upon the recommendation of the Executive Council, the Conference of the State Parties shall decide whether or not to approve, the requests and shall establish the conditions upon which approval is contingent, in accordance with Part V, Section D of the Verification Annex.
- (15) The chemical weapons production facility shall be converted in such a manner that the converted facility is not more capable of being reconverted into a chemical weapon production facility than any other facility used for industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes not involving chemicals listed in Schedule 1.
- (16) All converted facilities shall be subject to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with Part V, Section D of the Verification Annex.
- (17) In carrying out verification activities pursuant to this article and Part V of the Verification Annex, the Organisation shall consider measures to avoid unnecessary duplication of bilateral or multilateral agreements on verification of chemical weapons production facilities and their destruction among States Parties.

To this end, the Executive Council shall decide to limit the verification to measures complementary to those undertaken pursuant to such a bilateral or multilateral agreement, if it considers that:

- (a) verification provisions of such an agreement are consistent with the verification provisions of this Article and Part V of the Verification Annex;
 - (b) implementation of the agreement provides for sufficient assurance of compliance with the relevant provisions of this Convention; and
 - (c) parties to the bilateral or multilateral agreement keep the Organisation fully informed about their verification activities.
- (18) If the Executive Council takes a decision pursuant to paragraph 16, the Organisation shall have the right to monitor the implementation of the bilateral or multilateral agreement.
- (19) Nothing in paragraphs 16 and 17 shall affect the obligation of a State Party to make declarations pursuant to Article III, this article and Part V of the Verification Annex.

- (20) Each State Party shall meet the costs of destruction of chemical weapons production facilities it is obliged to destroy. It shall also meet the costs of verification under this Article unless the Executive Council decides otherwise. If the Executive Council decides to limit verification measures of the Organisation pursuant to paragraph 16, the costs of complementary verification and monitoring by the Organisation shall be paid in accordance with the United Nations scale of assessment as specified in Article VIII, paragraph 7 (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE VI—ACTIVITIES NOT PROHIBITED UNDER THIS CONVENTION

- (1) Each State Party has, the right, subject to the provisions of this Convention; to develop, produce, otherwise acquire, retain, transfer and use toxic chemicals and their precursors for purposes not prohibited under this Convention.
- (2) Each State Party shall adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used within its territory or in any other place under its jurisdiction or control for purposes not prohibited under this Convention. To this end, and in order to verify that activities are in accordance with obligations under this Convention, each State Party shall subject toxic chemicals, facilities related to such chemicals, and other facilities as specified in the Verification Annex, that are located on its territory or in any other place under its jurisdiction or control, to verification measures as provided in the Verification Annex.
- (3) Each State Party shall subject chemicals listed in Schedule 1 (hereinafter referred to as "Schedule 1 chemicals") to the prohibitions on production, acquisition, retention, transfer and use as specified in Part VI of the Verification Annex. It shall subject to Schedule 1 chemicals and facilities specified in Part VI of the Verification Annex to systematic verification through on-site inspection and monitoring with on-site instruments in accordance with that Part of the Verification Annex.
- (4) Each State Party shall subject chemicals listed in Schedule 2 (hereinafter referred to as "Schedule 2 chemicals") and facilities specified in Part VII of the Verification Annex to data monitoring and on-site verification in accordance with that Part of the Verification Annex.
- (5) Each State Party shall subject chemicals listed in Schedule 2 (hereinafter referred to as "Schedule 3 chemicals") and facilities in Part VIII of the Verification Annex to data monitoring and on-site verification in accordance with that Part of the Verification Annex.
- (6) Each State Party shall subject facilities specified in Part IX of the Verification Annex to data monitoring and eventual on-site verification in accordance with that part of the Verification Annex unless decided otherwise by the Conference of the States Parties pursuant to Part IX, paragraph 22, of the Verification Annex.
- (7) Not later than 30 days after this Convention enters into force for it, each State Party shall make an initial declaration on relevant chemicals and facilities in accordance with the Verification Annex.
- (8) Each State Party shall make annual declaration regarding the relevant chemicals and facilities in accordance with the Verification Annex.
- (9) For the purpose of on-site verification, each State Party shall grant to the inspectors access to facilities as required in the Verification Annex.
- (10) In conducting verification activities, the Technical Secretariat shall avoid undue intrusion into the State Party's chemical activities for purposes not prohibited under this Convention and, in particular abide by the provisions set forth in the Annex on the Protection of Confidential Information (hereinafter referred to as "Confidentiality Annex").
- (11) The provisions of this Article shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this Convention (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE VII—NATIONAL IMPLEMENTATION MEASURES

GENERAL UNDERTAKINGS

- (1) Each State Party shall, in accordance with its constitutional processes, adopt the necessary measures to implement its obligations under this Convention. In particular, it shall:
 - (a) prohibit natural and legal persons anywhere on its territory or in any other place under its jurisdiction as recognized by international law from undertaking any activity prohibited to a State Party under this Convention, including enacting penal legislation with respect to such activity
 - (b) not permit in any place under its control any activity prohibited to a State Party under this Convention; and
 - (c) extend its penal legislation enacted under subparagraph (a) to any activity prohibited to a State Party under this Convention undertaken anywhere by natural persons, possessing its nationality, in conformity with international law.
- (2) Each State Party shall cooperate with other States Parties and afford the appropriate form of legal assistance to facilitate the implementation of the obligations under paragraph 1.
- (3) Each State Party, during the implementation of its obligations under this Convention, shall assign the highest priority to ensuring the safety of people and to protecting the environment, and shall cooperate as appropriate with other States Parties in this regard.

