



**SENATE OF THE
FEDERAL REPUBLIC OF NIGERIA
ORDER PAPER**

Wednesday, 25th September, 2019

1. Prayers
2. Approval of the Votes and Proceedings
3. Oaths
4. Announcements (if any)
5. Petitions
6. Inauguration of Committees

PRESENTATION OF BILLS

1. National Assembly Inauguration Bill, 2019 (SB. 4)
Sen. Suswam, Gabriel Torwua (*Benue North East*).
2. Lagos State Special Economic Assistance Programme (Est, etc) Bill, 2019 (SB. 3)
Sen. Tinubu, Oluremi Shade (*Lagos Central*).

**ORDERS OF THE DAY
CONSIDERATION OF A REPORT**

1. Report of the Ad-hoc Committee on the 9TH Senate Legislative Agenda
Sen. Adamu, Muhammad Aliero (*Kebbi Central*)
-That the Senate do consider the report of the Ad-hoc Committee on the 9TH Senate Legislative Agenda.

MOTIONS

1. The need to make Development Aids more effective to work for Nigerians.

Sponsor: Sen. Oloriegbe, Yahaya Ibrahim (*Kwara Central*)

Co- Sponsors:

Sen. Orji, Theodore Ahamefule (*Abia Central*)
Sen. Dahiru, Aishatu Ahmed (*Adamawa Central*)
Sen. Jika, Dauda Halliru (*Bauchi Central*)
Sen. Suswam, Gabriel Torwua (*Benue North East*)
Sen. Kyari, Abubakar Shaib (*Borno North*)
Sen. Manager, James Ebiowou (*Delta South*)
Sen. Urhoghide, M. Aisagbonriodion (*Edo South*)
Sen. Nnamani, Chimaroke Ogbornia (*Enugu East*)
Sen. Goje, Mohammed Danjuma (*Gombe Central*)
Sen. Hadejia, Hassan Ibrahim (*Jigawa North-East*)
Sen. Kwari, Suleiman Abdu (*Kaduna North*)

Sen. Kalu, Orji Uzor (*Abia North*)
Sen. Oduah, Stella Adaeze (*Anambra North*)
Sen. Ewhrudjakpo, Lawrence O. (*Bayelsa West*)
Sen. Shettima, Kashim (*Borno Central*)
Sen. Oko, Rose Okoji (*Cross River North*)
Sen. Egwu, Samuel Ominyi (*Ebonyi North*)
Sen. Bamidele, Micheal Opeyemi (*Ekiti Central*)
Sen. Utazi, Chukwuka Godfrey (*Enugu North*)
Sen. Okorocho, Anayo Rochas (*Imo West*)
Sen. Mohammed, Sabo (*Jigawa South-West*)
Sen. Sani, Uba (*Kaduna Central*)

Sen. Adamu, Muhammad Aliero (Kebbi Central)
 Sen. Ahmad, Babba Kaita (Katsina North)
 Sen. Gaya, Kabiru Ibrahim (Kano South)
 Sen. Tinubu, Oluremi Shade (Lagos Central)
 Sen. Al-Makura, Umaru Tanko (Nasarawa South)
 Sen. Umar, Sadiq Suleiman (Kwara North)
 Sen. Adeola, Solomon Olamilekan (Lagos West)
 Sen. Amosun, Ibikunle Oyelaja (Ogun Central)
 Sen. Tofowomo, Nicholas Olubukola (Ondo South)
 Sen. Basiru, Surajudeen Ajibola (Osun Central)
 Sen. Dimka, Hezekiah Ayuba (Plateau Central)
 Sen. Gobir, Ibrahim Abdullahi (Sokoto East)
 Sen. Wamakko, Aliyu Magatakarda (Sokoto North)
 Sen. Yusuf, Abubakar Yusuf (Taraba Central)
 Sen. Fadahunsi, Francis Adenigba (Osun East)

