SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Wednesday, 30th November, 2011

1. The Senate met at 10:56 a.m. The Senate President read prayers.

2. **Votes and Proceedings:**
The Senate President announced that he had examined the Votes and Proceedings of Tuesday, 29th November, 2011 and approved same.

By unanimous consent, the Votes and Proceedings were approved.

3. **Announcement:**
Invitation to the formal presentation of Women for Change and Development Initiative:
The Senate President read a letter from the First Lady as follows:

STATE HOUSE,
ABUJA
NIGERIA.

Reference:

SH/FL/HEC/005/7 *17th November, 2011*

His Excellency
Sen. David Mark, GCON.
Senate President, Federal Republic of Nigeria
The Senate
National Assembly Complex
Three Arms Zone, Abuja

INVITATION TO THE FORMAL NATIONAL PRESENTATION OF WOMEN FOR CHANGE AND DEVELOPMENT INTIATIVE-INTEGRATED HEALTH PROGRAMME

I am delighted to intimate Your Excellency with the efforts of my NGO, the "Women for Change and Development Initiative" to create a new platform for interventions in the health profile of the dear people of our country.

This platform is called the Integrated Health Programme, designed as a component of the Women for Change and Development Initiative (W4CDI-IHP).

Following the outcome of the United Nations High Level Meeting on Accelerated Prevention of Mother to Child Transmission of HIV/AIDS (APMTCT). Maternal and Child Health, I convened a Stakeholders Meeting in Abuja, on the 13th June. 2011 with Wives of Governors in attendance.

The highlight of the meeting was the setting up of a Technical Committee headed by Dr. Mohammed Ali Pate, now Minister of State for Health. The Committee has concluded its work and presented a comprehensive Plan of Action titled "Women for Change and Development Initiative-Integrated Health Program". The report is designed to be executed at Federal, State and Local Government Levels.

In order to effectively carry along the Principal Officers and relevant Committees in the National Assembly, and for the purpose of interfacing with key members of the National Assembly on this program, I wish to invite Principal Officers of the senate and relevant Committees on Health, MDG, Women Affairs and Appropriation to a special dinner to intimate them with my new agenda as it concerns the National Health System (Invitation letters have been forwarded to the members). The dinner is scheduled as follows:

Date: *Wednesday 30th November, 2011*
Venue: *House 7, State House, Abuja.*
Time: *7.00 pm prompt*

The dinner will be followed the next day by the National Presentation of the programme, scheduled as follows:

Date: *Thursday, December 1, 2011*
Venue: *State House Banquet Hall, Abuja.*
Time: *10:00 a.m. prompt*

It is my hope that you will be able to attend these two events as our Special Guest of Honour to add your goodwill to this new drive to improve the quality of Nigeria's Health System.

It will also be appreciated if Your Excellency could kindly facilitate the attendance of the Principal Officers in the Senate and the relevant Committees.

Meanwhile, let me avail this opportunity to reassure Your Excellency of my highest regards and considerations.

(Signed)
Dame (Dr.) Patience Goodluck Jonathan,
First Lady, Federal Republic of Nigeria.

4. Committee on Appropriation:
Report on Virement:

Presentation of Report deferred to another Legislative Day and additional one (1) week granted to the Committee to complete the assignment.

5. *Ad-hoc* Committee on the Investigation of the Privatization and Commercialization Activities of the Bureau of Public Enterprises (BPE):
Report on the Investigation of the Privatization and Commercialization Activities of the Bureau of Public Enterprises (BPE) from 1999 to date (Adjourned consideration Thursday, 24th November, 2011):
Motion made: That the Senate do resume consideration of the Report of the *Ad-hoc* Committee on the Investigation of the Privatization and Commercialization Activities of the Bureau of Public Enterprises (BPE) from 1999 to date with the following recommendations:

(*i*) That Section 1(3) of the Public Enterprises (Privatization and Commercialization) Act 1999 which states that *"The National Council on Privatization (in this Act referred to as "the Council") established under section 8 of this Act may, from time to time, by order published in the Gazette alter, add, delete or amend the provisions of the First Schedule to this Act"* should be amended because it contradicts the powers of the National Assembly to make laws under the Constitution of the Federal Republic of Nigeria 1999 as amended;