RELATIONS BETWEEN THE STATE PARTY AND THE ORGANISATION

- (4) In order to fulfil its obligations under this Convention, each State Party shall designate or establish a National Authority to serve as the national focal point for effective liaison with the Organisation and other States Parties. Each State Party shall notify the Organisation of its National Authority at the time that this Convention enters into force for it.
- (5) Each State Party shall inform the Organisation of the legislative and administrative measures taken to implement this Convention.
- (6) Each State Party shall treat as confidential and afford special handling to information and data that it receives in confidence from the Organisation in connection with the implementation of this Convention.

It shall treat such information and data exclusively in connection with its rights and obligations under this Convention and in accordance with the provisions set forth in the Confidentiality Annex.

- (7) Each State Party undertakes to cooperate with the Organisation in the exercise of all its functions and in particular to provide assistance to the Technical Secretariat (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE VIII—THE ORGANISATION

A.—GENERAL PROVISIONS

- (1) The States Parties to this Convention hereby establish the Organisation for the Prohibition of Chemical Weapons to achieve the object and purpose of this Convention, to ensure the implementation of its provisions including those for international verification compliance with it, and to provide a forum for consultation and cooperation among States Parties.
- (2) All States Parties to this Convention shall be members of the Organisation. A State Party shall not be deprived of its membership in the Organisation.
- (3) The seat of this Headquarters of the Organisation shall be The Hague, Kingdom of the Netherlands.
- (4) There are hereby established as the organs of the Organisation: the Conference of the States Parties, the Executive Council and the Technical Secretariat.

- (5) The Organisation shall conduct its verification activities provided for under this Convention in the least intrusive manner possible, consistent with the timely and efficient accomplishment of their objectives. It shall request only the information and data necessary to fulfil its responsibilities under this Convention. It shall take every precaution to protect the confidentiality of information on civil and military activities and facilities coming to its knowledge in the implementation of this Convention and, in particular, shall abide by the provisions set forth in the Confidentiality Annex.
- (6) In undertaking its verification activities, the Organisation shall consider measures to make use of advances in science and technology.
- (7) The costs of the Organisation's activities shall be paid by States Parties in accordance with the United Nations scale of assessment adjusted to take into account differences in membership between the United Nation and this Organisation, and subject to the provisions of Articles IV and V. Financial contributions of States Parties to the Preparatory Commission shall be deducted in an appropriate way from their contributions to the regular budget. The budget of the Organisation shall comprise two separate chapters, one relating to administrative and, other costs, and one relating to verification costs.
- (8) A member of the Organisation which is in arrears in the payment of its financial contribution to the Organisation shall have no vote in the Organisation if the amount of its arrears equals or exceeds the amount of the contribution due from it for the preceding two full years. The Conference of the States Parties may, nevertheless, permit such a member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the member.

B.—THE CONFERENCE OF THE STATES PARTIES

COMPOSITION, PROCEDURE AND DECISION-MAKING

- (9) The Conference of the States Parties (hereinafter referred to as "the Conference") shall be composed of all members of this Organisation. Each member shall have one representative in the Conference, who may be accompanied by alternates and advisers.
- (10) The first session of the Conference shall be convened by the depositary not later than 30 days after the entry into force of this Convention.
- (11) The Conference shall meet in regular sessions which shall be held annually unless it decides otherwise.
- (12) Special sessions of the Conference shall be convened:
 - (a) when decided by the Conference;
 - (b) when requested by the Executive Council;
 - (c) when requested by any member and supported by one-third of the members;
 - (d) in accordance with paragraph 22 to undertake reviews of the operation of this Convention.

Except in the case of subparagraph (d), the special session shall be convened not later than 30 days after receipt of the request by the Director-General of the Technical Secretariat, unless specified otherwise in the request.
- (13) The Conference shall also be convened in the form of an Amendment Conference in accordance with Article XV, paragraph 2.
- (14) Sessions of the Conference shall take place at the seat of the Organisation unless the Conference decides otherwise.
- (15) The Conference shall adopt its rules of procedure. At the beginning of each regular session, it shall elect its Chairman and such other officers as may be required. They shall hold office until a new Chairman and other officers are elected at the next regular session.
- (16) A majority of the members of the Organisation shall constitute a quorum for the Conference.
- (17) Each member of the Organisation shall have one vote in the Conference.

- (18) The Conference shall take decisions on questions of procedure by a simply majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If a consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible before the end of 24 hours, the Conference shall take the decision by a two-third majority of members present and voting unless specified otherwise in this Convention. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Conference by majority required for decisions on matters of substance.

POWERS AND FUNCTIONS

- (19) The Conference shall be the principal organ of the Organisation. It shall consider all questions, matters or issues within the scope of this Convention, including those relating to the powers and functions of the Executive Council and the Technical Secretariat. It may make recommendations and take decisions on any question, matters or issues related to this Convention raised by a State Party or brought to the attention by the Executive Council.
- (20) The Conference shall oversee the implementation of this Convention, and act in order to promote its object and purpose. The Conference shall review compliance with this Convention. It shall also oversee the activities of the Executive Council and the Technical Secretariat and may issue guidelines in accordance with this Convention or either of them in the exercise of their functions.
- (21) The Conference shall:
- (a) consider and adopt at its regular sessions the report, programme and budget of the Organisation, submitted by the Executive Council, as well as consider other reports;
 - (b) decide on the scale of financial contributions to be paid by States Parties in accordance with paragraph 7;
 - (c) elect the members of the Executive Council;
 - (d) appoint the Director-General of the Technical Secretariat (hereinafter referred to as "the Director-General");
 - (e) approve the Rules of procedure of the Executive Council submitted by the latter;
 - (f) establish such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this Convention;
 - (g) foster international cooperation for peaceful purposes in the field of chemical activities;
 - (h) review scientific and technological developments that could affect the operation of this Convention and, in this context, direct the Director-General to establish a Scientific Advisory Board to enable him, in the performance of his functions, to render specialized advice in areas of science and technology relevant to this Convention, to the Conference, the Executive Council or States Parties. The Scientific Advisory Board shall be composed of independent experts appointed in accordance with terms of reference adopted by the Conference;
 - (i) consider and approve at its first session any draft agreements, provisions and guidelines developed by the Preparatory Commission;
 - (j) establish at its first session the voluntary fund for assistance in accordance with Article X;
 - (k) take the necessary measures to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention, in accordance with Article XII.
- (22) The Conference shall not later than one year after the expiry of the fifth and the tenth year after the entry into force of this Convention, and at such other times within that time period as may be decided upon, convene in special sessions to undertake reviews of the operation of this Convention. Such reviews shall take into account any relevant scientific and technological developments. At intervals