Sen. Shekarau, Ibrahim (Kano Central)
 Sen. Barau, I. Jibrin (Kano North)
 Sen. Mandiya, Bello (Katsina South)
 Sen. Na'allah, Bala Ibn (Kebbi South)
 Sen. Yakubu, Oseni (Kogi Central)
 Sen. Adamu, Abdullahi (Nasarawa West)
 Sen. Abdullahi, Aliyu Sabi (Niger North)
 Sen. Odebiyi, Tolulope Akinremi (Ogun West)
 Sen. Boroffice, Robert Ajayi (Ondo North)
 Sen. Folarin, Teslim Kolawole (Oyo Central)
 Sen. Buhari, Abdulfatai (Oyo North)
 Sen. Apiafi, Betty Jocelyn (Rivers West)
 Sen. Gaidam, Ibrahim Alhaji (Yobe East)
 Sen. Mohammed, Hassan (Zamfara Central)
 Sen. Ubah, Ifeanyi Patrick (Anambra South)

The Senate:

Aware that Nigeria as a developing country receives aids from bilateral developed countries and multilateral organizations. Aids provisions to Nigeria are majorly in the social sectors such as health, education and water. Other sectors such as the economic and growth sectors, (e.g. Agriculture, National planning) Governance, Election, do also receive support;

Notes that Nigeria is not an aid dependent Country as the donor support to the country is about 5% of the National Budget. However, in real monetary terms this is a large amount;

Also notes that the National Planning Commission (NPC) vision is to pro-actively determine and efficiently advise on matters relating to national development and overall management of the economy for positive growth; and to ensure that all relevant stakeholders properly implement plans and policies;

Reminded that in the last few years, there has been increase in humanitarian and emergency related aids to Nigeria especially in the North East region. The number of agencies active in the provision of assistance has grown substantially;

Notes accordingly that on the global level, donor interest in coordination has also increased in recent years. The recent examples are the Paris Declaration on Aid Effectiveness (2005) and Accra High-Level Forum on Aid Effectiveness (2008) where partnership commitments with regard to harmonization, alignment, ownership, results and mutual accountability were further specified;

Concerned that the NPC is not effectively performing one of its stewardship role of ensuring alignment of donor assistance with national priorities, strategies and effective coordination of donor efforts in all sectors of Nigerian economy;

Bothered that the absence of fundamental reforms to current management structures at the donor and country level may risk continued inefficiencies, delivery failures, weak capacity of local institutions and ultimately, unnecessary delay in increasing employment, reduction in poverty, avoidable death and disease among the poor;

Disturbed that the actual benefits to the country from these aids is only about 40-45%, with 55-60% being lost to transaction costs, wastage and capital flight back to the donor countries through the implementing contractors;

Worried that the non- consideration of aids/grants in budgets and appropriation do sometimes result in duplication, wastages and inefficiency in utilization of scarce resources;

Concerned that there have been several attempts at donor coordination in Nigeria, but this has been ineffective due to inadequate capacity in the public sector, divergent donor procedures and the absence of commonly accepted framework for this coordination;

Further Concerned that detailed comparative data across states on donor agency staffing, location, business processes, and decision making is simply not available, which inevitably inhibits the depth of any discussion of "reforming the architecture" or improving the efficiency of development assistance in Nigeria; and

Notes that there is an urgent need to review the current situation with a view of establishing an overarching donor harmonization, implementation and monitoring framework to enhance aid effectiveness in Nigeria.

Accordingly resolves to:

- i. *Direct* the National Planning Commission to develop a policy framework that creates mechanisms for development cooperation and aid effectiveness in Nigeria;
- ii. *Direct* the relevant standing committee to monitor the implementation of resolution (i) and produce any necessary legal framework that would ensure the attainment of the objectives;
- iii. *Direct* the relevant standing committees that oversee Ministries, Departments & Agencies (MDAs) who are beneficiaries of development aids/grants to request for, analyze and consider such aid/grants in the appropriation of funds for the MDAs' activities; and
- iv. *Advise* the State Planning Commissions and House of Assemblies to domesticate and implement federal policies and laws that will enable the states to achieve aids effectiveness.