(*ii*) That Section 5(3) of the Public Enterprises (Privatization and Commercialization) Act 1999 which states that *"Not less than 10% of the shares to be offered for sale to Nigerians shall be reserved for the staff of the public enterprises to be privatized and the shares shall be held in trust by the public enterprises for its employees"* should be amended to include the host communities;

(*iii*) That the management of BPE should be reorganized to make it effective and efficient;

(*iv*) That Presidential interference in the privatization process should be avoided in the future;

(*v*) That National Council on Privatization (NCP) should set-up an NCP Sub-Committee to oversight Post Privatization Monitoring activities of BPE;

(*vi*) The Committee recommend that the 5 year post privatization monitoring period (lock-in-period) should be reviewed upward to 10 years. This is to enable the core investors to implement the Post Acquisition Plans (PAP) and BPE to monitor compliance;

(*vii*) That BPE should refund bid bonds approved for refund by NCP:

Kaura Motors Ltd	—	₦61.2m
Onoja & Sons	—	₦625,000.00
Agric Multi Services	—	₦1.7m
Abuja Gateway Consortium	—	$500,000 USD

(*viii*) That BPE should close all privatization proceeds accounts in commercial banks and henceforth put all proceeds in Privatization Proceeds Account in the Central Bank of Nigeria in compliance with section 19(1) of the Public Enterprises (Privatization and Commercialization) Act 1999;

(*ix*) That BPE should discontinue the use of privatization proceeds to settle staff terminal benefits, consultancy fees, transaction expenses and execution of capital projects. It should approach the National Assembly for appropriation as provided for in Section 80 of the Constitution of the Federal Republic of Nigeria 1999 as amended;

(*x*) That the National Assembly Committees on Privatization should intensify their oversight functions of the privatization programme;

(*xi*) That BPE should source for funds through budgetary means to settle outstanding Staff liabilities in ALSCON (₦2.7bn), Delta Steel Company (₦5.2bn) and Federal Superphosphate Fertilizer Company (₦73m);

(*xii*) That BPE should standardized protective clauses in Share Purchase and Concession Agreements in privatization of public enterprises in the national interest;

(*xiii*) That in the automobile sector; Federal Government should comply with the New Patronage Circular number SGF.OP/1/S.3/VIII/250 of 12th April, 2011 and also adopt National Automotive Council recommended tariff regime;

(*xiv*) That the Share Purchase Agreement of Volkswagen Nigeria Limited now VON Automobile Nigeria Limited should be rescinded for non-performance as provided in the SPA and re-advertise for sale;

(*xv*) That the Economic and Financial Crimes Commission (EFCC) should immediately be drafted to investigate the economic crimes being perpetrated against the nation at VON Automobile Nigeria Limited premises in Lagos by Barbedos Ventures Limited (BVI);

(*xvi*) That the taxes and import duties accruable to the Federal Government on all goods smuggled into the warehouses of VON Automobile Nigeria Limited should be computed and recovered by the Nigeria Customs Service (NCS) and Federal Inland Revenue Service (FIRS) respectively;

(*xvii*) That the National Council on Privatization (NCP) should rescind the sale of ALSCON to Dayson Holdings BV and re-advertise for sale;

(*xviii*) That the Nigeria Ports Authority should take up the responsibility for Imo River Channel dredging;

(*xix*) That the National Council on Privatization (NCP) should rescind the sale of Delta Steel Company to Global Infrastructure Holdings Limited and Global Infrastructure Nigeria Limited and re-advertise for sale;

(*xx*) That the 469 plots sold to third parties/private individuals (or companies) at market rates and the 270 plots allocated as public relation/palliative measures to the communities/leaders in Delta Steel Company Township 1 Housing Estate should be rescinded and their monies returned back to them by BPE;

(*xxi*) That the Federal Government should implement the Inter-Ministerial Technical Audit Report on Ajaokuta Steel Complex dated July 2011 which recommended completion and commissioning of the plant by the Federal Government;