of five years thereafter, unless otherwise decided upon; further sessions of the Conference shall be convened with the same objective.

C.—THE EXECUTIVE COUNCIL

COMPOSITION, PROCEDURE AND DECISION-MAKING

- (23) The Executive Council shall consist of 41 members. Each State Party shall have the right, in accordance with the principle of rotation, to serve on the Executive Council. The members of the Executive Council shall be elected by the Conference for a term of two years. In order to ensure the effective functioning of this Convention due regard being specially paid to equitable geographical distribution, to the importance of chemical industry, as well as to political and security interest, the Executive Council shall be composed as follow:
- (a) nine States Parties from Africa to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, three members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported, and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;
 - (b) nine States Parties from Asia to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these nine States Parties, four members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these four members;
 - (c) five State Parties from Eastern Europe to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these five States Parties, one member shall, as a rule, be the State Party with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating this one member;
 - (d) seven States Parties from Latin America and the Caribbean to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of the seven States Parties three members shall, as a rule be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these three members;
 - (e) ten States Parties from among Western European and other States to be designated by States Parties located in this region. As a basis for this designation it is understood that, out of these ten States Parties, five members shall, as a rule, be the States Parties with the most significant national chemical industry in the region as determined by internationally reported and published data; in addition, the regional group shall agree also to take into account other regional factors in designating these five members;
 - (f) one further State Party to be designated consecutively by States Parties located in the regions of Asia and Latin America and the Caribbean. As a basis for this designation it is understood that this State Party shall be a rotating member from these regions.
- (24) For the first election of the Executive Council 20 members shall be elected for a term of one year, due regard being paid to the established numerical proportions as described in paragraph 23.
- (25) After the full implementation of Articles IV and V the Conference may, upon the request of a majority of the members of the Executive Council, review the composition of the Executive Council taking into Account developments related to the principles specified in paragraph 23 that are governing its composition.
- (26) The Executive Council shall elaborates its rules of procedure and submit them to the Conference for approval.
- (27) The Executive Council shall elects its Chairman from among its members.

- (28) The Executive Council shall meet for regular sessions. Between regular sessions it shall meet as often as may be required for the fulfilment of its powers and functions.
- (29) Each member of the Executive Council shall have one vote. Unless otherwise specified in this Convention, the Executive Council shall take decisions on matters of substance by a two-thirds majority of all its members. The Executive Council shall take decisions on questions of procedure by a simple majority of all its members. When the issue arises as to whether the question is one of substance or not, that question shall be treated as a matter of substance unless otherwise decided by the Executive Council by the majority required for decisions on matters of substance.

POWERS AND FUNCTIONS

- (30) The Executive Council shall be the executive organ of the Organisation. It shall be responsible to the Conference. The Executive Council shall carry out the powers and functions entrusted to it under this Convention, as well as those functions delegated to it by the Conference. In so doing, it shall act in conformity with the recommendations, decisions and guidelines of the Conference and assure their proper and continuous implementation.
- (31) The Executive Council shall promote the effective implementation of, and compliance with, this Convention. It shall supervise the activities of the Technical Secretariat, cooperate with the National Authority of each State Party and facilitate consultations and cooperation among States. Parties at their request.
- (32) The Executive Council shall:
- (a) consider and submit to the Conference the draft programme and budget of the Organisation;
 - (b) consider and submit to the Conference the draft report of the Organisation on the implementation of this Convention, the report on the performance of its own activities and such special reports as it deems necessary or which the Conference may request;
 - (c) make arrangements for the sessions of the Conference including the preparation of the draft agenda.
- (33) The Executive Council may request the convening of a special session of the Conference.
- (34) The Executive Council shall:
- (a) conclude agreements or arrangements with States and international organisations on behalf of the Organisation, subject to prior approval by the Conference;
 - (b) conclude agreements with States Parties on behalf of the Organisation in connection with Article X and supervise the voluntary fund referred to in Article X;
 - (c) approve agreements or arrangements relating to the implementation of verification activities, negotiated by the Technical Secretariat with States Parties.
- (35) The Executive Council shall consider any issue or matter within its competence affecting this Convention and its implementation, including concerns regarding compliance and cases of noncompliance, and as appropriate, inform States Parties and bring the issue or matter to the attention of the Conference.
- (36) In its consideration of doubts or concerns regarding compliance and cases of noncompliance, including, *inter-alia*, abuse of the rights provided for under this Convention, the Executive Council shall consult with the States Parties involved and as appropriate, request the State Party to take measures to redress the situation with a specified time. To the extent that the Executive Council considers further action to be necessary, it shall take, *inter-alia*, one or more of the following measures:
- (a) inform all States Parties of the issue or matter;
 - (b) bring the issue or matter to the attention of the Conference;
 - (c) make recommendations to the Conference regarding measures to redress the situation and to ensure compliance.

The Executive Council shall, in cases of particular gravity and urgency, bring to issue or matter, including relevant information and conclusions, directly to the attention of the United Nations General Assembly and the United Nations Security Council. It shall at the same time inform all States Parties of this step.