2. The impact of border closure on the Nigerian economy.

Sponsor: Sen. Adamu, Muhammad Aliero (*Kebbi Central*)

Co-sponsor:

Sen. Abdullahi, Yahaya Abubakar (*Kebbi North*)

Sen. Wamakko, Aliyu Magatakarda (*Sokoto North*)

Sen. Gobir, Ibrahim Abdullahi (*Sokoto East*)

Sen. Mohammed, Sabo (*Jigawa South-West*)

Sen. Ndume, Mohammed Ali (*Borno South*)

Sen. Abdullahi, Aliyu Sabi (*Niger North*)

Sen. Fadahunsi, Francis Adenigba (*Osun East*)

Sen. Ubah, Ifeanyi Patrick (*Anambra South*)

The Senate:

Aware that the Federal Government of Nigeria last month temporarily ordered the closure of all land borders and it was alleged that economic activities in these areas have come to a halt with our neighbours;

Recall, that during the Japan Summit at Yokohama, President Patrice Tallon of Benin Republic met with President Muhammadu Buhari on the side-lines of the seventh Tokyo International Conference for Africa Development, TIKAD7, where President Buhari explained that the borders were shut by the federal government as a decisive measure to curb smuggling of unauthorized goods into Nigeria;

Notes that apart from the temporary closure of land borders, the Nigerian Security agencies have resolved to secure the country's territorial integrity against trans-border crime and criminality;

Further notes that as a result of the situation in the border towns the Nigerian economy is experiencing a lot of positive derivatives that is impacting on the country. For instance, fuel smuggling has significantly reduced thereby saving the country billions of scarce foreign exchange spent by Nigerian National Petroleum Corporation to import fuel into Nigeria. The Group Managing Director of NNPC during a press conference recently stated that smugglers are no longer finding it easy to smuggle petroleum products through the land borders, consequently, petroleum products have become readily available in every part of the country;

Notes that the smuggling of textile and vegetable oil imported from Malaysia through the land borders which has negatively affected local production is equally grounded to a halt. The good news of the Federal Government's action is that it has led to the revival of local production of vegetable oil, and increased employment generation;

Notes and appreciates other products like rice, processed frozen chicken, tomato puree and tomato paste, frozen fish, sugar that come into Nigeria through Benin to Cameroun Republic land borders have also stopped;

Further notes that the most impactful of the benefits accruing to the country from this temporary border closures is the positive effect on the security situation in Nigeria. It has made it impossible for smugglers of small and light weapons to bring them into the country. This has reduced supply of arms and ammunitions to bandits and insurgents;

Aware that the manufacturing sector have suddenly breathed a sigh of relief from the ongoing economic boost resulting in factories coming back to produce items like tomato puree, milk, chicken, fish and even toothpicks directly as a result of the border closure, it is clear that the economy is moving up positively; and

Concerns over deteriorating security situation in Nigeria is slowing down particularly because arms smuggling through the borders and foreign fighters coming to boost the insurgency of Boko Haram and their Islamic State of West Africa (ISWA) collaborators has been jolted.

Accordingly resolves to:

- i. *Commend* the President-C-in-C on the very patriotic decision to temporarily shut down all our land borders in order to rectify the deteriorating effect on our country of persistent smuggling of products that negatively affect the Nigerian economy and the wellbeing of our nation;
 - ii. *Urge* the Ministries of Foreign Affairs and Interior to increase diplomatic outreach to the government of the Republic of Benin, Cameroun, Niger and Chad to take urgent measures to stop their countries from being used as smuggling base to perpetuate the illegal importation of unwanted goods into Nigeria;
 - iii. *Commend* the Nigerian Customs Service and the Security Services for their role in intensifying the curbing of smuggling across the borders and assure them that the Nigerian Senate is with them in their onerous task of ridding Nigeria of smuggled goods and services; and
 - iv. *Reassure* friendly countries around the world that the border closure should not be perceived as a punitive measure targeted at them but a necessary action to save our economy from collapse and protect our people from terrorism and insecurity.
3. Urgent need to review and recover additional revenue accruable to the government of the Federation from the Production Sharing Contracts pursuant to Section 16 of the Deep Offshore and Inland Basin Production Sharing Contract Act CAP D3 LFN 2004 and amend the extant act.