(*xxii*) That the Federal Government should re-inject funds to restart Nigeria Iron Ore Mining Corporation (NIOMCO), Itakpe to enable it produce the needed raw materials for the country's steel plants;

(*xxiii*) That the National Council on Privatization (NCP) should rescind the sale of Jos Steel Rolling Mills for non-performance and re-advertise the enterprise for sale;

(*xxiv*) That the Federal Government should increase the levy on imported finished paper from the present 5% in order to encourage local production;

(*xxv*) That the Federal Government should ban the export of waste paper from Nigeria, being raw material for paper production;

(*xxvi*) That Nigeria Re-insurance Plc should immediately refund the sum of One Billion (₦1bn) Naira paid by BPE in February 2007 as contribution of the Federal Government for recapitalization with accrued interest;

(*xxvii*) That Nicon Insurance Plc should immediately refund with interest the sum of Nine Hundred Million (₦900m) Naira to the Federal Government being money paid by BPE in February 2007 as contribution for recapitalization with accrued interest;

(*xxviii*) That the Committee recommends legislation to support Sector Reforms. The following Bills were presented by BPE as relevant and significant for the Reforms to succeed:

(*a*) Ports and Harbour Reform Bill 2011;

(*b*) Road Sector Reform Bill 2011;

(*c*) Inland Waterways Bill 2011;

(*d*) National Transport Commission Bill 2011;

(*e*) Railway Bill 2011;

(*f*) Federal Competition and Consumer Protection Bill 2011;

(*g*) Nigeria Postal Bill 2011.

(*xxix*) That the Federal Government should meet its obligations to provide access roads and security in and around the Ports in order to sustain the gains of the Ports concessions;

(*xxx*) That the National Council on Privatization (NCP) should rescind the Concession Agreements of Tin Can Island Port Terminal "A" to Joseph Dam Port Services Limited, Koko Port to Greenleigh Nigeria Limited and Port Harcourt Terminal "B" to BUA International Limited for non-performance and re-advertise the enterprises for sale;

(*xxxi*) That the National Council on Privatization (NCP) should rescind the sale of Transcorp Hilton Hotel for failure of the core investor to deliver on the following fundamental provisions of the Share Purchase Agreement/Post Acquisition Plans:

- Construction of a Shopping Mall within the Hotel grounds;
- Construction of short/long stay serviced apartments on the available land within the hotel premises to cater for corporate and similar clients whose needs may not be met by the typical hotel service structure;
- Construction of state of the art office complex for short stay guests who may have need for office infrastructure outside their immediate offices; and
- Development of an amusement emporium to add to the hospitality profile of the Hotel;

(*xxxii*) That the National Council on Privatization (NCP) should rescind the sale of Sheraton Hotel and Towers, Abuja for failure of the core investor to deliver on the following fundamental provisions of the Share Purchase Agreement/Post Acquisition Plan:

- Tower 1 would be operated as a full 5 Star hotel facility (Sheraton Tower and Suites):
- Tower II would be operated as the main guest room block position as an Upper 4-Star Facility to create a niche presently not well serviced in the Abuja Market; and

- Tower III would be converted to high quality Apartments currently in high demand in Abuja and also to serve as a niche not well exploited in the market today;

(*xxxiii*) That the National Council on Privatization should rescind the sale of Abuja International Hotels Limited (Nicon Luxury Hotel) for failure of the core investor to deliver on the following fundamental provision of the Share Purchase Agreement/Post Acquisition Plan:

"invest at-least additional ₦2 billion to complete the furnishing of the hotel and provision of ancillary services to a five-star deluxe status within 9 months."

However, after 5 years (from November 17, 2006 to date) the core investor has failed to comply;

(*xxxiv*) That the National Council on Privatization (NCP) should rescind the sale of Daily Times Nigeria Plc to Folio Communication Limited in keeping with the Court judgements in suit Nos.