D.—THE TECHNICAL SECRETARIAT

- (37) The Technical Secretariat shall assist the Conference and the Executive Council in the performance of their functions. The Technical Secretariat shall carry out the verification measures provided for in this Convention. It shall carry out the other functions entrusted to it under this Convention as will as those functions delegated to it by the Conference and the Executive Council.
- (38) The Technical Secretariat shall:
- (a) prepare and submit to the Executive Council the draft programme and budget of the Organisation;
 - (b) prepare and submit to the Executive Council the draft report of the Organisation on the implementation of this Convention and such other report as the Conference or the Executive Council may request;
 - (c) provide administrative and technical support to the Conference, the Executive Council and subsidiary organs;
 - (d) address and receive communications on behalf of the Organisation to and from States Parties on matters pertaining to the implementation of this Convention;
 - (e) provide technical assistance and technical evaluation to States Parties in the implementation of the provisions of this Convention, including evaluation of scheduled and unscheduled chemicals.
- (39) The Technical Secretariat shall:
- (a) negotiate agreements or arrangements relating to the implementation of verification activities with State Parties, subject to approval by the Executive Council;
 - (b) not later than 180 days after entry into force of this Convention, coordinate the establishment and maintenance of permanent stockpiles of emergency and humanitarian assistance by States Parties in accordance with Article X, paragraphs 7 (b) and (c). The Technical Secretariat may inspect the items maintained for serviceability. List of items to be stockpiled shall be considered and approved by the Conference pursuant to paragraph 21 (f) above;
 - (c) administer the voluntary fund referred to in Article X, compile declaration made by the States Parties and register, when requested, bilateral agreements concluded between States Parties or between a State Party and the Organisation for the purposes of Article X.
- (40) The Technical Secretariat shall inform the Executive Council of any problem that has arisen with regard to the discharge of its functions, including doubts, ambiguities or uncertainties about compliance with this Convention that have come to its notice in the performance of its verification activities and that it has been unable to resolve or clarify through its consultations with the State Party concerned.
- (41) The Technical Secretariat shall comprise a Director-General who shall be its head and chief administrative officer, inspectors and such scientific, technical and other personnel as may be required.
- (42) The Inspectorate shall be a unit of the Technical Secretariat and shall act under the supervision of the Director-General.
- (43) The Director-General shall be appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term, but not thereafter.

- (44) The Director-General shall be responsible to the Conference and the Executive Council for the appointment of the staff and the Organisation and functioning of the Technical Secretariat. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence and integrity. Only citizens of States Parties shall serve as the Director-General, as inspectors or as other members of professional and clerical staff. Due regard shall be paid to the importance recruiting the staff on as wide a geographical basis as possible. Recruitment shall be guided by the principle that the staff shall be kept to a minimum necessary for proper discharge of the responsibilities of the Technical Secretariat.
- (45) The Director-General shall be responsible for the Organisation and functioning of the Scientific Advisory Board referred to in paragraph 21 (h). The Director-Generals shall in consultation with States Parties, appoint members of the Scientific Advisory Board who shall serve in their individual capacity. The members of the Board shall be appointed on the basis of their expertise in the particular scientific fields relevant to the implementation of this Convention. The Director-General may also, where appropriate, in consultation with members of the Board, establish temporary working groups of scientific experts to provide recommendations on specific issues. In respect to the above, States Parties may submit lists of experts to the Director-General.
- (46) In the performance of their duties, the Director-General, the inspectors and the other members of the staff shall not seek or receive instructions from any Government or from any other source external to the Organisation. They shall refrain from any action that might reflect on their positions as international officers responsible only to the Conference and the Executive Council.
- (47) Each State Party shall respect the exclusively international character of the responsibilities of the Director-General, the inspectors and the other members of staff and not seek to influence them in the discharge of their responsibilities.

E.—PRIVILEGES AND IMMUNITIES

- (48) The Organisation shall enjoy on the territory and in any other place under the jurisdiction or control of a State Party such legal capacity and such privileges and immunities as are necessary for the exercise of its functions.
- (49) Delegates of States Parties, together with their alternates and advisers, representative appointed to the Executive Council together with their alternates and advisers, to Director-General and the staff of the Organisation shall enjoy such privileges and immunities as are necessary in the independent exercise of their functions in connection with the Organisation.
- (50) The legal capacity, privileges and immunities referred to in this Article shall be defined in agreements between the Organisation and the States Parties as well as organisation and the State in which the headquarters of the Organisation is seated. These agreements shall be considered and approved by Conference pursuant to paragraph 21 (i).
- (51) Notwithstanding paragraphs 48 and 49, the privileges and immunities enjoyed by the Director-General and the staff of the Technical Secretariat during the conduct of verification activities shall be those set forth in Part II, Section B of the Verification Annex (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE IX—CONSULTATIONS COOPERATION AND FACT-FINDING

- (1) States Parties shall consult and cooperate, directly among themselves, or through the Organisation or other appropriate international procedures, including procedures within the framework of the United Nations and in accordance with its Charter, on the matter which may be raised relating to the object and purpose, or the implementation of the provisions of this Convention.
- (2) Without prejudice to the right of any State Party to request a challenge inspection, States Parties should, whenever possible, first make every effort to clarify and resolve through exchange of information and consultations among themselves, which may cause doubt about compliance with this Convention, or which may give rise to concerns about a related matter which may be considered ambiguous. A State Party which receives a request from another State Party for clarification of any matter which the requesting State Party believes causes such a doubt or concern shall provide the requesting State Party as soon as possible, but in any case not later than 10 days after the request,

with information sufficient to answer the doubt or concern raised along with an explanation of how the information provided resolves the matter. Nothing in this Convention shall affect the right of any two or more States Parties to arrange mutual consent for inspections or any other procedures among themselves to clarify and resolve any matter which may cause doubt about compliance or gives rise to concern about a related matter which may be considered ambiguous. Such arrangements shall not affect the rights and obligations of any State Party under one provisions of this Convention.