Sponsor: Sen. Ubah, Ifeanyi Patrick (*Anambra South*)

Co-sponsors:

Sen. Akpan, Albert Bassey (*Akwa-Ibom North East*)
 Sen. Jika, Dauda Halliru (*Bauchi Central*)
 Sen. Sani, Uba (*Kaduna Central*)
 Sen. Oduah, Stella Adaeze (*Anambra North*)
 Sen. Adeola, Solomon Olamilekan (*Lagos West*)
 Sen. Boroffice, Robert Ajayi (*Ondo North*)
 Sen. Musa, Mohammed Sani (*Niger East*)
 Sen. Gobir, Ibrahim Abdullahi (*Sokoto East*)
 Sen. Adamu, Muhammad Aliero (*Kebbi Central*)
 Sen. Eyakenyi, Akon Etim (*Akwa-Ibom South*)
 Sen. Onyewuchi, Ezenwa Francis (*Imo East*)
 Sen. Uwajumogu, Benjamin (*Imo North*)
 Sen. Bassey, Gershom Henry (*Cross River South*)
 Sen. Ubah, Ifeanyi Patrick (*Anambra South*)

Sen. Abdullahi, Aliyu Sabi (*Niger North*)
 Sen. Dahiru, Aishatu Ahmed (*Adamawa Central*)
 Sen. Yakubu, Oseni (*Kogi Central*)
 Sen. Barau, I. Jibrin (*Kano North*)
 Sen. Kalu, Orji Uzor (*Abia North*)
 Sen. Yaroo, Binos Dauda (*Adamawa South*)
 Sen. Mandiya, Bello (*Katsina South*)
 Sen. Akwashiki, Godiya (*Nasarrawa North*)
 Sen. Balogun, Kola Ademola (*Oyo South*)
 Sen. Moro, Patrick Abba (*Benue South*)
 Sen. Fadahunsi, Francis Adenigba (*Osun East*)
 Sen. Akinyelure, Patrick Ayo (*Ondo Central*)
 Sen. Ordia, Akhimienmona Clifford (*Edo Central*)

The Senate:

Notes with concern that the *Senate Committee on Petroleum Resources Upstream* has over several years been inundated with a plethora of petitions and complaints and has *suo motu* observed that the *Government of the Federation* has lost several billions of United States dollars in potentially accruable revenue due to the non-review and amendment of the salient provisions of the *Deep Offshore and Inland Basin Production Sharing Contract Act Cap D3 LFN 2004* and especially section 16 of the Act which regulates the sharing of additional revenue between the *Nigerian National Petroleum Corporation (NNPC)* and the various Production Sharing Contract oil companies;

Aware that Production Sharing Contract (PSC) is a contractual arrangement for petroleum exploration and production whereby the state as owner of the petroleum resources engages a contractor to provide technical and financial services for exploration and production operations for an agreed share in profit oil after payments of royalty, cost and tax oil, and that this contractual arrangement were offered by the Federal Government of Nigeria in the 1991 licensing round and its terms was codified into a legislation namely, the *Deep Offshore and Inland Basin Production Sharing Contract Act Cap D3 LFN 2004 (PSC Act)* which became effective on January 1, 1993;

Notes that Nigeria presently has seven fields from the 1993 PSCs which are currently in production, namely:

- Abo (OML 125) - operated by ENI;
- Agbami-Ekoli (OML 127 and OML 128) - operated by Chevron;
- Akpo and Egina (OML 130) - operated by Total and South Atlantic Petroleum;
- Bonga (OML 118) - operated by Shell;
- Erha (OML 133) - operated by ExxonMobil;
- Okwori and Nda (OML 126) - operated by Addax; and
- Usan (OML 138) - operated by ExxonMobil;

Observes that currently and more so in the near and foreseeable future, the PSCs will continue to play an increasingly dominant role in terms of contribution to Nigeria oil and gas production by contract arrangement because relative to the production from the Joint Venture Contract arrangement, the PSCs contribution rose from 0.50% (4,000,348 barrels) to 18.70% (193,143,992 barrels) per annum between 1998 and 2005 and its contribution has grown since the year 2006 from 18.37% (188,479,413 barrels) to over 39% (199,254,000 barrels) per annum in 2018;

Concerned that in spite of the high contribution of PSCs to total production, the contribution of revenue per barrel of PSCs oil in terms of government take is significantly lower than the contribution of revenue per barrel of Joint Venture oil largely because of the harsh and inequitable terms of the Production Sharing Contracts and the failure to review the salient provisions of the PSC Act;

Notes that section 16 of the PSC Act provides that *where the price of crude oil exceeds US\$20 per barrel, the PSC Act will be reviewed to ensure that the share of the Federal Government of Nigeria (FGN) in the additional revenue is adjusted to the extent that the PSCs shall be economically beneficial to the FGN* and that in any event, the PSC Act may be reviewed after 15 years from its commencement in 1993 and every 5 years thereafter;