(1) FHC/L/CP/1328/2009;
(2) FHC/L/CP/344/10;
(3) FHC/L/CP/130/2010, which states as follows:

- That Folio Communications Limited, the 3rd Respondent herein did not pay for the 140,252,900 shares that is 56% shares allotted to it in DTN PLC;

- That 140,252,900 shares allotted to Folio Communication Ltd have reverted back to DTN PLC;

- That DTN PLC paid for 140,252,900 shares that is 56% of its own shares;

- That Folio Communication Limited is NO LONGER a shareholder of DAILY TIMES OF NIGERIA (DTN) PLC;

- That the current issued shares in DTN PlC have been reduced to 93,501,936 Ordinary shares held by DSV LTD and 9,600 Ordinary shares held by various shareholders;

- That the use of the proceeds from the sale and mortgage of DTN properties for the purchase of shares of DTN PLC is oppressive against the petitioner and other minority shareholders in DTN PLC and a breach of fiduciary relationship; and

- That the debt due to AFRIBANK NIGERIA PLC in the sum of ₦575,696,793.61 the subject of winding up proceedings in Suit No. FHC/L/CP/1012/09 is capable of being settled by the sale of the reverted shares of DTN PLC without winding up Daily Times of Nigeria Plc;

(*xxxv*) That the sales of assets of Daily Times Nigeria Plc by Folio Communications Limited and its Directors should be investigated by anti-graft agencies and the sold assets recovered;

(*xxxvi*) That the National Council on Privatization (NCP) should rescind the sale of Sunti Sugar Company for non-performance and re-advertise the enterprise for sale;

(*xxxvii*) That the National Council on Privatization (NCP) should rescind the sale of Bacita Sugar Company for non-performance and re-advertise the enterprise for sale;

(*xxxviii*) That BPE should involve the National Sugar Development Council, the statutory agency responsible for local sugar development in the country in subsequent privatization of sugar companies;

(*xxxix*) That the anti-graft agencies should work with BPE to recover the sum of Seventy Million Pounds Sterling of African Petroleum Plc looted by the former Head of Finance and Accounts, Mr. M. O. Ajayi and former Treasurer, Mr. Pius C. Idigo both formerly of the company, prior to privatization in 2001;

(*xl*) That the Federal Government should intervene to facilitate the renewal of the concession on the Forestry to the core investor of Nigeria Newsprint Manufacturing Company, Oku Iboku;

(*xli*) That the core investor of Federal Superphosphate Fertilizer Company should build the $10m USD Captive Sulphuric Acid Plant as covenanted in the Share Purchase Agreement/Post Acquisition Plans within the next 3 years and the Post Acquisition Plans be amended;

(*xlii*) That BPE should implement National Council on Privatization decision on Privatization Share Purchase Loan Scheme (PSPLS) to enable workers and host communities pay for shares reserved for them in privatized enterprises;

(*xliii*) That the former Directors-General, Mallam Nasir el-Rufai, Dr. Julius Bala and Mrs. Irene Nkechi Chigbue should be reprimanded by the National Council on Privatization for seeking approval directly from the President instead of the NCP as stipulated in the Public Enterprises Act 1999;

(*xliv*) That Dr. Julius Bala should be investigated by anti-graft agencies for giving approval to Folio Communication Limited for the illegal sale of assets of Daily Times Nigeria Plc; and

(*xlv*) That the Director-General, BPE, Ms Bolanle Onagoruwa be relieved of her appointment for gross incompetence in the management of the Bureau of Public Enterprises and for illegal and fraudulent sale of the 5% FGN residual shares in Eleme Petrochemicals Company Limited (EPCL) (*Senator Ahmad I. Lawan — Yobe North*).

Question put and agreed to.

Debate:

Further consideration of Report deferred to the another Legislative Day.

6. 2012 - 2015 Medium-Term Fiscal Framework (MTFF) and 2012 Fiscal Strategy Paper (FSP):

Consideration of Request deferred to another Legislative Day.

7. Adjournment:
Motion made: That the Senate do now adjourn till Thursday, 1st December, 2011 at 10.00 a.m. (*Senate Deputy Leader*).

Adjourned accordingly at 1:52 *p.m.*

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