PROCEDURES FOR REQUESTING CLARIFICATION

- (3) A State Party shall have the right to request the Executive Council to assist in clarifying any situation which may be considered ambiguous or which gives rise to concern about the possible noncompliance of another State Party with this Convention. The Executive Council shall provide appropriate information in its session relevant to such a concern.
- (4) A State Party shall have the right to request the Executive Council to obtain clarification from another State Party on any situation which may be considered ambiguous or which gives rise to a concern about its possible noncompliance with this Convention. In such a case the following shall apply:
 - (a) the Executive Council shall forward the request for clarification to the State Party concerned through the Director-General not later than 24 hours after the receipt;
 - (b) the requested State Party shall provide the clarification to the Executive Council as soon as possible, but in any case not later than 10 days after the receipt of the request;
 - (c) the Executive Council shall take note of the clarification and forward it to the requesting State Party not later than 24 hours after its receipt;
 - (d) if the requesting State Party deems the clarification to be inadequate, it shall have the right to request the Executive Council to obtain from the requested State Party further clarification;
 - (e) for the purpose of obtaining further clarification requested under subparagraph (d), the Executive Council may call on the Director-General to establish a group of experts from the Technical Secretariat, or if appropriate staff are not in the Technical Secretariat, from elsewhere, to examine all available information and data relevant to the situation causing the concern. The group of experts shall submit a factual report to the Executive Council on its findings;
 - (f) if the requesting State Party considers the clarification obtained under sub-paragraphs (d) and (e) to be unsatisfactory, it shall have the right to request a special session of the Executive Council in which States Parties involved that are not members of the Executive Council shall be entitled to take part. In such a special session the Executive Council shall consider the matter and may recommend any measure it deems appropriate to resolve the situation.
- (6) The Executive Council shall inform the States Parties about any request for clarification provided in this Article.
- (7) If the doubt or concern of a State Party about a possible noncompliance has not been resolved within 60 days after the submission of the request for clarification to the Executive Council, or it believes its doubts warrant urgent consideration, notwithstanding its right to request a challenge inspection, it may request a special session of the Conference in accordance with Article VIII, paragraph 12 (c). At such a special session, the Conference shall consider the matter and may recommend any measures it deems appropriate to resolve the situation.

PROCEDURES FOR CHALLENGE INSPECTIONS

- (8) Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible noncompliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex.

- (9) Each State Party is under the obligation to keep the inspection request within scope of this Convention and to provide in the inspection request all appropriate information on the basis of which a concern has arisen regarding possible noncompliance with this Convention as specified in the Verification Annex. Each State Party shall refrain from unfounded inspection requests care being taken to avoid abuse. The challenge inspection shall be carried out for the sole purpose determining facts relating to the possible noncompliance.
- (10) For the purpose of verifying compliance with the provisions of this Convention, each State Party shall permit the Technical Secretariat to conduct the on-site challenge inspection pursuant to paragraph 8.
- (11) Pursuant to a request for a challenge inspection of a facility or location, and accordance with the procedures provided for in the Verification Annex, the inspecting State Party shall have:
- (a) the right and the obligation to make every reasonable effort to demonstrate compliance with this Convention and, to this end, to enable the inspecting team to fulfil its mandate;
 - (b) the obligation to provide access within the requested site for the sole purpose of establishing facts relevant to the concern regarding possible noncompliance; and
 - (c) the right to take measures to protect sensitive installations, and to prevent disclosure of confidential information and data, not related to this Convention.
- (12) With regard to an observer, the following shall apply:
- (a) the requesting State Party may, subject to the agreement of the inspected State Party, and a representative who may be a national either of the requesting State Party or of a third State Party, to observe the conduct of the challenge inspection;
 - (b) the inspected State Party shall then grant access to the observer in accordance with the Verification Annex;
 - (c) the inspected State Party shall, as a rule, accept the proposed observer but the inspected State Party exercises a refusal, that fact shall be recorded in final report.
- (13) The requesting State Party shall present an inspection request for an on-site challenge inspection to the Executive Council and at the same time to the Director-General immediate processing.
- (14) The Director-General shall immediately ascertain that the inspection request meets requirements specified in Part X, paragraph 4, of the Verification Annex, and, necessary, assist the requesting State Party in filing the inspection request according. When the inspection request fulfils the requirements, preparations for the challenge inspection shall begin.
- (15) The Director-General shall transmit the inspection request to the inspected State Party not less than 12 hours before the planned arrival of the inspection team at the point of entry.
- (16) After having received the inspection request, the Executive Council shall take cognizance of the Director-General's actions on the request and shall keep the case under its consideration throughout the inspection procedure. However, its deliberations shall not delay the inspection process.
- (17) The Executive Council may, not later than 12 hours after having received the inspection request, decide by a three quarter majority of all its members against carrying out the challenge inspection, if it considers the inspection request to be frivolous, abusive or clearly beyond the scope of this Convention as described in paragraph 8. Neither the requesting nor the inspected State Party shall participate in such a decision. If the Executive Council decides against the challenge inspection, preparations shall be stopped, no further action on the inspection request shall be taken, and the State Parties concerned shall be informed accordingly.
- (18) The Director-General shall issue an inspection mandate for the conduct of the challenge inspection. The inspection mandate shall be the inspection request referred to in paragraph 8 and 9 put into operational terms, and shall conform with the inspection request.
- (19) The challenge inspection shall be conducted in accordance with Part X or in the case of alleged use, in accordance with Part XI of the Verification Annex. The inspection team shall be guided by the

principle of conducting the challenge inspection in the least intrusive manner possible, consistent with the effective and timely accomplishment of its mission.