Notes that the PSC Act recognizes and anticipates the necessity for post execution and periodic review of the Act to ensure that government derives maximum and equitable benefits from the PSCs and, to wit, set out the following review incidents and datelines in the Act:

- Price-induced review of the provisions of the PSC Act - that is, a review to be undertaken whenever the price of crude oil exceeds US\$20 per barrel, real terms, in order to increase revenue accruable to the Government of the Federation from the PSCs;
- Review of the entire provisions of the PSC Act (including sharing-formula provisions contained in the Act) 15 years after the commencement of the Act in 1993; and
- Review of the entire provisions of the PSC Act every 5 years thereafter;

Observes that no review of the Act was undertaken at the statutorily stipulated price-induced and/or anniversary-induced datelines, specifically:

- when crude oil price exceeded US\$20 in 2004;
- at the 15th year anniversary of the PSC Contract, specifically on the 1st day of January 2008; and
- at every 5th anniversary post the 15th year anniversary of the Production Sharing Contract (which are the 1st day of January, 2013 and the 1st day of January, 2018);

Notes that several unsuccessful efforts have been made in the past to review or amend the PSC Act through private members and government sponsored bills in the 8th and other preceding sessions of this National Assembly;

Observes that there is a subsisting ruling alongside a consent judgment (Terms of Settlement) of the Supreme Court (SC/964/2016) delivered on the 17th day of October, 2018 emanating from a suit titled Suit No. SC/964/2016 commenced in 2016 by the Attorneys-General of Akwa Ibom, Bayelsa and Rivers States (as plaintiffs) against the Attorney-General of the Federation (as defendant), pursuant to the original jurisdiction of the Supreme Court, which sought to compel the Federal Government to review the PSC Act as stipulated in section 16 and to recover arrears of revenues which would have accrued to the Federal Government and by extension to the Plaintiff-states (through their constitutional entitlement to derivation) covering the years the provisions of section 16 were not reviewed and amended;

Notes that up till date, the PSC Act has not been reviewed and/or amended to ensure that government derives maximum and equitable benefits from the PSCs as provided in the Act.

Notes that as a result of the non-review and amendment of the PSC Act, the Federal Government has lost about US\$21 billion (about N7trillion) over a period of 20 years due to the failure to review and amend the PSC Act as stated by the Honourable Minister of State for Petroleum Resources following the meeting of the Federal Executive Council on the 14th day of December, 2017;

Observes that the principal role of the National Assembly is to make or amend subsisting laws of the Federation of Nigeria, which power is derived from the provisions of section 4 of the *Constitution of the Federal Republic of Nigeria 1999 (as amended)* and exercised through the passing of bills as provided in section 58 of the same constitution;

Convinced of the need to thoroughly investigate the reasons for the failure to review the salient provisions of the PSC Act, identify the best fiscal regime for the PSCs and review the provisions of the PSC Act to ensure that beyond the crude oil price of US\$20, the share of the Federal Government of Nigeria (FGN) in the additional revenue is adjusted to the extent that the PSCs shall be economically beneficial to the FGN in accordance with the provisions of the Act; and

Further convinced of the need to review the provisions of the PSC Act to ensure that the Federal Government and by implication the states entitled to derivation recover arrears of revenues which would have accrued to the Federal Government and the states afore-said covering the years the provisions of section 16 of the PSC Act were not reviewed and implemented. In line with the sheer patriotism of the ably focused 9th Senate that works for Nigeria.

Accordingly resolve to:

- i. *Mandate the Senate Committee on Petroleum Resources Upstream* to investigate the reasons for the failure to review the salient provisions of the PSC Act, identify the best fiscal regime for the PSCs and review the provisions of the PSC Act to ensure that beyond the crude oil price of US\$20, the share of the Federal Government of Nigeria (FGN) in the additional revenue is adjusted in accordance with the provisions of the Act;
- ii. *Further mandate the Senate Committee on Petroleum Resources Upstream* to recover arrears of revenues which would have accrued to the Federal Government and by implication the states entitled to derivation covering the years the provisions of section 16 of the PSC Act were not reviewed and implemented; and
- iii. *Direct its committee on Petroleum Upstream* to come up with a Bill on the Amendment of the PSC Act.