- (20) The inspected State Party shall assist the inspection team throughout the challenge inspection and facilitate its task. If the inspected State Party proposes, pursuant to Part X, Section C of the Verification Annex, arrangements to demonstrate compliance with this Convention, alternative to full and comprehensive access, it shall make every reasonable effort, through consultations with the inspection team, to reach agreement on the modalities for establishing the facts with the aim of demonstrating its compliance.
- (21) The final report shall contain the factual findings as well as an assessment by the inspection team of the degree and nature of access and cooperation granted for the satisfactory implementation of the challenge inspection. The Director-General shall promptly transmit the final report of the inspection team to the requesting State Party to the inspected State Party to the Executive Council and to all other States Parties. The Director-General shall further transmit promptly to the Executive Council the assessments of the requesting and of the inspected State Parties, as well as the views of other States Parties which may be conveyed to the Director-General for that purpose, and then provide them to all State Parties.
- (22) The Executive Council shall, in accordance with its powers and functions, review the final report of the inspection team as soon as it is presented, and address any complain as to:
 - (a) whether any noncompliance has occurred;
 - (b) whether the request had been within the scope of this Convention; and
 - (c) whether the right to request a challenge inspection had been abused.
- (23) If the Executive Council reaches the conclusion, in keeping with its powers functions, that further action may be necessary with regard to paragraph 22, it shall take the appropriate measures to redress the situation and to ensure compliance with this Convention, including specific recommendations to the Conference. In the issue of abuse, the Executive Council shall examine whether the requesting State Party should bear any of the financial implications of the challenge inspection.
- (24) The requesting State Party and the inspected State Party shall have the right participate in the review process. The Executive Council shall inform the State Parties and the next session of the Conference of the outcome of the process.
- (25) If the Executive Council has made specific recommendations to the Conference, Conference shall consider action in accordance with Article XII (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE X—ASSISTANCE AND PROTECTION AGAINST CHEMICAL WEAPONS

- (1) For the purposes of this Article, "Assistance" means the coordination and delivery to States Parties of protection against chemical weapons, including, *inter-alia*, the following:
 - (a) detection equipment and alarm systems;
 - (b) protective equipment advice on any of there protective measures.
- (2) Nothing in this Convention shall be interpreted as impeding the right of any produce, acquire, transfer or use means of protection against chemical weapons, for purposes not prohibited under this Convention.
- (3) Each State Party undertakes to facilitate, and shall have the right to participate in the fullest possible exchange of equipment, material and scientific and technological information concerning means of protection against chemical weapons.
- (4) For the purposes of increasing the transparency of national programmes related to protective purposes, each State Party shall provide annually to the Technical Secretariat information on its programme, in accordance with procedures to be considered and approved by the Conference pursuant to Article VIII, paragraph 21 (i).

- (5) The Technical Secretariat shall establish, not later than 180 days after entry into force of this Convention and maintain, for the use of any requesting State Party, a data bank containing freely available information concerning various means of protection against chemical weapons as well as such information as may be provided States Parties.
- The Technical Secretariat shall also, within the resources available to it, and at the request of a State Party, provide expert advice and assist the State Party in identifying how its programme for the development and improvement of a protective capacity against chemical weapons could be implemented.
- (6) Nothing in this Convention shall be interpreted as impeding the right of States Parties to request and provide assistance bilaterally and to conclude individual agreements with other States Parties concerning the emergency procurement of assistance.
- (7) Each State Party undertakes to provide assistance through the Organisation and to this end to elect to take one or more of the following measures:
- (a) to contribute to the voluntary fund for assistance to be established by the Conference at its first session;
 - (b) to conclude, if possible not later than 180 days after this Convention enters into force for it, agreements with the Organisation concerning the procurement, upon demand, of assistance;
 - (c) to declare, not later than 180 days after this Convention enters into force from it, the kind of assistance it might provide in response to an appeal by the Organisation. If, however, a State Party subsequently is unable to provide assistance in accordance with this paragraph.
- (8) Each State Party has the right to request and subject to the procedures set forth paragraphs 9, 10 and 11, to receive assistance and protection against the use or three of use of chemical weapons if it considers that:
- (a) chemical weapons have been used against it;
 - (b) riot control agents have been used against it as a method of warfare; or
 - (c) it is threatened by actions or activities of any State that are prohibited States Parties by Article 1.
- (9) The request, substantiated by relevant information, shall be submitted to the Director-General, who shall transmit it immediately to the Executive Council and all States Parties. The Director-General shall immediately forward the request State Parties which have volunteered, in accordance with paragraphs 7 (b) and (c), dispatch emergency assistance in case of use of chemical weapons or use of the control agents as a method of warfare, or humanitarian assistance in case of serious threat of use of chemical weapons or serious threat of use of riot control agents and method of warfare to the State Party concerned not later than 12 hours after receipt of the request. The Director-General shall initiate, not later than 24 hours after receipt of the request, an investigation in order to provide foundation for further action. He shall complete the investigation within 72 hours and forward a report to the Executive Council. If additional time is required for completion of the investigation, an internal report shall be submitted within the same time frame. The additional time required for investigation shall not exceed 72 hours. It may, however, be further extended similar periods. Reports at the end of each additional period shall be submitted to the Executive Council. The investigation shall, as appropriate and in conformity with the request and the information accompanying the request, establish relevant facts relation to the request as well as the type and scope of supplementary assistance and protection needed.
- (10) The Executive Council shall meet not later than 24 hours after receiving investigation report to consider the situation and shall take a decision by simple majority within the following 24 hours on whether to instruct the Technical Secretariat to provide supplementary assistance. The Technical Secretariat should immediately transmit to all States Parties and relevant international organisations investigation report and the decision taken by the Executive Council. When decided by the Executive Council, the Director-General shall provide assistance immediately. For this purpose, the Director-General may cooperate with requesting State Party, other States Parties and relevant International Organisation. The States Parties shall make the fullest possible efforts to provide assistance.

- (11) If the information available from the ongoing investigation or other reliable sources would give sufficient proof that there are victims of use of chemical weapons and immediate action is indispensable, the Director-General shall notify all State Parties and shall take emergency measures of assistance, using the resources the Conference has placed at his disposal for such contingencies. The Director-General shall keep the Executive Council informed of actions undertaken pursuant to this paragraph (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE XI—ECONOMIC AND TECHNOLOGICAL DEVELOPMENT

- (1) The provisions of this Convention shall be implemented in a manner which avoids hampering the economic or technological development of States Parties, and international cooperation in the field of chemical activities for purposes not prohibited under this Convention including the international exchange of scientific and technical information and chemicals and equipment for the production, processing or use of chemicals for purposes not prohibited under this convention.
- (2) Subject to the provisions of this Convention and without prejudice to the principles and applicable rules of international law, the States Parties shall:
- (a) have the right, individually or collectively, to conduct research with, to develop, produce, acquire, retain, transfer, and use chemical;
 - (b) undertake to facilitate, and have the right to participate in the fullest possible exchange of chemicals, equipment and scientific and technical information relating to the development and application of chemistry for the purposes not prohibited under this Convention;
 - (c) not maintain among themselves any restrictions, including those in any international agreements, incompatible with the obligations undertaken under this Convention, which would restrict or impede trade and the development and promotion of scientific and technological knowledge in the field of chemistry for industrial, agricultural research, medical, pharmaceutical or other peaceful purposes;
 - (d) not use this Convention as grounds for applying any measures other than those provided for, or permitted under this Convention nor use any other international agreement for pursuing an objective inconsistent with this Convention;
 - (e) undertake to review their existing national regulations in the field of chemicals in order to tender them consistent with the object and purpose of this Convention (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE XII—MEASURES TO REDRESS SITUATION AND TO ENSURE COMPLIANCE INCLUDING SANCTIONS

- (1) The Conference shall take the necessary measures, as set forth in paragraphs 2, 3 and 4, to ensure compliance with this Convention and to redress and remedy any situation which contravenes the provisions of this Convention. In considering action pursuant to this paragraph, the Conference shall take into account all information and recommendations on the issues submitted by the Executive Council.
- (2) In cases where a State Party has been requested by the Executive Council to take measures to redress a situation raising problems with regard to its compliance, and where the State Party fails to fulfil the request within the specified time, the Conference may, inter-alia upon the recommendation of the Executive Council, restrict or suspend the State Party's rights and privileges under this Convention until it undertakes the necessary action to conform with its obligations under this Convention.
- (3) In cases where serious damage to the object and purpose of this Convention may result from activities prohibited under this Convention, in particular by Article 1, the Conference may recommend collective measures to States Parties in conformity with international law.
- (4) The Conference shall, in cases of particular gravity, bring the issue, including relevant information and conclusions, to the attention of the United Nations General Assembly and the United Nations Security Council (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE XIII—RELATION TO OTHER INTERNATIONAL AGREEMENTS

Nothing in this Convention shall be interpreted as in any way limiting or detracting from the obligations assumed by any State under the Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, signed at Geneva on 17th June, 1925, and under the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological)

and Toxin Weapons and on their Destruction, signed at London, Moscow and Washington on 10th April, 1972 (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE XIV—SETTLEMENT OF DISPUTES

- (1) Disputes that may arise concerning the application or the interpretation of the Convention shall be settled in accordance with the relevant provisions of this Convention and in conformity with the provisions of the Charter of the United Nations.
- (2) When a dispute arises between two or more States Parties, or between one or more States Parties and the Organisation, relating to the interpretation or application of this Convention, the parties concerned shall consult together with a view to the expeditious settlement of the dispute by negotiation or by other peaceful means of the Parties' choice, including recourse to appropriate organs of this Convention and, mutual consent, referral to the International Court of Justice in conformity with the Statute of the Court. The States Parties involved shall keep the Executive Council informed of action being taken.
- (3) The Executive Council may contribute to the settlement of a dispute by whatever means it deems appropriate, including offering its good offices, calling upon the States Parties to a dispute to start the settlement process of their choice by recommending a time limit for any agreed procedure.
- (4) The Conference shall consider questions related to disputes raised by States Parties brought to its attention by the Executive Council. The Conference shall, as it fit necessary, establish or entrust organs with tasks related to the settlement of the disputes in conformity with Article VIII, paragraph 21.
- (5) The Conference and the Executive Council are separately empowered, subject to authorization from the General Assembly of the United Nations, to request the International Court of Justice to give an advisory opinion on any legal question arising within the scope of the activities of the Organisation. An agreement between the Organisation and the United Nations shall be concluded for this purpose in accordance with Article VIII, paragraph 34 (a).
- (6) This Article is without prejudice to Article IX or to the provisions on measures to redress a situation and to ensure compliance, including sanctions (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE XV—AMENDMENTS

- (1) Any State Party may propose amendments to this Convention. Any State Party may also propose changes, as specified in paragraph 4 to the Annexes of this Convention. Proposals for amendments shall be subject to the procedure in paragraphs 2 and 3. Proposals for changes as specified in paragraph 4, shall be subject to the procedure in paragraph 5.
- (2) The text of a proposed amendment shall be submitted to the Director-General for circulation to all States Parties and to the Depositary. The proposed amendment shall be considered only by an Amendment Conference. Such an Amendment Conference shall be convened if one-third or more of the States Parties notify the Director-General not later than 30 days after its circulation that they support further consideration of the proposal. The Amendment Conference shall be held immediately following a regular session of the Conference unless the requesting States Parties ask for an earlier meeting. In no case shall an Amendment Conference be held less than 60 days after the circulation of the proposed amendment.

- (3) Amendments shall enter into force for the instruments of ratification or acceptance by all the States Parties referred to under subparagraph (b) below:
- (a) when adopted by the Amendment Conference by a positive Vote of majority of all States Parties with no State Party casting a negative vote; and
 - (b) ratified or accepted by all those States Parties casting a positive vote at the Amendment Conference.
- (4) In order to ensure the viability and the effectiveness of this Convention, provisions in the Annexes shall be subject to changes in accordance with paragraph 5, if proposed changes are related only to matters of an administrative or technical nature. All changes to the Annex on Chemicals shall be made in accordance with paragraph 5, Sections A and C of the Confidentiality Annex, Part X of the Verification Annex, and those definitions in Part I of the Verification Annex which relate exclusively to challenge inspections, shall not be subject to changes in accordance with paragraph 5.
- (5) Proposed changes referred to in paragraph 4 shall be made in accordance with the following procedures:
- (a) the text of the proposed changes shall be transmitted together with the necessary information to the Director-General. Additional information for the evaluation of the proposal may be provided by any State Party and Director-General. The Director-General shall promptly communicate any such proposals and information to all States Parties, the Executive Council and the Depositary;
 - (b) not later than 60 days after its receipt, the Director-General shall evaluate the proposal to determine all its possible consequences for the provisions of this Convention and its implementation and shall communicate any such information to all States Parties and the Executive Council;
 - (c) the Executive Council shall examine the proposal in the light of all information available to it, including whether the proposal fulfils the requirements of paragraph 4. Not later than 90 days after its receipt, the Executive Council shall notify its recommendation, with appropriate explanations to all States Parties for consideration. States Parties shall acknowledge receipt within 10 days;
 - (d) if the Executive Council recommends to all States Parties that the proposal be, adopted, it shall be considered approved if no State Party objects to it within 90 days after receipt of the recommendation. If the Executive Council recommends that the proposal be rejected, it shall be considered rejected if no State Party objects to the rejection within 90 days after receipt of the recommendation;
 - (e) if a recommendation of the Executive Council does not meet with the acceptance required under subparagraph (d), a decision on the proposal, including whether it fulfils the requirements of paragraph 4, shall be taken as a matter of substance by the Conference at its next session;
 - (f) the Director-General shall notify all States Parties and the Depositary of any decision under this paragraph;
 - (g) changes approved under this procedure shall enter into force for all States Parties 180 days after the date of notification by the Director-General of their approval unless another time period is recommended by the Executive Council or decided by the Conference (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XVI—DURATION AND WITHDRAWAL

- (1) This Convention shall be of unlimited duration.
- (2) Each State Party shall, in exercising its national sovereignty, have the right to withdraw from this Convention if it decides that extraordinary events, related to the subject matter of this Convention, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal 90 days in advance to all other States Parties, the Executive Council, the Depositary and the United Nations

Security Council. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

- (3) The withdrawal of a State Party from this Convention shall not in any way affect the duty of States to continue fulfilling the obligation assumed under any relevant rules of international law, particularly the Geneva Protocol of 1925 (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XVII—STATUS OF THE ANNEXES

The Annexes form an integral part of this Convention. Any reference to this Convention includes the Annexes (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XVIII—SIGNATURE

This Convention shall be open for signature for all States before its entry into force (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XIX—RATIFICATION

This Convention shall be subject to ratification by States Signatories according to their respective constitutional processes (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XX—ACCESSION

Any State which does not sign this Convention before its entry into force may accede to it at any time thereafter (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XXI—ENTRY INTO FORCE

- (1) This Convention shall enter into force 180 days after the date of the deposit of the 65th Instrument of Ratification, but in no case earlier than two years after its opening for signature.
- (2) For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Convention, it shall enter into force on the 30th day following the date of deposit of their instrument of ratification or accession (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XXII—RESERVATION

The Articles of this Convention shall not be subject to reservations. The Annexes of this Convention shall not be subject to reservations incompatible with its object and purpose (*Hon. Alex Nwofe*) — *Agreed to*.

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

ARTICLE XXIII—DEPOSITARY

The Secretary-General of the United Nations is hereby designated as the Depositary of this Convention and shall, *inter-alia*:

- (a) promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or accession and the date of the entry into force of this Convention, and of the receipt of other notices

- (b) transmit duly certified copies of this Convention to the Governments of all Signatory and acceding States; and
- (c) register this Convention pursuant to Article 102 of the Charter of the United Nations (*Hon. Alex Nwofe*) — *Agreed to.*

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

ARTICLE XXIV—AUTHENTIC TEXTS

This Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, have signed this Convention.

DONE at Paris on the Thirteenth day of January, One Thousand Nine Hundred and Ninety-three (*Hon. Alex Nwofe*) — *Agreed to.*

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

Chairman to report Treaty.

(HOUSE IN PLENARY)

Mr Speaker in the Chair, reported that the House in the Committee of Whole considered the Report of the Committees on Justice and Science and Technology on the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the Convention on the Prohibition of Development, Production, Stockpiling and use of Chemical Weapons and on their Destruction and for Purposes Connect Therewith, 2004 and approved the Preamble to the Enactment, Clauses 1 and 2, the Preamble to the Treaty, the Schedule and Articles I - XXIV of the Treaty.

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

9. Adjournment:

That this House do now adjourn till Thursday, 27 May, 2004 at 10.00 a.m. (*Hon. Abdul Ningi*).

Adjourned accordingly at 4.30 p.m.

Aminu Bello Masari
Speaker